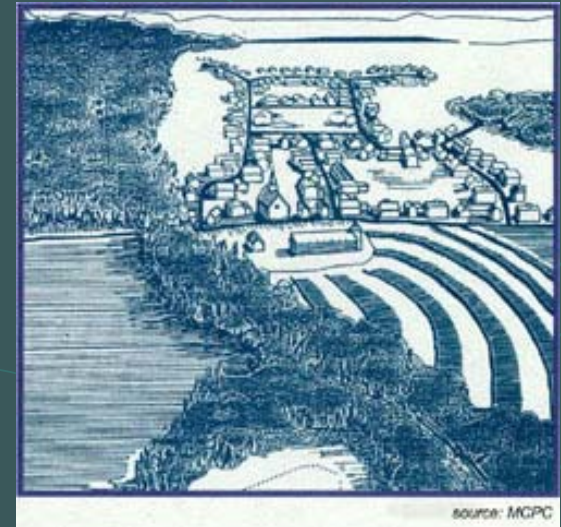


Density Transfer Credits

A workable approach to TDR
for New Hampshire



Outline

- Why is DTC / TDR important for our future?
- What is DTC / TDR?
- Elements of a DTC program
- Implementing a DTC Program



Development patterns based on conventional zoning take us where (we say) we don't want to go...

Underdeveloped Town and Commercial Centers



Residential Development everywhere (eventually):



1962 Land Use Rockingham County

Urban Classes

- Residential
- Industrial/commercial
- Mixed urban
- Transportation/roads
- Railroads
- Auxilliary transportation
- Playing fields/recreation

Agricultural Classes

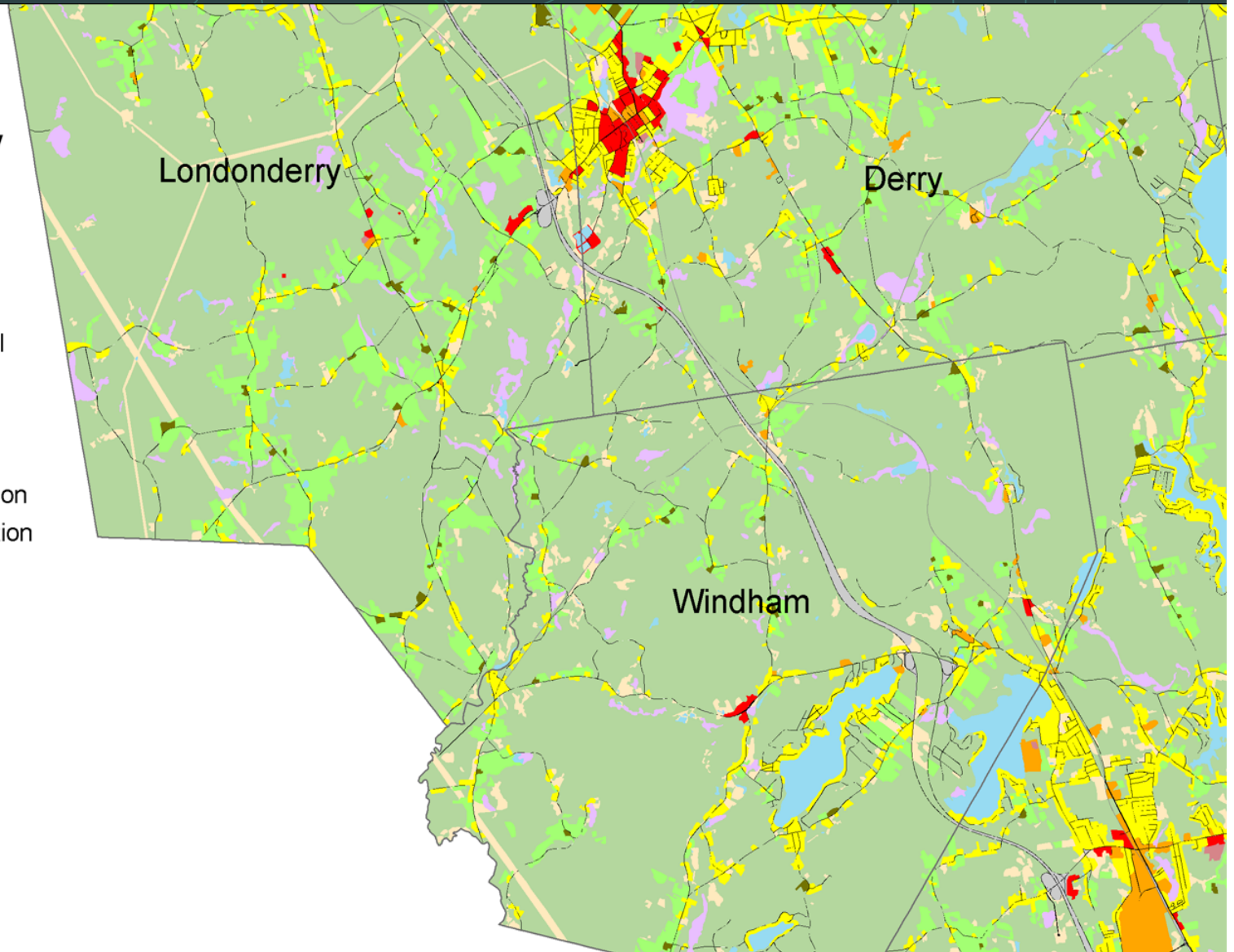
- Active agriculture
- Farmsteads

Natural Communities

- Forested
- Water
- Open wetlands

Other

- Idle/other open



1974 Land Use Rockingham County

Urban Classes

- Residential
- Industrial/commercial
- Mixed urban
- Transportation/roads
- Railroads
- Auxilliary transportation
- Playing fields/recreation

Agricultural Classes

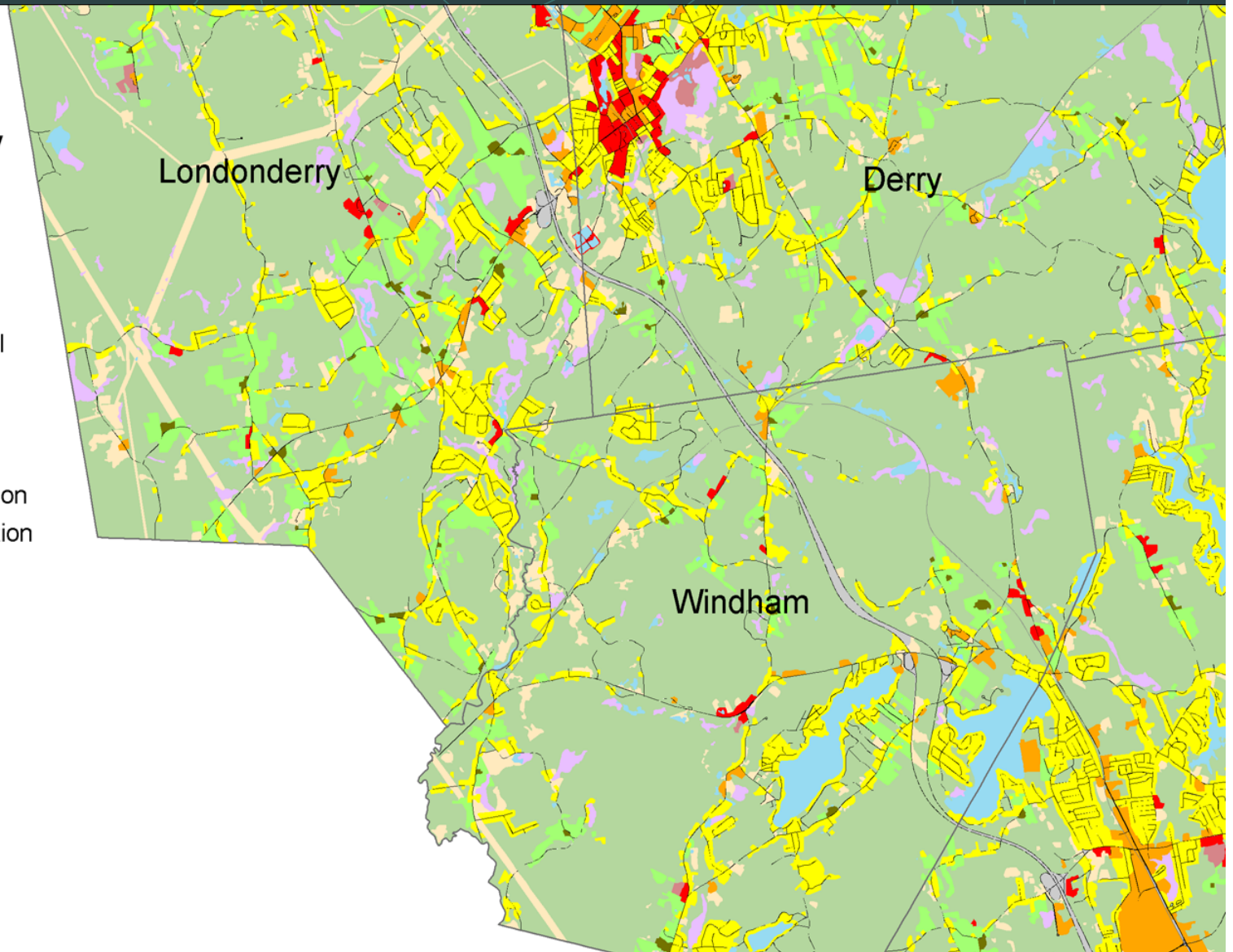
- Active agriculture
- Farmsteads

Natural Communities

- Forested
- Water
- Open wetlands

Other

- Idle/other open



1998 Land Use Rockingham County

Urban Classes

- Residential
- Industrial/commercial
- Mixed urban
- Transportation/roads
- Railroads
- Auxilliary transportation
- Playing fields/recreation

Agricultural Classes

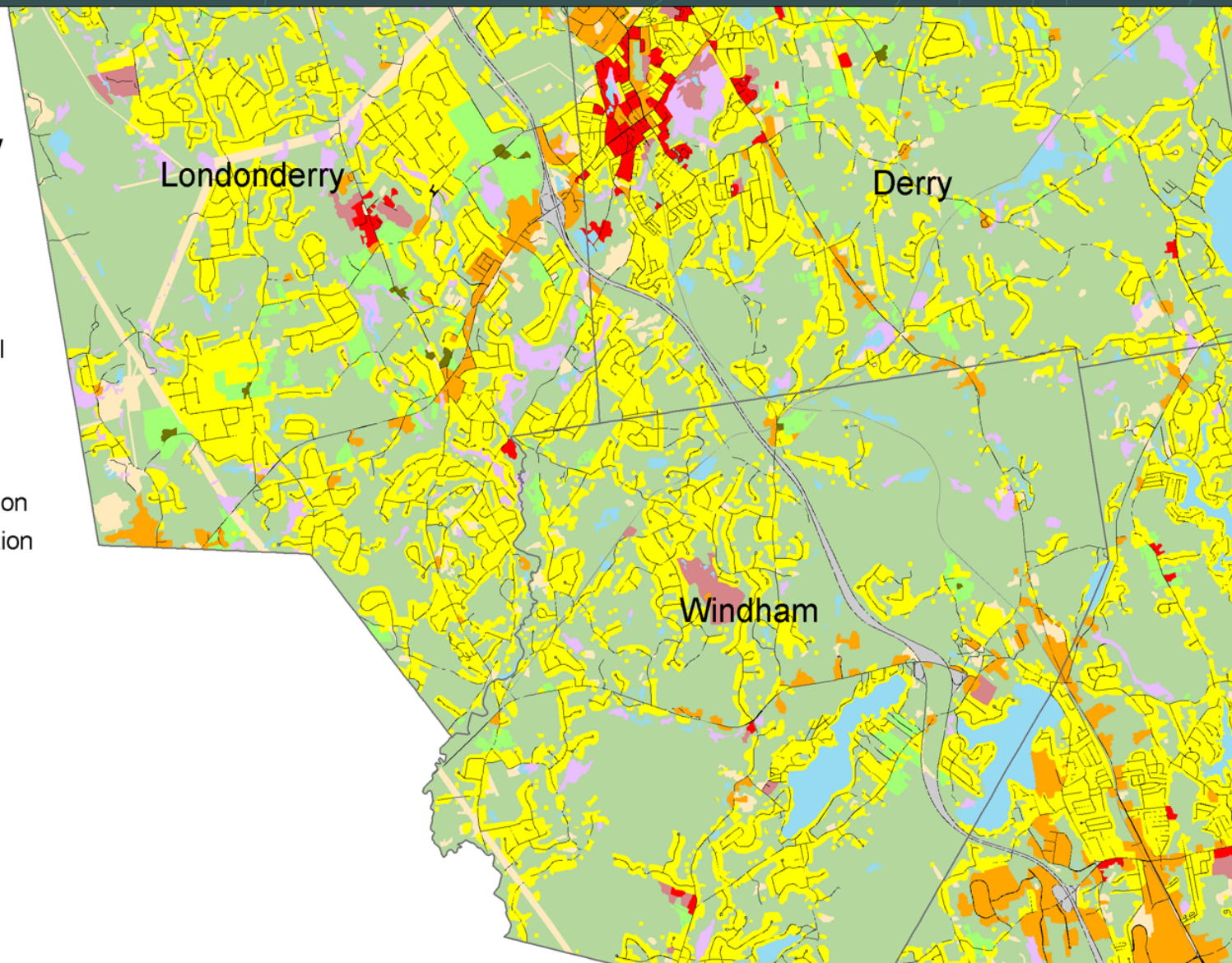
- Active agriculture
- Farmsteads

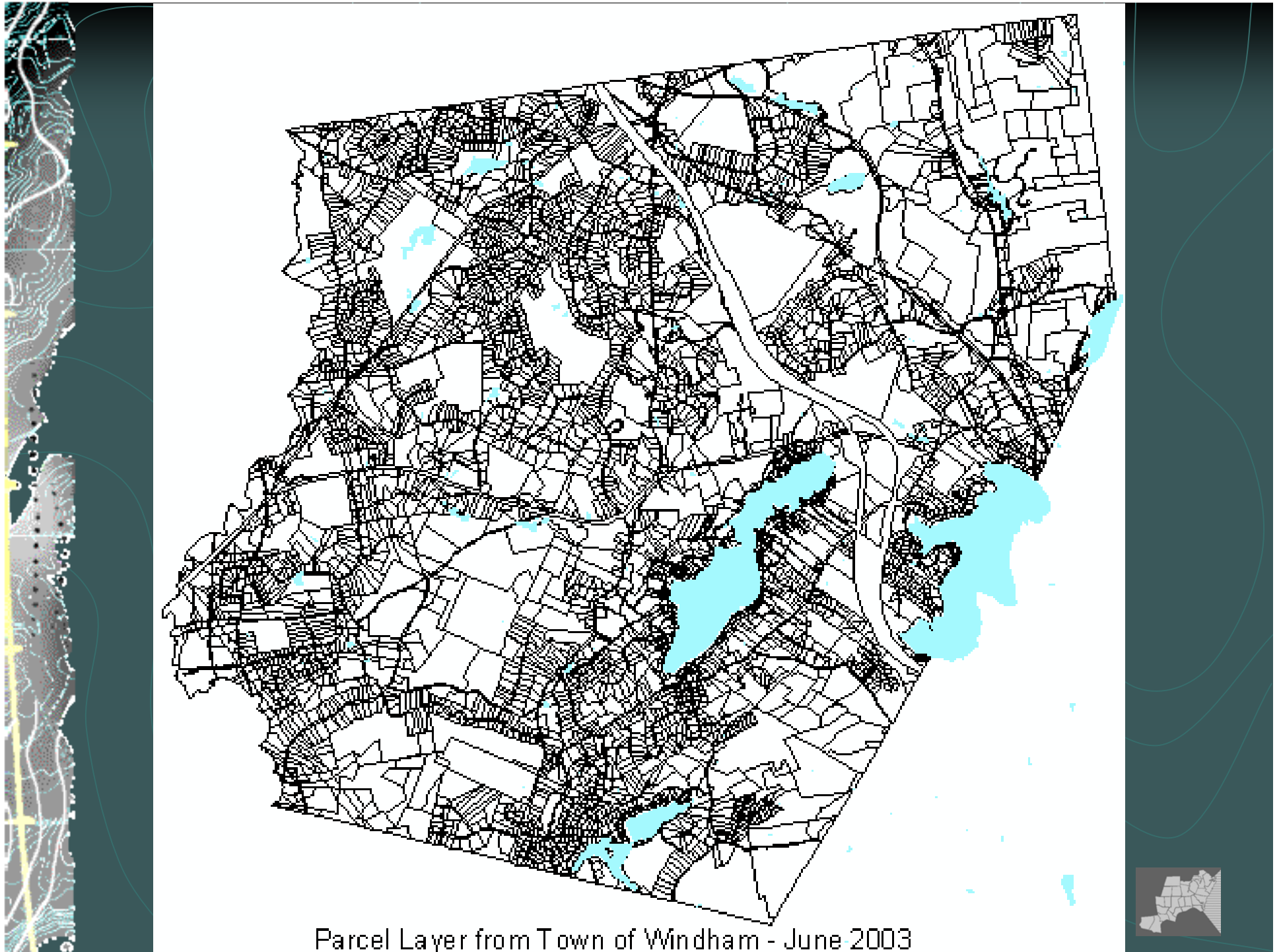
Natural Communities

- Forested
- Water
- Open wetlands

Other

- Idle/other open





Parcel Layer from Town of Windham - June 2003



Why is this a problem?: costs of Sprawl

- **Environment**
 - Water quality/impervious surfaces
 - Lost of 'ecological services'
 - Wildlife habitat
- **Transportation**
 - Inefficient networks
 - Public transportation serviceability
- **Community**
 - Lack of social capital
 - Lack of vibrant town centers
- **Housing Diversity**
 - Lack of opportunity for higher density housing types
- **Energy & Infrastructure**
 - High infrastructure and transportation servicing costs
- **Land Scarcity**
 - Very high land consumption rates /per unit of development



Transfer of Developments Rights Two-Fold Objective:

**Concentrate
Development in Growth
Centers**



**Preserve Important
Conservation Lands
and Open Space**



DTC/TDR Definitions

- **Development Rights:** The amount of development that could take place on a tract of land under zoning provisions.
- **Conservation/Preservation (a.k.a. "Sending") Areas:** Areas identified as priorities for preservation or significant decreases in development potential.
- **Receiving Area:** Areas that have potential to support more development than what is allowed by existing zoning and/or regulations.
- **Density Transfer Credit:** The value of development potential moved from an area to be conserved to an area intended for additional development



Transfer of Developments Rights

The Concept

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

preservation area



growth area



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

Slide Courtesy of "Massachusetts Smart Growth Toolkit." Published by Massachusetts EOEA



The Concept - continued

- Receiving Areas: zoning is amended to allow an optional additional increment of development which can be accessed only by using density credits.
- Preservation Areas: Some or all of development rights are removed through a permanent deed restriction (conservation easement). The easement is purchased as a density credit.
- Similar in concept to cluster development, but applied to entire town instead of a single tract.
- Not a new concept: first used in the 1960s



Density Transfer Credit vs. TDR

- TDR has been written off by many as too complex
- Conventional TDR required direct transfer of density credit from sending to receiving areas & tracking
- DTC is a **simpler variation** on the basic TDR concept
- Utilizes **money** as the **transfer medium** for density rights
 - Developer proposing to develop in 'receiving' area pays additional fee for developing at higher density
 - Town places money in conservation/preservation fund
 - Fund is used to purchase conservation easements in areas to be protected as they become available.
- **Compatible** with existing land conservation programs, and use of development incentives already in place (e.g. TIF, cluster, inclusionary, housing, village zoning)



A vertical strip on the left side of the slide showing a topographic map with contour lines and a yellow line.

Essential Elements

1. Defined preservation/conservation areas (Master Plan)
2. Defined receiving areas (Master Plan)
3. Defined transfer mechanism
4. Process for defining market value of a density credit
5. Incentives and disincentives established in zoning and land use regs
6. Administrative procedure



A vertical strip on the left side of the slide showing a topographic map with contour lines and a yellow line.

Potential Conservation Areas

- Prime Agricultural Lands
- Large Tracts of Unprotected Open Space
- Aquifer Protection Overlays
- Areas of Critical Environmental Concern
- Habitat for Rare and Endangered Species
- Watersheds to Sensitive Surface Waters
- Historic Districts or Structures
- Areas identified as Natural Service Areas (NSN)



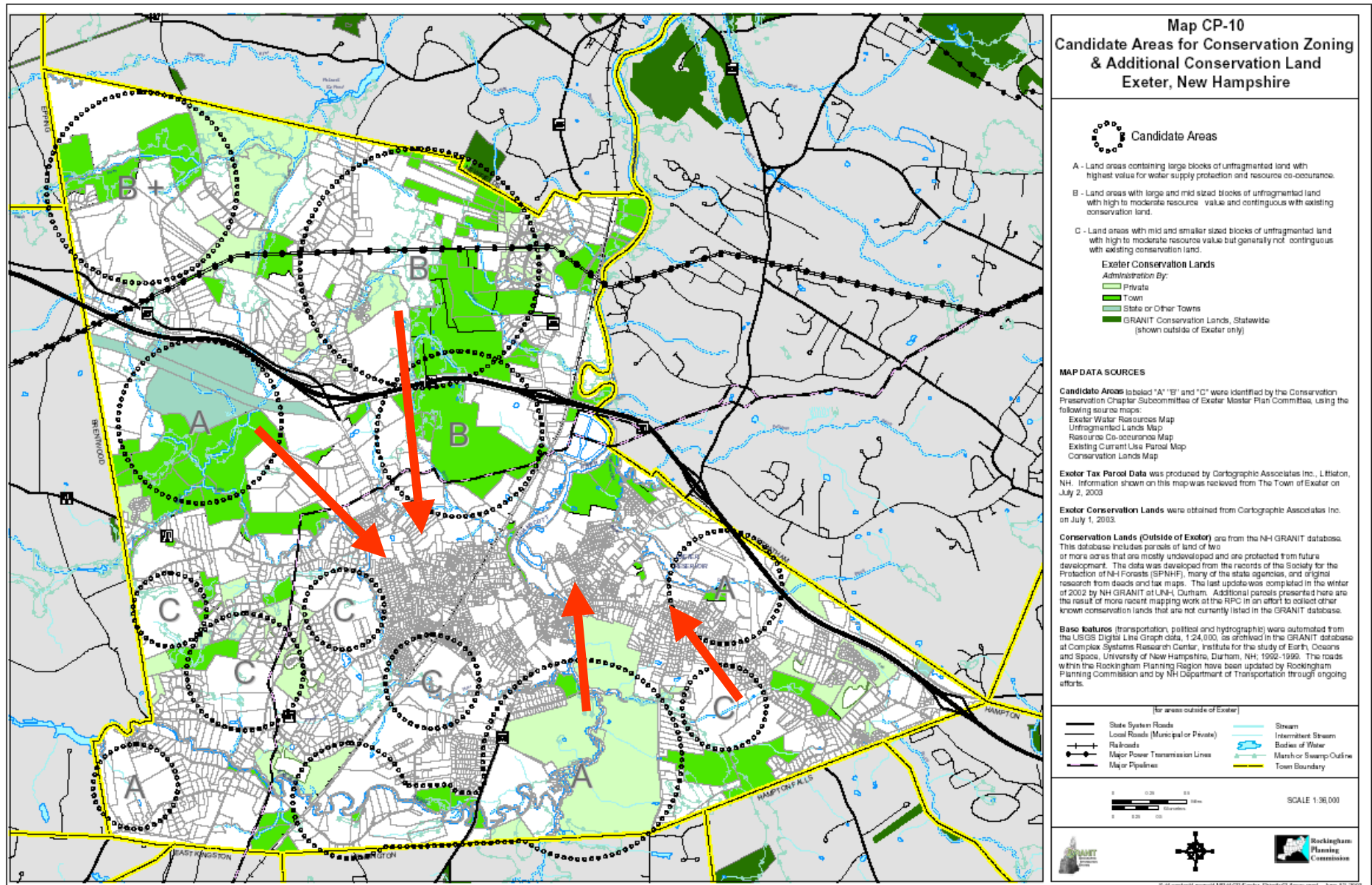


Potential Receiving Areas

- Village Centers / Downtowns / Town centers
- Transportation Nodes / TOD
- Commercial or Industrial Districts
- Areas Served by Infrastructure
 - Centralized Water Supply
 - Centralized Sewer System
 - Public Transportation Routes
- Conventional & Cluster Residential Subdivisions



Identification of Sending and Receiving areas should be part of a comprehensive planning process...



Implementing TDR

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?
- What is the appropriate **value of transferred development potential** (the density credit)
- What level of **transfer incentive** is necessary to spur the use of DTCs





Implementing TDR: Disincentives for development in the Conservation (Sending) Areas

- Reduce development potential in Conservation Areas through increased minimum lot size, but allow transfer at original (higher) density.

Example:

Conservation Area Overlay

Original Minimum Lot Size = 1 acre

Revised Minimum Lot Size = 3 acres

- Make Conservation Subdivision or Cluster mandatory in the conservation zone. Some communities do this now (Durham, Dover)



Implementing TDR Incentives in the Receiving Area

- The increase in development density should be accessible ONLY via a density credit
- The per unit cost of adding density to the receiving area should be less than the cost of the purchasing the density credit. (i.e. a density bonus)

Example:

The land cost per unit in the receiving area is \$30,000/per unit , but the cost of applying a density credit is \$20,000 per unit



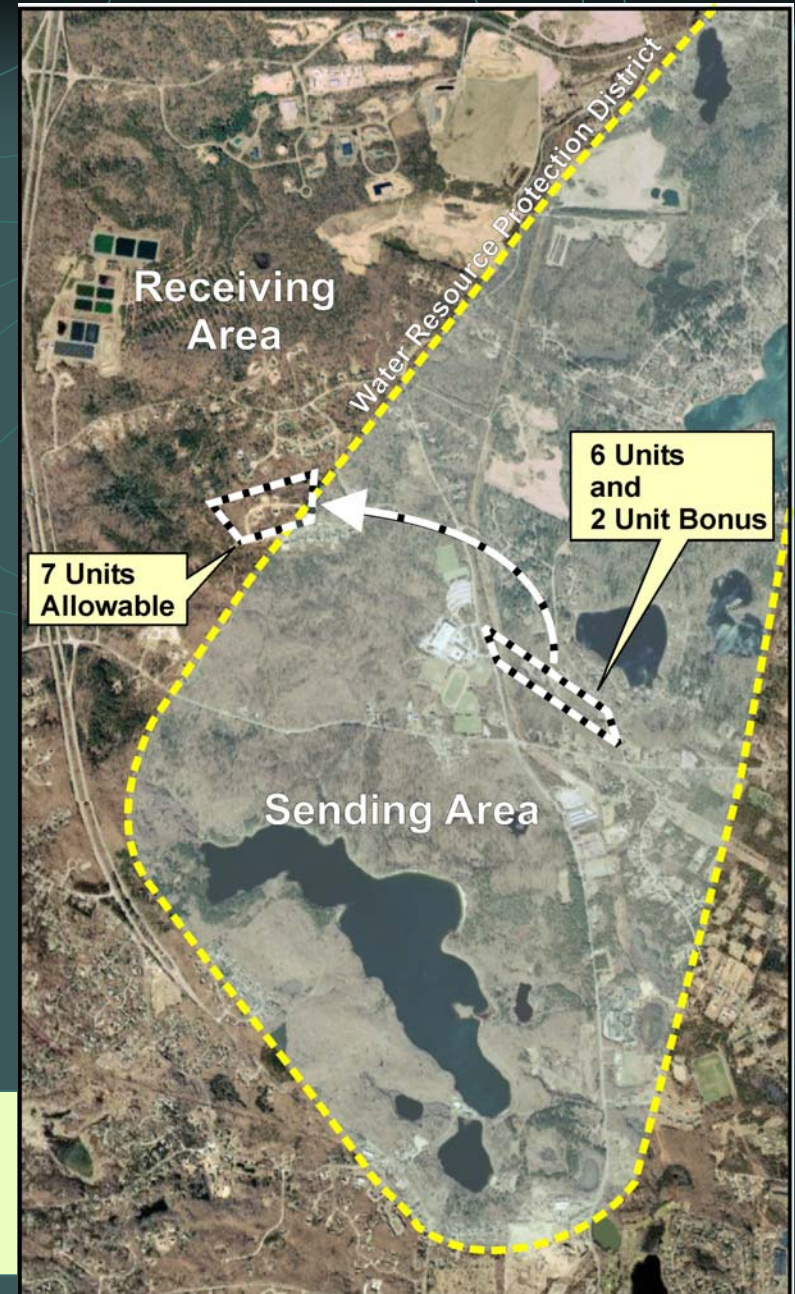
CASE STUDY Falmouth, MA

Sending Areas Identified through Careful Planning Process:

- Water Resource Protection District
- 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



Implementing DTC/TDR: Keys to Success

■ Start with the Master Plan

- “What & where are the resources we need to protect?” (to identify Conservation/Preservation Areas.)
 - Tools: NRI, Open Space/Conservation Plan; NSN
- “Where do we want and where can we handle increases in development density?” Town Center; Future Planned Village Plan
 - Transit oriented development zone
- Does the master plan support multiple density zoning?

■ Develop Community Support for Zoning Changes

- Tie DTC Program to other community goals: downtown and brownfields redevelopment; water supply and open space protection; New village development
- BE SURE to take advantage of any existing plans to increase development density in an zone
- Ease concerns of existing residents by making the utilization of density credits subject to a conditional use permit; other controls/limitations.



Implementing DTC/TDR

Keys to Success

■ Use the market

- Establish disincentives to discourage development in Preservation Areas
- Establish enough incentives to encourage development in receiving areas
- Work with cooperative developers in defining the program

■ Administrative Capacity

- “Do we have a permitting body & staff that clearly understands the program?”
- “Do we have a non-lapsing dedicated conservation fund in which to ‘store’ the density credits?”
- “Does the Town have access to expertise in establishing the value of density credits?”



What does DTC or TDR accomplish?

- Preserves open space and land for conservation without massive publicly financed expenditures;
- Promotes downtown/village/ town center development;
- Protects the equity of landowners in the 'sending' or conservation areas
- Directs development where it is most suitable and away from where least suitable without resulting in 'takings'
- Reduces the costs and consequences of sprawl



Challenges

- TDR reputation as too difficult
- Designating 'additional development' (upzoned) and infill areas
- Setting appropriate market value for density credits
- Finding suitable starting point (a model)
- Qualified help for implementation



USEFUL LINKS:

<http://commpres.env.state.ma.us/content/tdr.asp>

EOEA's summary of TDR as part of their Community Preservation Tolls & Techniques program. Includes a link to the EOEA/DHCD report "*Excerpts from A Study of the Feasibility of Establishing Transferable Development Rights under the Rivers Protection Act.*"

<http://www.asu.edu/caed/proceedings99/PRUETZ/PRUETZ.HTM>

Additional TDR case studies compiled by Rick Pruetz, FAICP. Pruetz is the author of "*Beyond Takings and Givings, Saving Natural Areas, Farmland, and Historic Landmarks with Transfer of Development Rights and Density Transfer Charges* (Arje Press, 2003)."

<http://www.asu.edu/caed/proceedings02/PRUETZ/pruetz.htm>

More recent material from Rick Pruetz charting the progress of TDR in various parts of the country.

<http://www.lincolninst.edu/pubs/pub-detail.asp?id=424>

Article from the Lincoln Institute of Land Policy providing conceptual overview as well as some details regarding TDR case law.



USEFUL LINKS:

<http://www.sustainable.doe.gov/landuse/transfer.shtml>

Smart Communities Network TDR page that provides an overview with several other TDR web links.

<http://www.plannersweb.com/tdr.html>

Overview of TDR from Planners Web with links to the most famous TDR case studies including Montgomery County, MD; King County, WA; and the New Jersey Pinelands.

<http://www.realtor.org/libweb.nsf/pages/fg804>

National Association of Realtors "Field Guide to Transfer of Development Rights."

