

TDR

West Bradford Township, Chester County

401.10 TRANSFERABLE DEVELOPMENT RIGHTS

401.10(a) Purpose. The primary purpose of transferable development rights (TDR) is to permanently preserve open land, sensitive natural areas, and rural community character that would be lost if the land were developed. In addition, this Section is intended to protect property rights by allowing landowners whose land is intended for preservation to transfer their right to develop to other areas of the Township of West Bradford. It is the particular intention of this Section that the transfer of development rights be utilized to preserve and mitigate the impact of development on the following resources:

Prime farmland or agricultural land; Mature woodlands;

Stream valleys with associated wetlands and floodplains;

Historic, scenic and cultural resources.

401.10(b) Concept The provisions of this Zoning Ordinance which permit transferable development rights allow landowners in areas of West Bradford Township proposed for preservation, called sending areas, to sell the right to develop all, or a portion of their land to landowners in areas of West Bradford Township proposed for additional development, called receiving areas. The transferable development rights provisions set forth below are specifically authorized under Sections 603(c)(2.2) and 619.1 of the Pennsylvania Municipalities Planning Code, under the terms of which development rights are acknowledged to be severable and separately conveyable from a sending area to a receiving area.

When landowners in the sending area sell their right to develop all or a portion of their land, they must deed restrict that portion of land from which development rights are sold against any future development, although it may still be used for purposes that do not involve development, such as agriculture or forestry. When landowners in the receiving area buy the development rights from landowners in the sending area, they receive the right to build more homes on their land than they would have been allowed if they had not purchased development rights.

401.10(c) Sending Area Qualifications and Calculations. Owners of tracts that meet the following requirements may sell their development rights:

- A. Sending Area Qualifications. The sending area tract of land shall be located within the R-1 zoning district. This tract shall have a minimum land area of 25 acres (gross), and shall contain at least one of the following resource features:
 1. Prime farmland or agricultural land;

2. Mature woodlands;
3. Stream valleys with associated wetlands and floodplains;
4. Historic, scenic or cultural resources identified on the West Bradford Township Open Space, Recreation, and Environmental Resources Plan, prepared by Natural Lands Trust dated July 1992.

B. Calculation of Transferable Development Rights.

1. The number of development rights that may be sold shall be based upon the maximum number of single-family detached dwellings which are permitted to be developed on the Net Developable Area of the sending area tract under the zoning regulations for the district in which the tract is located.
2. "Net Developable Area" shall be measured in acres and shall be determined by subtracting the following from the gross tract area:
 - a. All land currently restricted from future development by covenant, easement or deed restriction;
 - b. All land within ultimate rights-of-way of existing roads and land subject to easements or rights-of-way for railroads, power transmission lines, and other utility easements;
 - c. The number of existing dwelling units on the tract multiplied by the minimum lot size required under the R-1 zoning district regulations of the Zoning Ordinance;
 - d. Land used for non-residential purposes unless used for agriculture, parkland or similar use. The amount of land subtracted for each non-residential use shall be at least as large as the minimum lot size required under the R-1 zoning district regulations of the Zoning Ordinance and shall be large enough to fully contain the use and all required yard setbacks for this use;
 - e. All land which lies within the flood hazard district as defined by the West Bradford Township zoning map and zoning ordinance;
 - f. All land which has slopes of twenty percent (20%) or greater.
 - g. The area determined by subtracting the items referred to in (a)-(f) above shall be further reduced by fifteen percent (15%) of such area to account for lands normally required for infrastructure improvements (i.e., roads, stormwater management facilities, etc.).

3. The landowner shall cause a plan of the property to be prepared by a qualified registered professional in accordance with the Professional Registration Laws of the Commonwealth of Pennsylvania which depicts: (1) the boundary and gross tract area of the sending area tract of land, (2) buildings which are located on the sending area tract of land, (3) the topography of the sending area tract of land, (4) the extent of any flood plain and all slopes in excess of fifteen (15) percent which are located on the sending area tract of land, (5) land within the ultimate right-of-way for roads, railroads, power transmission lines and other utility easements, (6) all other items set forth in Section 401.9(c)B2 (re: Calculation of "Net Developable Area") and (7) a calculation of "Net Developable Area" as defined in Section 401.9(c)B2.
4. The Net Developable Area, in square feet, shall then be divided by the minimum required lot size for single-family detached dwellings in the R-1 zoning district to produce the maximum number of dwellings permitted on the tract and the maximum number of transferable development rights available on the sending tract. At the option of the Applicant, the maximum number of transferable development rights may be established through provision of a sketch plan indicating the number of lots or dwelling units feasible under the base zoning district regulations subject to determination by the Township Engineer that the indicated number of lots is feasible in accordance with West Bradford Township Ordinances.

C. Sending Area Restrictive Covenant. Except for retained development rights (not to be transferred), if any, the sending tract must be permanently restricted from future development by a conservation easement or other restrictive covenant, which meets the following requirements:

1. Except where any retained development rights are specified, the restrictive covenant shall permanently restrict the land from future development of any non-agricultural uses, except for public park land, conservation areas, municipal facilities and similar uses.
2. The restrictive covenant shall be approved by the Board of Supervisors of West Bradford Township, in consultation with the West Bradford Township Solicitor. Final plan approval will be contingent upon the recording of the restrictive covenant at the Chester County Recorder of Deeds.
3. The restrictive covenant shall designate West Bradford Township, and/or a bona fide conservation organization acceptable to the Township at its sole discretion, as the beneficiary/grantee, but shall also designate both (a) all future owners of all or a portion of the sending parcel, and (b) all future owners of any portion of the receiving parcel as having separate and independent enforcement rights with respect to the restrictive covenants.

4. The restrictive covenant shall apply to the tract of land from which development rights are sold, and shall specify the number of development rights to be transferred as well as any to be retained based on the Net Developable Area of the tract. No portion of the Net Developable Area used to calculate the number of development rights to be transferred shall be used to satisfy minimum yard setbacks or lot area requirements for any development rights, which are to be retained, or for any other development.
5. A Conservation Plan for the sending parcels) shall be recorded with and enforceable as part of the restrictive covenant. This Conservation Plan shall:
 - a. identify the natural and man-made resources of the site and adjacent sites;
 - b. follow the guidelines of the intent statement of this ordinance;
 - c. identify areas restricted as well as areas where any retained development rights may be utilized;
 - d. demonstrate a sustainable plan for the long-term management of the sending tract, giving consideration to the following:
 - i. the manner in which the restricted areas will be owned and by whom they will be managed and maintained;
 - ii. the general character of anticipated development wherever development rights are retained along with any specific design criteria which may be imposed to minimize and/or mitigate impacts of development of the natural and man-made resources of the site;
 - iii. the conservation, land management and agricultural techniques and practices which will be used to conserve and perpetually protect the restricted areas, including conservation plans) approved by the Chester County Conservation District where applicable;
 - iv. the professional and personnel resources that will be necessary in order to maintain and manage the property;
 - v. the nature of public or private access that is planned for the restricted areas; and
 - vi. the source of money that will be available to such management, preservation and maintenance on a perpetual basis.

6. Where development rights are retained, those parcels with a minimum acreage of ten (10) acres per each development right may be developed with traditional farm/estate building groupings including, in addition to one primary residence, customary accessory agricultural structures and one tenant residence that shall be less than 50% of the total habitable square footage of the primary residence. In order to be utilized, this option must be specified in the restrictive covenants and on the Conservation Plan.
7. Agricultural uses not in keeping with the intent statement of this ordinance may be restricted or denied by the Township.
8. Should West Bradford Township acquire ownership of the sending lands, the land may be used for passive recreation coincidental with municipal purposes that allow for possible municipal uses and continue to promote the conservation of open space and preservation of view sheds.

401.10(d) Receiving Area Qualifications and Calculations. Owners of tracts, which meet the following requirements, may use development rights that are purchased from sending area landowners:

- A. Receiving Area Qualifications. The receiving tract of land shall also be located in the R-1 zoning district. The receiving parcel shall have a minimum land area of 25 acres (gross), and shall possess all of the following attributes:
 1. public water;
 2. public sewer;
 3. tract boundaries that are located within one-half ($\frac{1}{2}$) mile of a public school.
- B. Calculation of Potential Development in Receiving Sites. Landowners in receiving districts have the right to build one (1) additional dwelling unit in addition to what is otherwise allowed pursuant to the West Bradford Township Zoning and Subdivision/Land Development Ordinances for each development right purchased.
- C. Receiving Area Standards. Standards of the receiving district shall be as follows:
 1. Lot Area
 - a. Maximum Density - Two (2) dwellings per net acre
 - b. Minimum Lot Area - 16,000 Square Feet
 2. Minimum Lot Width at the Street Line - Fifty (50) Feet

- a. The minimum lot width at the street line may be reduced to forty (40) feet on a cul-de-sac if the radius of the cul-de-sac is at least seventy-five (75) feet and the West Bradford Township Planning Commission recommends the reduction in lot width to be appropriate for that particular plan.
3. Minimum Lot Width at the Setback Line - Eighty (80) Feet
4. Maximum Impervious Surface Area - Twenty-nine percent (29%) of gross lot area, but not exceeding 4,700 square feet per lot.
5. Setback Regulations:
 - a. Front Yard - Forty (40) feet from the street right-of-way line except as provided below:

Lots with dwellings with side-loaded garages - Front yard setback thirty (30) feet from the street right-of-way line.
 - b. Side Yard - Residential buildings and accessory buildings and structures: Each building or structure shall have two (2) side yards, neither of which shall be less than five (5) feet. Provided, however, that the side yards of abutting lots shall be no less than an aggregate of thirty-five (35) feet.
 - c. Rear Yard - Twenty-five (25) feet.
6. Building Height Regulation - The maximum building height shall be three (3) stories or thirty-five (35) feet, whichever is the lesser.
7. Off-Street Parking Regulations - As provided for in Section 808; however, any garaged area shall not be considered as off-street parking spaces.
8. Sign Regulations - As provided for in Section 809.
9. Performance Standards - Driveway access and stormwater facilities may be located on steep slopes, provided that not less than seventy percent (70%) of steep slope areas on the tract remain undisturbed. Section 810A3(a) may be modified to permit construction of any access driveway and stormwater facilities on steep slopes in excess of twenty percent (20%) without a compensating increase in minimum lot size otherwise applicable, provided that the standards of the West Bradford Township Driveway Ordinance are satisfied, and each lot in the tract contains not less than 4,000 square feet of contiguous land not constrained by steep slopes, wetlands, or flood hazard areas. The area of land containing slopes in excess of twenty percent (20%) shall not be used in calculating the area size. The modifications shall be permitted only with the review and approval of the Township Engineer.

D. Calculation of Receiving Area Development Rights. The total number of additional homes permitted to be developed by the owner of the receiving area tract of land shall be computed in accordance with the following provisions:

1. To determine the base density of the receiving site under existing zoning without the purchase of development rights, the landowner shall cause a plan of the property to be prepared by a qualified registered professional in accordance with the Professional Registration Laws of the Commonwealth of Pennsylvania, which depicts: (1) the boundary and gross tract area of the receiving area tract of land, (2) buildings which are located on the receiving area tract of land, (3) the topography of the receiving area tract of land, (4) the extent of any flood plain and all slopes in excess of fifteen percent (15%) which are located on the receiving area tract of land, (5) land within the ultimate right-of-way for roads, railroads, power transmission lines and other utility easements, (6) all other items set forth in Section 401.9(c)B2 (re: Calculation of "Net Developable Area") and (7) a calculation of the Net Developable Area, as defined in Section 401.9(c)B2.
2. The Net Developable Area of the receiving tract, in square feet, shall then be divided by the minimum required lot size for single-family detached dwellings in the zoning district in which the receiving tract is located, which produces the base density of the receiving tract. At the option of the Applicant, the base density of the receiving tract may be established through provision of a sketch plan indicating the number of lots or dwelling units feasible under the zoning district regulations, subject to determination by the Township Engineer that the indicated number of lots is feasible.
3. To determine the maximum potential number of homes that could be developed with the purchase of development rights, the landowner shall follow the same procedure outlined above for determining base density, except substitute the development standards set forth in Section 401.9(d)B above.
4. The difference between the base density and the potential density with development rights is the maximum number of additional homes that can be developed with the purchase of development rights.
5. The Applicant must purchase one development right for each additional dwelling unit proposed.

401.10(e) Plan Submittal Process. Applicants shall submit a preliminary plan showing development with purchase of development rights; this plan shall meet the requirements of the West Bradford Township Subdivision and Land Development Ordinance. Along with the preliminary plan, applicants shall submit:

- A. An agreement of sale for all development rights proposed to be purchased from the sending area site.

- B. A note on the plan showing the total number of homes proposed on the receiving area site.
- C. A note on the plan showing the total number of homes that could be built on the site when development rights are purchased, the number of homes that can be built under base density, and the difference between the two. This difference represents the number of additional homes that could be constructed on the site.
- D. A plan of the sending sites) from which the applicant proposes to purchase development rights. This plan shall show all information needed to determine the number of development rights, which may be sold, as shown in Section 401.9(c). In addition, the plan shall be accompanied by a metes and bounds description of the property(s), as well as each property's parcel number, owner name, and block unit number. If the applicant is purchasing development rights from a portion of a sending area site, this portion shall be shown on the plan and described with metes and bounds.
- E. In order to receive final plan approval, the Applicant must agree to record restrictive covenants for all sending area land whose development rights are being used by the Applicant. These restrictive covenants must meet the requirements of Section 401.9(c)(C), above. The restrictive covenant on the sending area land shall be recorded first, followed by a Deed of Transfer, in accordance with the provisions of the Pennsylvania Municipal Planning Code, as amended, which transfers the development rights from the sending area landowner to the receiving area landowner.