

Frequently Asked Questions: (FAQs)

Q: What are Transfer of Development Rights (TDR) credits used for?

A: Under the Woolwich Master Plan, certain agricultural and undeveloped properties are designated as “Sending Area” and allocated TDR credits. These credits may be severed from the property for purchase by developers. When credits are severed a Deed of Easement is placed on the sending area property restricting it to uses consistent with agriculture and open space. Through the purchase of credits, developers may build at higher development intensities in the “Receiving Area” than permitted under the base zoning.

Q: How are credits allocated in Woolwich?

A: As defined in Section 203-52 A-J (“Credit Allocation”) of the TDR Ordinance, the number of credits allocated to a Sending Area parcel is based on a formula used to estimate the number of dwelling units that could have been constructed on a specified lot under the zoning in place prior to adoption of the TDR Ordinance (2008) and in accordance with recognized environmental constraints. While the current zoning densities in the Sending Area allows for (1) single family unit per (15) acres, the credit allocation is based on the pre-existing zoning which required 1.5, 2, or 5 acres per lot. The credit allocation formula considered the pre-existing zoning, soil suitability for individual septic tanks and an estimated area for development infrastructure.

Q: Can I appeal the number of credits assigned to my property if I believe the computation was done in error?

A: Yes. Section 203-53 A-G (“Credit Allocation Appeal Process”) of the TDR Ordinance outlines the process, which requires a properly completed application and review fees. Potential applicants should be mindful that the TDR Credit Appeal process entails review by the Woolwich Township Joint Land Use Board and requires submission of public notice, a legal description and deed of the property, a conceptual subdivision plan and percolation test results. In addition, any appeal of a credit allocation must occur prior to the recording of the deed restrictions. Any landowner wishing to enter the entirety of their credits in the auction must complete their appeal first.

Q: What is the process for credit transfer and use?

A: There is a three step process toward “extinguishing” TDR credits. First, landowners apply to “enroll” their property into the Woolwich TDR program thus creating their allocated TDR credits. At the time of enrollment, the land from which the credits originate is “deed restricted” against future development. Second, once credits are created they can be either held for later use or sold and “assigned” to a developer who is then free to use the credits in the receiving area in accordance with the TDR Ordinance and Master Plan. Third, credits are “extinguished” when they are exercised in a Receiving Area development project. The Woolwich Township administrative officer and solicitor review and certify the easement and return it to the landowner for recording of deed restrictions on parcels that enroll in the TDR program. The municipal clerk also records the retirement or extinguishment of credits when employed in a particular lot and block in the receiving area. The State TDR Bank works cooperatively with the Township to help track credit transactions and recordings.

Q: Do we have to sell our credits?

A: The TDR program is voluntary, you will not be compelled to sell your TDR credits in the reversed auction or otherwise. If you do not opt to sell your credits, your lot(s) will not be further restricted from using your lot(s) other than the zoning that regulates it today. If you plan to build on the lot and have a conforming building lot under the applicable zoning regulations, which requires a minimum, 15-acre lot size per dwelling unit, the TDR Program will not prevent you from doing so. However, should you decide to not participate in TDR and develop your lot in the traditional manner you will however no longer be eligible to participate in the TDR program.

Q: If we want to sell credits do we have to participate in the Reverse Auction?

A: No, the auction too is voluntary. Landowner's have the option to wait and sell credits to developers as a market for credits materializes. Also, if you participate and do not like the results upon auction completion you have the option to withdraw your bid even if it is qualified for purchase. However, as outlined in the Purchase Agreement, winner bidders who withdraw their bid after the Agreement has been authorized may be responsible for reimbursing the Woolwich TDR Bank's processing costs.

Q: If we do not participate in the auction or fail to have our bid qualified, will we still have the option to sell credits to the Township at a later time?

A: The auction is meant as an interim measure prior to a private market emerging for development credits. As the real estate market continues to improve and plans for the provision of public sewer and water for the Regional Center and TDR Receiving areas move forward, demand for credits is anticipated. As such, there are no plans, or State Bank funds available, to hold a future auction. While the Township has the option to use a portion of its local voter-approved open space money to purchase and extinguish credits on a project-by-project basis, State Bank funds cannot be used where credits are extinguished. Future purchase of credits by the Township will likely be on a very limited, project-by-project basis, and subject to prioritization and ranking.

Q: If we enroll in the TDR program and sell only some of our credits, do remaining credits retain value for later use?

A: Yes. Once a property is enrolled in the TDR program and subsequently deed restricted a landowner may decide to hold their TDR credits, sell credits in their entirety or retain a portion of their credits for future sale. Sellers wishing to participate in the auction may submit a bid proposal on some or all of their development credits. Development of the private market for credits will determine the credits future value.

Q: How is a development credit valued in a functioning TDR market?

A: The goal is to create a vibrant private market for TDR credits driven by demand for receiving area development. In a functioning TDR credit market the additional development density permitted with purchase of credits creates the incentive for developers to seek out and purchase credits from sending area landowners. Where this market demand is sufficient, and infrastructure is available, the value of credits can be driven to a point at which sending area landowners too are incentivized to participate.

Potential sellers should understand that credit values in Woolwich will likely change once plans for the provision for public sewer, water, transportation and other infrastructure for the Woolwich Regional Center are solidified. As such, landowners must weigh the potential for risk and reward in waiting. In the meantime, a ceiling value for the auction was necessary to ensure, absent a viable credit market, that the State and Township are not paying more than the market would substantiate. Ultimately, credit holders are competing with each other in the auction as it is a lowest bidder wins auction with a set amount of funds.

Q: Why are Farmland Preservation Program values relied upon to determine the ceiling or maximum purchase price for the auction?

A: Absent a market for TDR credits, a ceiling value determination was necessary to ensure that the State and Township are not paying more than fair market value with public funds. The amount was determined by the SADC in consultation with the Township and its professionals, following a rigorous market analysis carried out by the SADC's real estate professionals. The Farmland Preservation Program is very active in the purchase of development easements in Gloucester County and, as such, a database of appraisal data is available for many local farms. The properties preserved through farmland preservation, and the deed restrictions placed on those properties, are comparable to those in the Woolwich TDR program. As a result, the farmland preservation appraisal information was deemed an adequate dataset for the ceiling value determination. This preserved farm dataset has been made available however it should be noted that the farmland preservation appraisal process considers many more property specific factors, such as presence of development approvals, than does the credit allocation formula. Similar to the Farmland Preservation Program, the State and Woolwich TDR Bank cannot pay more than what is determined to be the fair market value. Questions regarding the generation of Farmland Preservation Program easement values and TDR credit allocation can be addressed during the upcoming public information sessions in January and February.

Q: Is the maximum purchase price for the auction firm?

A: The maximum purchase price will not increase. However, when considering a bid submission sellers should be mindful that the number of bids submitted will influence the maximum amount ultimately paid. As bids will be accepted beginning with those offered at the lowest amount, and continuing upward until the full amount of money is either committed or all remaining bids exceed the maximum purchase price, competition could likely result in a maximum amount that is less than the pre-determined ceiling.

Q: Why won't we know the maximum purchase price until after the auction?

A: Demand for the sale of development credits is expected to exceed the \$7 million available for the auction. The auction is intended to provide motivated sellers, those who cannot wait for a private credit market to materialize, the opportunity to have their credits purchased. As with any real estate transaction a lower sale price (bid) will increase the chance of the transaction occurring. It was determined that release of the maximum purchase price would prevent the auction from serving its desired purpose. The alternative would be to not hold an auction and instead offer an average predetermined value for the purchase of credits, based on a ranking and prioritization system. This approach would be far more time-intensive and costly to administer, and an auction was determined to be a fairer and more objective approach. In addition, a

reversed auction provides everyone the same opportunity and chance to sell their development credits.

Q: Will the purchase of development credits by the Woolwich TDR Bank for future sale result in competition with Sending Area landowners?

A: The Woolwich TDR Bank is not buying credits to compete with those landowners who will hold credits after the auction. All inquiries from developers and others for the purchase of credits will be referred to an online registry that is currently available on the Township's website. This was created earlier this year following outreach to all Sending Area landowners via certified letters. Interested credit holders who would also like to have their contact information added to the registry should contact the Township. In addition, by purchasing and withholding credit for future use, the Township is reducing the pool of available credits, increasing likelihood that motivated landowners will be able to sell their credits sooner. When the Township does ultimately begin to sell credits, the money granted to it by the State TDR Bank will be returned.

Q: What happens in the event of a multi-way tie that would exceed the 7 million?

A: In this scenario the auctioneer would ask the sellers whether they would each be willing to sell portion of their credits and, if not, conduct a bid down process. In the event that the minimum price per credit is matched or exceeded by the TDR Bank, but the TDR Bank has insufficient funding to purchase all of the seller's credits, the seller may either sell as many credits as the TDR Bank is able to purchase or reject the purchase by the TDR Bank.

Q: Do I have to be present at the auction in order to have my bid qualified?

A: The owner of the credits does not need to be present when the bids are opened.

Q: How will the transfer of my development potential affect my taxes and revaluation of my property once it is preserved?

A: If your land is farm assessed there would not be a change in the assessed value and respective property taxes. However, if the land is not farm assessed there would be a change from the loss of development potential to reflect the current *fair market value* as a deed restricted preserved land parcel. The assessed value and respective property taxes would be reduced on those specific land parcels.

This is also addressed at: NJSA 40:55D-153(c)

a. The county clerk or county register of deeds and mortgages, as the case may be, shall transmit to the assessor of the municipality in which a development potential transfer has occurred a record of the transfer and all pertinent information required to value, assess, and tax the properties subject to the transfer in a manner consistent with subsection b. of this section.

b. Property from which and to which development potential has been transferred shall be assessed at its fair market value reflecting the development transfer. Development potential that has been removed from a sending zone but has not yet been employed in a receiving zone shall not be assessed for real property taxation. Nothing in P.L.2004, c.2 (C.40:55D-137 et al.) shall be construed to affect, or in any other way alter, the valuation assessment, or taxation of land that is valued, assessed, and taxed pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-

23.1 et seq.).

c. *Property in a sending or receiving zone that has been subject to a development potential transfer shall be newly valued, assessed, and taxed as of October 1 next following the development potential transfer.*

d. *Development potential that has been conveyed from a property pursuant to P.L.2004, c.2 (C.40:55D-137 et al.) shall not be subject to any fee imposed pursuant to P.L.1968, c.49 (C.46:15-5 et seq.).*

Q: If we sell our development rights, can we still construct one new single family resident unit on the lot?

A: Yes, as outlined below in Section 4 (“Residential Use Provision”) of the Deed of Easement document, this is possible. However, unless your parcel is 50 or more acres in size, you will need to retain (1) development credit prior to the recording of the Deed of Easement in order reserve the opportunity to build in the future. In addition, the lot cannot already contain a residential unit and must be 15 acres or more acres in size.

Section 4 Residential Use Provisions

The following residential uses are permitted, subject to the receipt of all necessary approvals:

- a. *The construction of a residential building anywhere on the premises in order to replace any permitted single or multi-family residential building that exists on the Premises and that is not a structure unfit for human occupancy pursuant to the International Property Maintenance Code or that if it is a structure unfit for human occupancy it was lived in for at least 90 days during the past two (2) years.*
- b. *If at the time of recording of this Deed of Easement the Premises contains no residential unit(s) and is greater than 15 acres, but less than 50 acres in size, the construction of one new single family residential unit is permitted. The Seller shall have retained (1) TDR credit for this purpose at the time of conveyance of this Deed of Easement.*
- c. *If at the time of recording of this Deed of Easement the Premises is 50 acres or more in size excluding the land area occupied by any buildings or structures used for a non-conforming non-residential use, the construction of new single family residential units is permitted on the Premises provided the total number of single family*

residential units (including existing units) which may be built on the Premises shall not exceed one (1) unit per fifty (50) acres of gross land area. No TDR credits are required for this purpose.

Q: Can I subdivide my property to create a separate lot for an existing or proposed future single family residence?

A: Yes. See below from Section 5 (“Subdivision Provisions”) of the Deed of Easement document, which discusses three ways in which a parcel can be subdivided under the TDR Program. Where required, (1) TDR Credit retained for this purpose at the time of the recording of the Deed of Easement will be extinguished upon subdivision.

Section 5 Subdivision Provisions

- a. *Subdivision of the Premises resulting in parcels of at least fifty (50) acres is permitted without the use of a TDR credit.*
- b. *A one-time subdivision of the Premises resulting in a parcel that is at least 15 acres but less than 50 acres in size is permitted with use of a TDR credit for the existing or a proposed single family detached dwelling unit. At the time of the conveyance of this Deed of Easement, the Seller shall have retained (1) TDR credit for this purpose.*
- c. *Seller may subdivide a lot for an existing single family detached dwelling in accordance with Section 203-54H of the Township of Woolwich Ordinances. At the time of the conveyance of this Deed of Easement, the Seller shall have retained (1) TDR credit for this purpose*