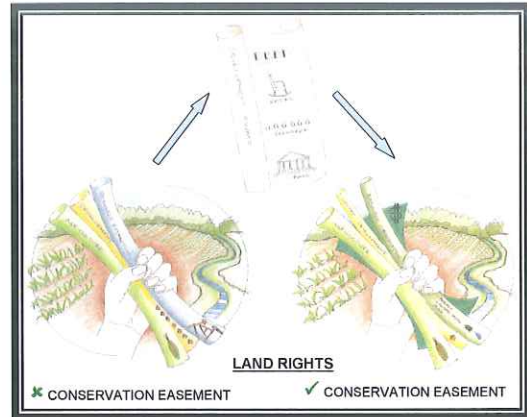


The Use of Transferable Development Rights in Municipal Zoning

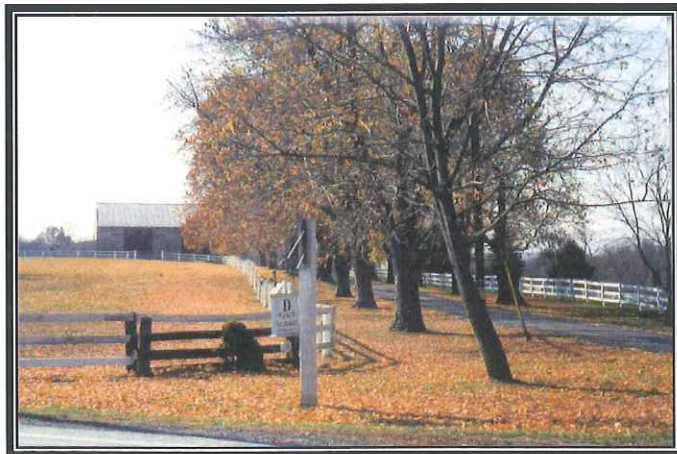
A Note on Property Rights

Owning property is, in reality, owning a bundle of rights. Created by government, these rights include water rights, mineral rights, the right to use the land, the right to sell the land, to lease it, to pass it on to heirs, and the right to develop it. Any one of these rights can be separated from the rest of the bundle and sold or given away by a landowner. In the case of development rights, if and when a landowner chooses to sell those rights (and receive a cash payment), the landowner may retain all of the other rights and responsibilities (e.g., water rights, leasing, paying property taxes) of owning land. The land remains private, but the landowner can no longer develop the property except for specific farming, forestry, or open space uses.



Transfer of Development Rights

When development rights are purchased by a developer and allowed to be moved to another property that has been designated for development, the process is called Transfer of Development Rights (TDR). To accomplish this, a community must first incorporate a TDR program into its zoning ordinance and identify a sending area where they want to have natural and/or cultural resources protected and a receiving area where they want residential or commercial growth to occur. When a TDR program has been established, a landowner in a sending area can sell the right to develop his land and/or historic structure to a developer who can then build at higher density, but only in a planned growth or receiving area.



The local government provides landowners in the sending area with the legal ability to sever and sell their development rights and also determines how many transferable development rights a landowner has. By way of example, one transferable development right could be granted for every five acres, so a landowner with 100 acres would have 20 transferable development rights. Developers can purchase these rights and transfer them to a receiving area and build above the maximum residential or nonresidential density normally permitted by the zoning ordinance. The number of transferable development rights a developer must

purchase to increase density per acre is determined by the local government. The local government also establishes caps on the total allowed density for developments that involve TDR.

For TDR to work, a landowner must be willing to sell TDRs, a developer must be willing to buy TDRs, and a municipality must be willing to enable the TDR transaction through its zoning ordinance. TDR is a market-driven tool, but it can also be a municipality-driven tool if a municipality is willing to purchase and sell TDRs.

Above text is provided courtesy of Warwick Township, Lancaster County, and the Lancaster County Planning Commission, for whom the Brandywine Conservancy and sub-consultant, Tom Daniels, developed *The Lancaster County TDR Practitioners Handbook*.

ENVIRONMENTAL MANAGEMENT CENTER, BRANDYWINE CONSERVANCY

BRANDYWINE CONSERVANCY

Environmental Management Center

Benefits of TDR

TDR programs provide landowners with a source of income, other than selling their land for development, and provide developers with the option to build at a higher than usual density. The landowner benefits financially as does the developer. The public benefits from the landowner preserving his land and/or historic structures and from the developer building more dense development in a planned growth area.

A number of townships in southeastern Pennsylvania are using Transferable Development Rights to permanently protect open space, cultural/historic resources, and farmland *and* to promote development and redevelopment within designated growth boundaries. Landowners, neighborhood groups, farmers, realtors, and elected officials are all important stakeholders in the design and long-term marketing of TDR programs.



Above text is provided courtesy of Warwick Township, Lancaster County, and the Lancaster County Planning Commission, for whom the Brandywine Conservancy and sub-consultant, Tom Daniels, developed *The Lancaster County TDR Practitioners Handbook*.

ENVIRONMENTAL MANAGEMENT CENTER, BRANDYWINE CONSERVANCY
P.O. Box 141 • Chadds Ford, Pennsylvania 19317 • (610) 388-2700

BRANDYWINE CONSERVANCY

Environmental Management Center