

# An Overview of Transfer Development Rights (TDR) Option in Carver, MA

Carver Planning Board Meeting | July 28, 2020

# Project Background



Carver has a Transfer of Development Rights (TDR) Bylaw



TDR is an alternative land preservation and development model that has perhaps been underutilized



Because it is unconventional, a general explanation of TDR principles and the current TDR rules in place in Carver can be helpful

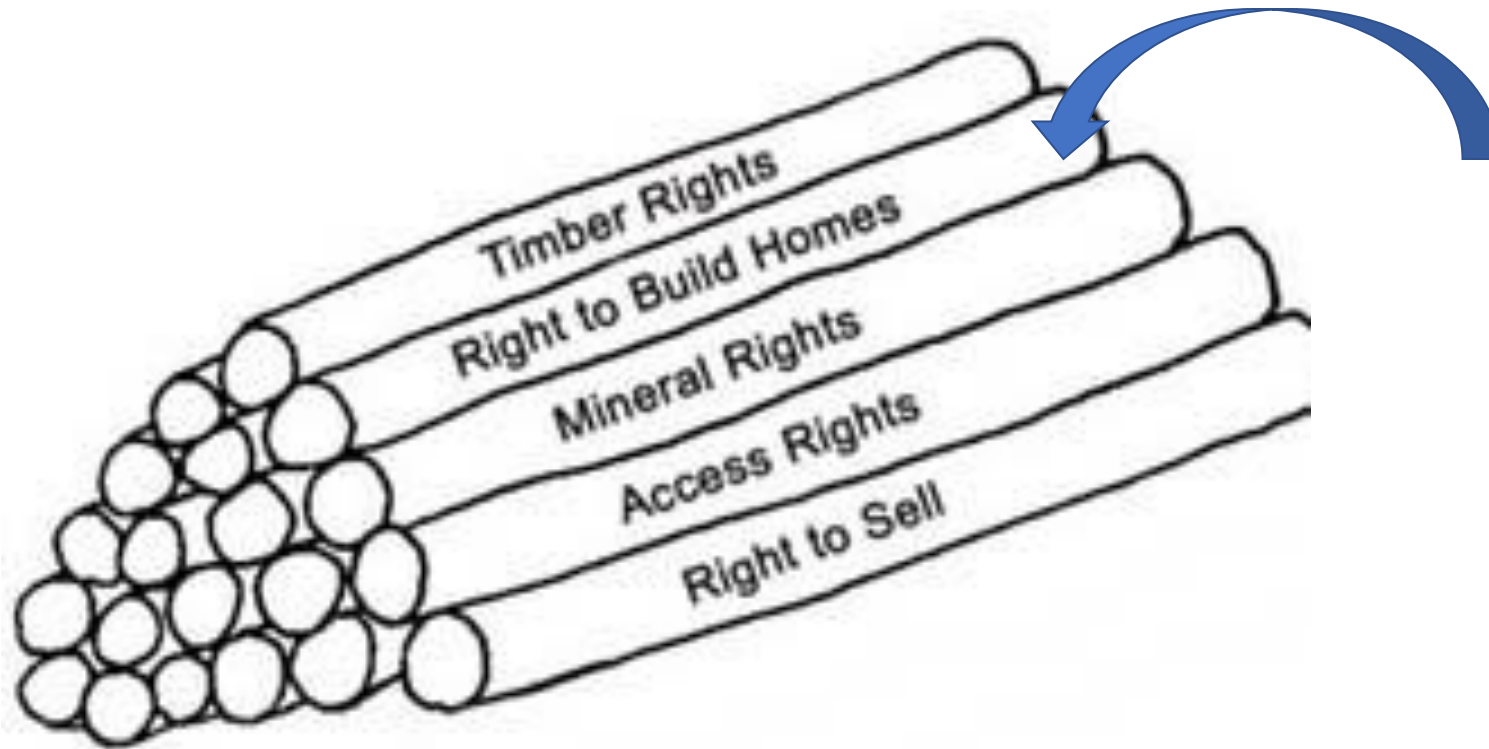


The Town of Carver requested that SRPEDD prepare an explanation of TDR in general and in Carver in order to provide additional background to the Planning Board



SRPEDD Team: Bill Napolitano, Helen Zincavage, Grant King

# What is TDR?

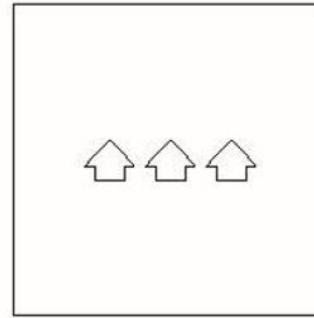


A method that allows the development potential of one parcel to be sent to another parcel.

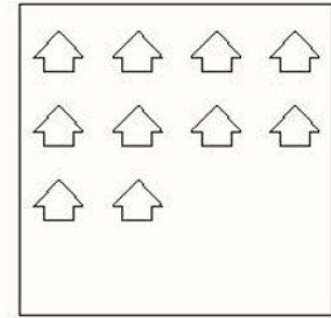
This happens by voluntarily removing the legal "Right to Build (Homes)" from a property owner's "bundle" of property rights.


TDR works  
like this

sending site



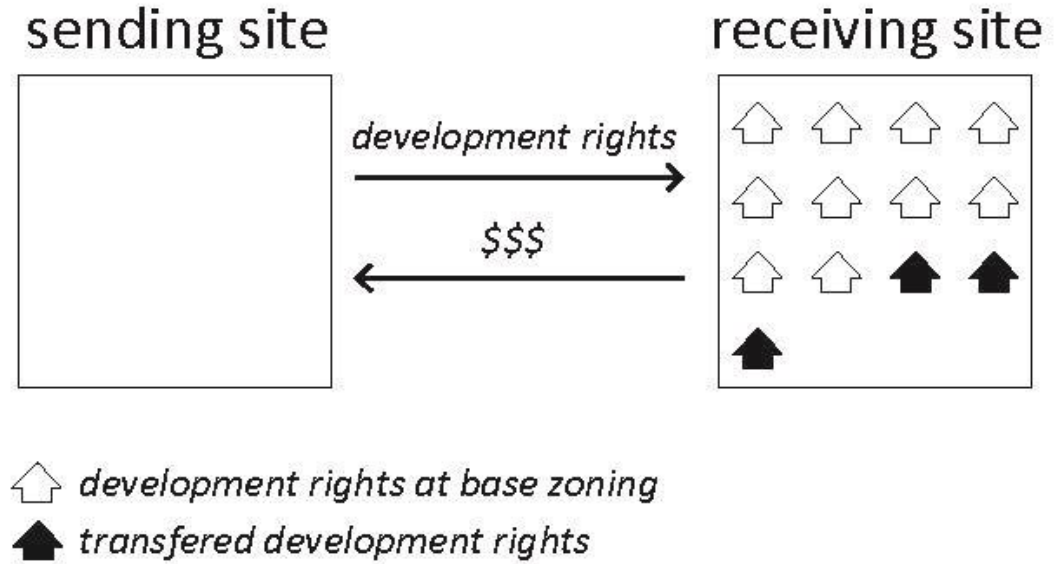
receiving site



 *units at base zoning*

Source: The Planning Center | DC&E; SRPEDD

TDR works  
like this



Source: *The Planning Center* | DC&E; SRPEDD

Why have  
TDR?  
TWO Main  
Benefits

**Permanent Land Preservation** on the "sending" parcel

**Promote Development** on the "receiving" parcel where most intense development is most appropriate and desirable

# Characteristics of a "Sending" Parcel



Significant open space / recreation potential



Historical structures



Critical environmental resources, such as:



Critical habitat



Ground and surface water protection



Floodplain areas, etc.

# Characteristics of A "Receiving" Parcel



Near existing development



Near main roadways or public transportation access



Near community economic (village) centers



Near existing water and sewer infrastructure



Has positive development amenities



Inclusive of affordable housing



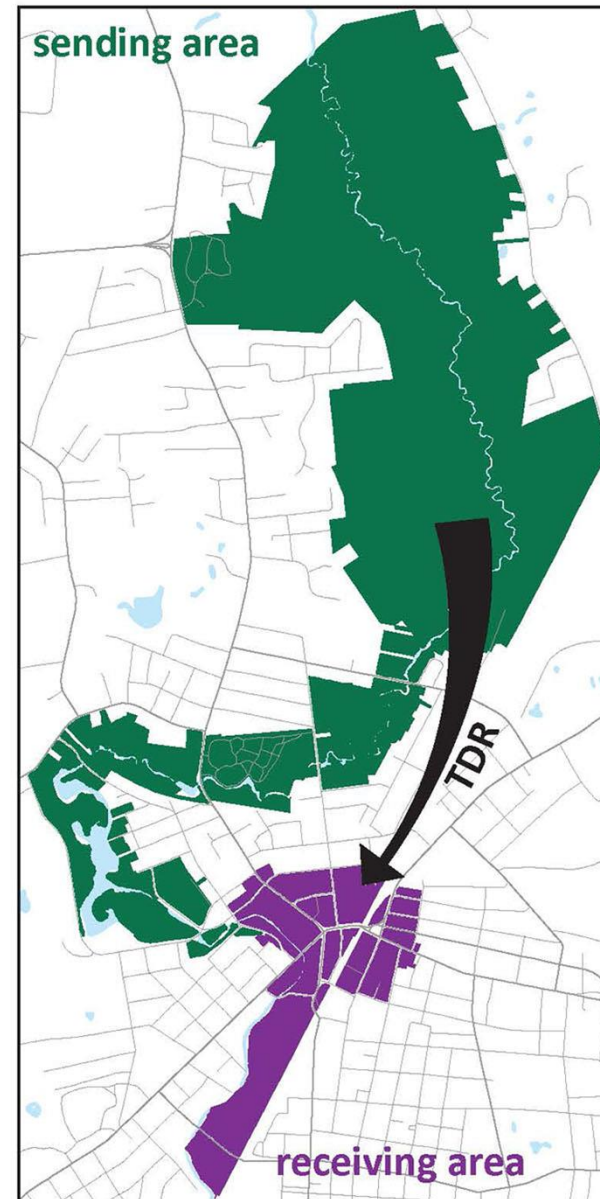
So TDR's main mission is to shift development from

places your town wants to protect

into

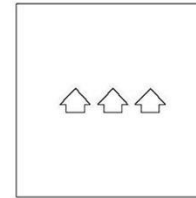
places your town wants to build

all while allowing a property owner to obtain the value of developing his/her land without actually building on it.

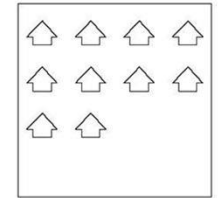


before TDR

sending area parcel



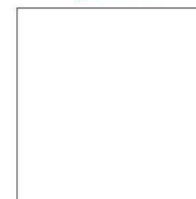
receiving area parcel



🏠 development rights at base zoning

after TDR

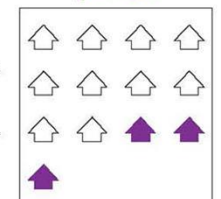
sending area parcel



development rights →

← \$\$\$

receiving area parcel



🏠 development rights at base zoning

🏠 transferred development rights



# TDR in Carver



2000's - Carver-Plymouth-  
Wareham coalition figuring out  
what TDR could be in this region in  
the face of development pressures



SRPEDD worked with the town  
planner in Carver to put together  
a bylaw that was passed at Town  
Meeting

# Historical Development of TDR Bylaw

# Contemporary TDR Goals and Objectives

*"A focus on making existing bylaws more user-friendly as well as attention to new means of focusing growth to preferred locations can help the town balance the need for growth with its desire to preserve Carver's unique natural, cultural, and rural heritage."*

- 2017 Carver Master Plan

## 2017 Carver Master Plan

- Land Use Goal 3-2: Use Carver's Existing Transfer of Development Bylaw
  - Land Use Strategy 3-2-1: Simplification of Carver's existing TDR Bylaw can increase land conservation while also encouraging desired growth in preferred locations

2018 Updated TDR Mapping and Proposed new Sending and Receiving Areas (based on the town's 2017 build-out, PDAs/PPAs, and GIS data).

# Carver TDR Bylaw in 12 Steps

Rules and Process

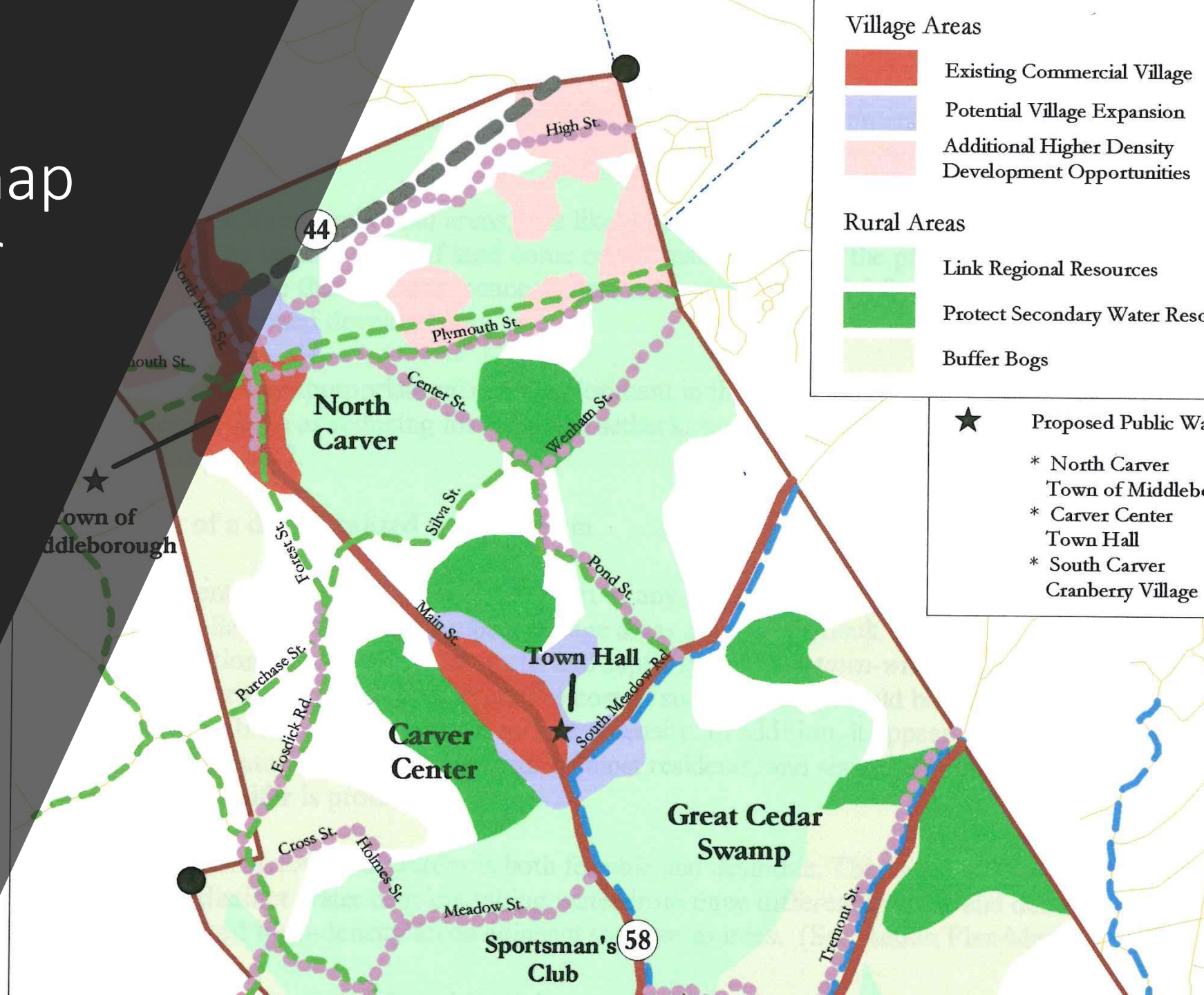
# STEP 1: Determine if parcels in question are part of the sending and receiving areas in town

Sending: Areas designated as sending areas on the TDR Overlay Map *(not available)*

Receiving: Areas designated as receiving areas on the TDR Overlay Map *(not available)*, BUT here the bylaw further clarifies!

"Areas designated as **existing commercial village or potential village expansion in the "Action Plan" map** of the Carver Master Plan **(available)**, and all land within any **PND overlay district** *(no longer shown on Zoning Map?)*"

"Action Plan" map  
 - Carver Master  
 Plan (2001)



## STEP 2: Calculate Development Potential of the **Sending Area** (parcel or parcels)

File a preliminary plan for the sending parcel(s) for development that complies with all existing density and dimensional limitations in zoning and subdivision bylaws

This shows the inherent development potential of the land under current zoning and subdivision regulations



# STEP 3: Report on **Sending Area** Significance

Applicant provides a written report to the Planning Board that identifies the reasons for preserving the sending parcel(s), and whether these are significant attributes or particularly significant attributes

**Significant Sending Areas:** important vistas, ecological significance, farmland, recreation value, water supply protection

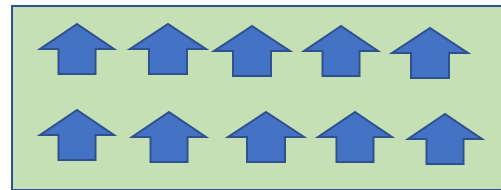
**Particularly Significant Sending Areas:** conventional development would result in 3 or more ANR lots, public drinking water resource, habitat for rare or endangered species (per the NHESP), contiguous to state or town conservation land, historical structures, special recreational value

Final determination of significant versus particularly significant status is at the discretion of the Planning Board

# STEP 4: Determine TDR Development Rights of Sending Area

1. Take the number of lots that could be developed under conventional or "base" zoning
  - From preliminary plan – see Step 2 above
2. Apply one or two TDR development multipliers
  - These provide a development "bonus" for the use of the TDR option that preserves land instead of the conventional development option
  - Significant Sending Areas = multiply by 1.5
  - Particularly Significant Sending Areas = multiply by 2
3. For Example
  - Conventional Zoning would allow **10 units**
  - Significant Sending Areas would permit  $10 * 1.5$  - **15 units** - for transfer to receiving area
  - Particularly Significant Sending Areas would permit  $10 * 2$  – **20 units** – for transfer to receiving area

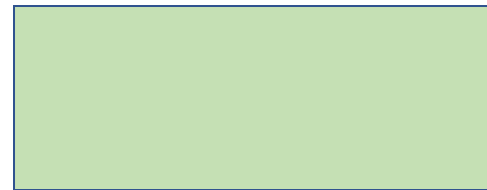
- Imagine there is a **14-acre (609,840 sq ft)** vacant parcel located in Carver's Residential Agricultural Zone
- The owner is interested in seeing his investment in the property grow through subdivision, development and sale
- Minimum lot size in the RA Zone is **60,000** square feet (about 1.3 acres)
- The owner prepares a preliminary plan confirming that under conventional development, the property could be subdivided into **ten one-unit lots** ( $609,840 / 60,000 = 10.164$ , round down to 10 lots).
- The owner also knows that the parcel is adjacent to town-owned conservation land, and that his property would also have value as an extension of this conservation area, and part of him would like to see it remain naturalized land if he can also recoup his reasonable investment expectations
- The owner decides to explore TDR, and makes the case that his land is a Particularly Significant Resource Sending Area
- The calculation of TDR Development Rights is therefore **10 units** at conventional zoning \* **2**, the multiplier for particularly significant sending areas for a **TOTAL of 20 potential units for application in a receiving area.**



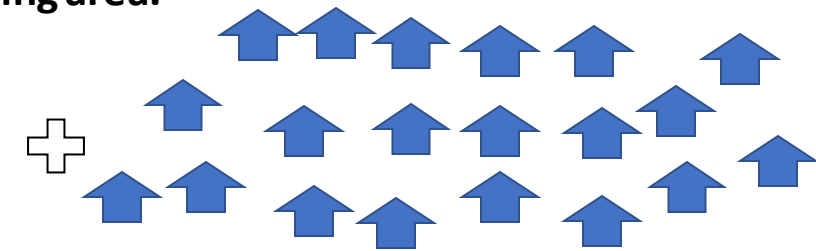
14-acre sending parcel; particularly significant conservation features



TDR Option allows for 2x this conventional development potential



Preserved parcel



The right to develop 20 units on a receiving area parcel, not yet identified

## Let's Establish An Example

ALL FIGURES IN THIS AND OTHER EXAMPLE SLIDES ARE FOR THE PURPOSES OF EXPLAINING THE BYLAW THROUGH AN EXAMPLE SCENARIO AND DO NOT COME FROM ANY REAL ACTIVE APPLICATION

# STEP 5: Restrict **Sending Area** from Future Development

**BEFORE** any building permits are issued for construction of TDR units in the receiving area, sending parcel(s) must be permanently restricted from future development via deed recording.

- Through a permanent conservation restriction; OR
- Through donation to the Town of Carver or to a nonprofit organization for conservation purposes

Draft restriction or conveyance language for sending lots shall be submitted to the Planning Board with the TDR development application. The Planning Board shall be notified of the date of recording, and deed book and page number.

# STEP 6: Determine Tax Adjustments

This one does not involve the Planning Board so much...

The applicant shall provide the Carver Tax Assessor all pertinent information so that the Assessor can value sending and receiving parcels appropriately at their fair market value after increases/decreases from the shift in development potential.

Just something to be aware of and keep track of as part of this process.

## STEP 7: Verify that the **Receiving Area** Meets Certain Requirements

- Minimum area: 10 acres...EXCEPT
  - Receiving areas in the Village District
  - Receiving areas having frontage on or access from Route 58
- Maximum area: 60 acres...EXCEPT
  - Receiving areas within the PND Overlay District
- Receiving area must have frontage on Route 58 or an express access easement from Route 58

# STEP 8: Prepare a Net Usable Land Area (NULA) Calculation for the **Receiving Area**

Purpose is to calculate the base density of the receiving area before the TDR units are transferred.

NULA is a calculation of the parcel's developable acreage:

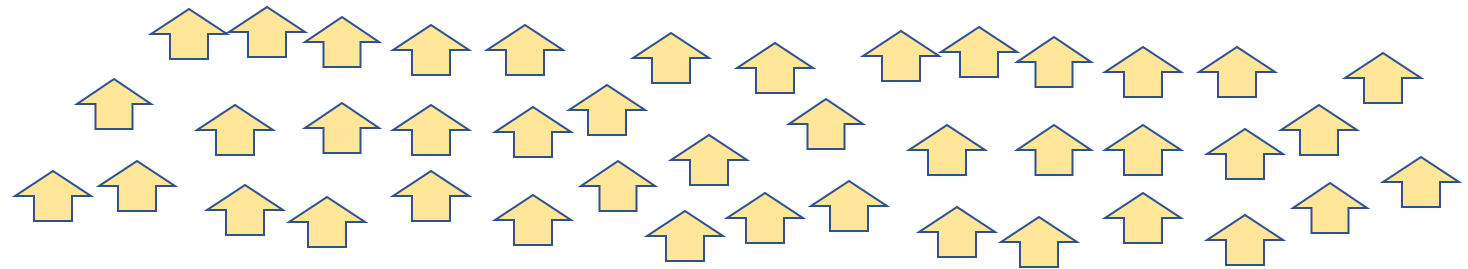
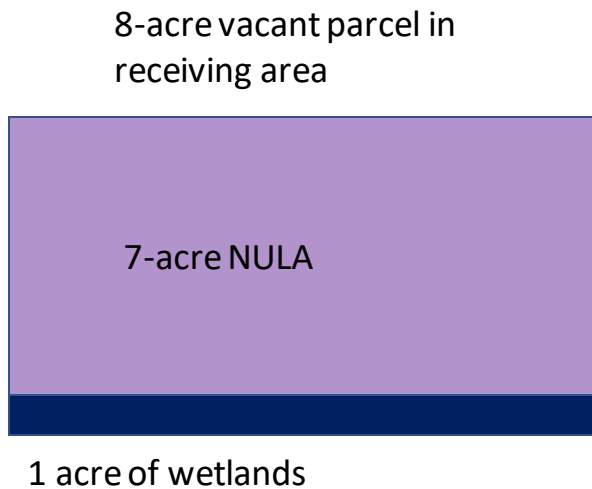
Total parcel area MINUS

- waterbodies
- wetlands plus their 65-foot wetland buffer area

RESULTS IN = total upland area, which is the Net Useable Land Area

**Base density = 6 \* NULA**

- There is an **8-acre** vacant parcel located in Carver's Village Business Zone with frontage on Route 58
- **1 acre** of this parcel contains wetlands and wetland buffer areas
- The **NULA** is 8 total acres minus 1 wetland/buffer acre = **7 acres**
- The base number of units that can be developed under a TDR arrangement is **6 \* 7 = 42 Units**
- The owner of the sending area and, now, its TDR development potential, purchases this property in the receiving area



$NULA * 6 = 42$  units base allowance on the receiving area parcel

## Continuing Our Example



STEP 9: Add to find the total number of units permitted on the **Receiving Area**

Total Units allowed on the receiving area parcel =

Base units calculated from NULA

**PLUS**

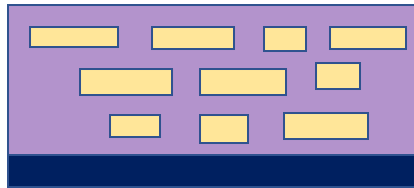
The number of TDR's available to be transferred from the sending parcel

- Total Units allowed on the receiving area parcel =
  - Base units calculated from NULA (42 in our example); PLUS
  - The number of TDR's available to be transferred (20 in our example)
- Total Units allowed in our example = 62 Units

We End Up With



Preserved parcel



Townhouse development with 62 units;  
6 buildings with 8 units  
2 buildings with 4 units  
2 buildings with 3 units

Continuing Our Example

## STEP 10: Apply Bonuses, if any, for Special Types of Housing in **Receiving Area**

Transferred units that are to be used in the receiving area for certain types of houses get a per unit bonus

Age-restricted housing or affordable housing – **1.5x** TDR units available

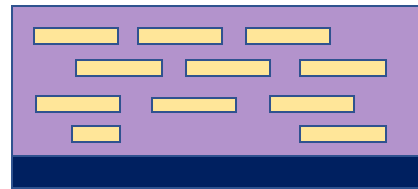
Age-restricted and affordable housing – **2x** TDR units available

- The developer intends to make all 20 available TDR credits age-restricted and affordable housing units.
  - 20 TDR's available to be transferred \* 2 multiplier = 40 units
  - PLUS 42 base units from the NULA
- Total Units allowed in our example with age-restricted affordable housing = 82 Units

We End Up With



Preserved parcel



Townhouse development with 82 units; 10 buildings with 8 units plus 1 duplex

## Continuing Our Example

# STEP 11: Ensure that Development Plan respects Required Standards

- Dimensional standards are provided – front, rear, side, Route 58 setbacks, and building-to-building setback, height
- Mix of building types including single-family, two-family, townhouse, multi-family dwellings (max 8 units per building)
- Allowance for mixed-use projects with commercial development on first floors with residential above
- Public water and sewer services shall be available or provided as part of development approval

# STEP 12: Planning Board Issues Special Permit

Upon positive findings of the following criteria:

- Complies with Master Plan and Open Space and Recreation Plan
- Preserves natural areas, wildlife, habitats, ground water, surface water, or natural resource protection, significant vista, farmland, recreation opportunities
- Provides adequate water and sanitary facilities
- Appropriate to topography and soils
- Integrates into an existing village or expansion area or achieves the goals of the PND zoning district
- Has adequate capacity to meet increased traffic demands on local roads
- Layout of streets, parking and loading is acceptable to the Planning Board



Going Forward:  
The Bylaw would Benefit from Revision

# Several Potential Bylaw Improvements



**Need to establish and official sending and receiving area map** (the 2018 DLTA project made proposals – can also reference PDA/PPA work)



May want to consider getting even more specific about the types of areas to be preserved



Some apparent codification issues (reference to section 2730 within section 2730 as currently written is clearly not intended)



May want to consider taking a regional approach to TDR by partnering with neighboring towns for maximum conservation benefit