

TDR Interim Zoning Committee Report

Interim Zoning TDR Committee Members

- ▶ Michael Albertson, Economic Development Committee
- ▶ Tim Barritt, City Council liaison
- ▶ Andrew Chalnick, Energy Committee
- ▶ Kelly Lord, TDR holder
- ▶ Michael Mittag, Chair
- ▶ Monica Ostby, Planning Commission liaison
- ▶ John Simson, Affordable Housing Committee

TDR Committee Charge

“undertake an analysis of the program for the Transfer of Development Rights established in and by the Land Development Regulations and recommend options for its implementation”

Interim Bylaw Resolution

- ▶ Focuses on preserving open space
- ▶ Seeks to maintain a balance between our community values of natural spaces and developed spaces
- ▶ Seeks to examine carefully the intensity and nature of development and its potential impacts
- ▶ Warns against rising costs outstripping City revenues and the prospect of an increased tax burden

State Enabling Legislation

- ▶ 10 V.S.A. § 6301 Purpose
 - ▶ To encourage and assist the maintenance of the present uses of Vermont's agricultural, forest, and other undeveloped land
 - ▶ to encourage the use of conservation and preservation tools
 - ▶ to enable Vermont to plan its orderly growth in the face of increasing development pressures
- ▶ Title 24 § 4423 states:
 - ▶ To accomplish the purposes of 10 V.S.A. § 6301, bylaws may contain provisions for the transfer of development rights

Vermont Natural Resources Council TDR Guidance Document

- ▶ Notes the intent of the TDR statutory scheme is to help “shift development away from sensitive open space and into downtowns, villages and other growth centers”.
- ▶ Describes Transfer of development rights as a municipal planning tool “that may help reconcile community and landowner interests.”

History

- ▶ In 1992, City adopted new land development regulations (LDRs) after a four-year planning process.
 - ▶ LDRs assigned a density of 1.2 units per acre to ALL lands within the SEQ
 - ▶ Introduced the “transfer” concept still in our LDRs today

History

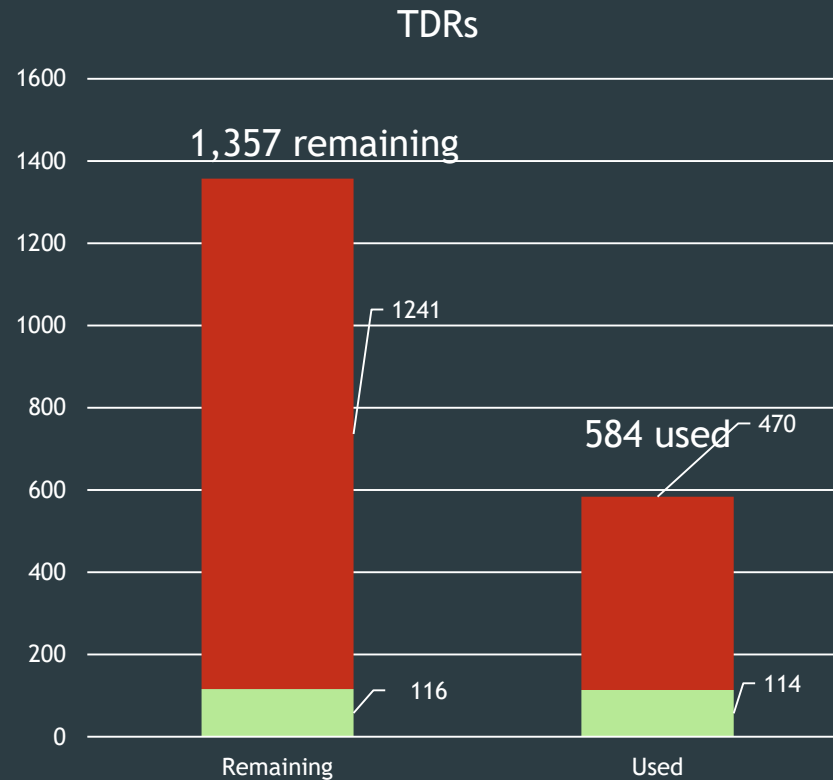
- ▶ In 2001, the Open Space Strategy identified the most important SEQ lands from a habitat and natural resource perspective
- ▶ In 2004 the City commissioned Arrowwood Environmental to conduct an Ecological Assessment
- ▶ The Arrowwood report gave some general principles for the stewardship of our ecological resources.

History

- ▶ In 2006, the Comprehensive Plan and Land Development Regulations' SEQ chapters were re-written, establishing 5 subdistricts and the city's Transfer of Development Rights program.
- ▶ At the inception of the program, there were an estimated 2066 TDRs available for transfer.

TDR Program - to date

- ▶ Estimated 584 TDRs used
 - ▶ 114 were severed and transferred under the TDR program, which conserved 95 acres
 - ▶ 470 were used intra-parcel, equated to 370 acres of open space or “conserved”
- ▶ Estimated 1,357 TDRs remaining
 - ▶ 116 are owned by the city
 - ▶ 1241 are held by landowners



TDR Program Challenges

TDR Market Issues

- ▶ Limited receiving areas
- ▶ Absence of a mechanism to connect TDR holders with potential buyers has not supported development of a robust marketplace for TDR holders
- ▶ No reliable database or registry of TDRs available, sent (severed) and where used in receiving areas thus making the program less transparent and effective than it could be

Unintended consequences

- ▶ The South Burlington TDR Program was established with TDR Sending and TDR Receiving areas all in the SEQ where almost all of South Burlington's remaining open space is located.
- ▶ An unintended consequence of this could be dense development in the same areas where our LDRs and Comprehensive Plan encourage open space preservation, natural resource protection, wildlife habitat preservation and continued agriculture.

Community Concerns

- ▶ South Burlington residents have expressed growing concern about the pace of development in the City and the importance of conserving open space and precious natural resources.
- ▶ Community members have voiced strong concerns about some SEQ defined Receiving areas as lands worthy of conservation.

Committee Evaluations

Options Evaluated

1. Eliminate the TDR program and adopt more conventional zoning (Conservation Zone)
2. Retain current zoning but purchase and retire the outstanding TDRs.
3. Retain the TDR program substantially as is
4. Revise the TDR program extensively

Option 1: Eliminate TDR Program

- ▶ not considered to be viable to replace the current program with a new conservation zoning district because
- ▶ future regulatory changes could change zoning and thus undermine the conservation intent of this option.

Option 2: Purchase & Retire TDRs

- ▶ not viable as the purchase of all outstanding TDRs would present significant fiscal challenges for the City, which would be difficult to overcome.

Option 3: Retain TDR Program

- ▶ Retain substantially as is (with changes proposed in the recently drafted LDR, Article 9 Amendments)
- ▶ Leaving as is does not further the City's open space goals as articulated in the Interim Bylaws and Comprehensive Plan
- ▶ Does not expand the marketplace for TDRs and,
- ▶ Leaves Sending and Receiving areas in the SEQ

Option 4: Revise and Amend

Amend the TDR ordinance to:

- ▶ Support the community's conservation goals as articulated in the Interim Bylaws and in the Comprehensive Plan
- ▶ Retain the density and conservation benefits of a TDR program in a meaningful form

TDR Committee Recommendations

Key Recommendations

- ▶ Expand the TDR marketplace to Receiving Areas outside the SEQ
- ▶ Add new Sending areas in the SEQ and outside the SEQ which are identified as high priority for conservation
- ▶ Define a “dwelling unit” by area (square footage)

Key Recommendations

- ▶ Re-designate sensitive Receiving areas in the SEQ
- ▶ The City could purchase and retire TDRs from select parcels that have the highest conservation values as indicated by the Interim Zoning Open Space Committee.

Key Recommendations

- ▶ Work to develop a balance between the capacity for TDR usage and the supply in order to create a fair and well-functioning TDR market.
- ▶ Establish a TDR clearing house, registry or bank where holders could list or delist their TDRs

Managing the TDR Program

- ▶ As required by 24 V.S.A. § 4423, the City should develop and maintain a map of areas from which development rights have been severed.
- ▶ This map should show also the areas to which TDRs have been transferred or used intra-parcel.
- ▶ Developing this map would allow the City to determine the impact of the TDR program to date and become a reliable database of TDRs used (severed) and TDRs remaining.

