

ORDINANCE NO. 98-2005

PALMYRA TOWNSHIP

PIKE COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING THE PALMYRA TOWNSHIP ZONING ORDINANCE OF JUNE 3, 2003, TO:

ITEM 1- ADD AND AMEND DEFINITIONS 1

ITEM 2 - ESTABLISH THE CONSERVATION SUBDIVISION DESIGN OVERLAY DISTRICT 2

ITEM 3 - CHANGE §6.100 TO CONSERVATION SUBDIVISION DESIGN..... 2

ITEM 4 - INCLUDE TRANSFERABLE DEVELOPMENT RIGHTS STANDARDS 8

ITEM 5 - AMEND §6.300 MULTI-FAMILY DWELLINGS 14

BE IT HEREBY ORDAINED AND ENACTED by the Board of Supervisors of Palmyra Township, Pike County, Pennsylvania, by authority of and pursuant to the provisions of Act of 1968, P.L. 805, No. 247 of the General Assembly of the Commonwealth of Pennsylvania, approved July 31, 1968, as reenacted and amended, known and cited as the *Pennsylvania Municipalities Planning Code*, as follows:

WHEREAS, Palmyra Township has experienced tremendous population growth, increasing from 1,976 residents in 1990 to 3,145 residents in 2000, an increase of 1,169 persons and a rate of 59.2%, and this rate is and staggeringly higher than the 3.4% growth rate in the Commonwealth; and,

WHEREAS, this rate of population growth and new housing construction is expected to continue given the Township's location near the eastern megalopolis and ease of access via the Interstate Highway System; and,

WHEREAS, Pennsylvania Governor Tom Ridge, in Executive Order 1999-1, stated: *Soundly planned growth is in the best long term interest of the Commonwealth and should be encouraged at all levels of government, and Farmland and open space are valued. Commonwealth natural resources and reasonable measures for their preservation should be promoted;* and,

WHEREAS, the Pennsylvania Municipalities Planning Code was recently amended to include in the Purpose of the Act (§105) the preservation of *this Commonwealth's natural and historic resources and prime agricultural land, and to ensure that municipalities adopt zoning ordinances which are generally consistent with the municipality's comprehensive plan; to encourage the preservation of prime agricultural land and natural and historic resources through easements, transfer of development rights and re-zoning;* and,

WHEREAS, the Pennsylvania Municipalities Planning Code was recently amended to enable local municipalities to include in zoning ordinances provisions to promote and preserve prime agricultural land, environmentally sensitive areas and areas of historic significance (§603.c,7), and to require local zoning ordinances to protect prime agricultural land and provide for protection of natural and historic features and resources 0603.g); and,

NOW THEREFORE, the Board of Supervisors of Palmyra Township, finds that the following zoning ordinance amendment is consistent with the goals and plans of the Commonwealth, Pike County and the Township, and is adopted to preserve and protect natural resources, and for the overall protection of the public health, safety and general welfare.

The Palmyra Township Zoning Ordinance of June 3, 2003, as amended, is hereby amended as follows:

ITEM 1- Add the following definitions to Article HI:

Conservation Area, Primary: Those areas of a development tract which are comprised of environmentally sensitive lands on which development is not permitted.

Conservation Area, Secondary: Those areas of a development tract which are somewhat less sensitive than primary conservation areas and which may be critical to the effect the development will have on both the natural environment and the rural character of the community.

Conservation Design Subdivision: A subdivision designed at the dwelling unit density specified in the Zoning Ordinance where individual lots are reduced in size, important natural resources are conserved, and the resultant open space is preserved in perpetuity. (Note: Conservation design is an option available to a developer in accord with §6.100).

Conservation Open Space: That part of a particular conservation subdivision design development tract set aside for the protection of sensitive natural features, farmland, scenic views and other primary and secondary conservation areas identified by this Zoning Ordinance and which meets the conservation open space requirements of the Township Subdivision and Land Development Ordinance. Conservation open space may be accessible to the residents of the development and/or the Township, or it may contain areas of farmland or forest land which are not accessible to project residents or the public.

ITEM 2 - Revise §.104 to read as follows:

4.104 Conservation Subdivision Design Overlay District -- Developer's Option

The Conservation Subdivision Design Overlay District is hereby created to promote the conservation of open lands in the Township. Based on the request of the Developer, the Overlay District standards shall apply in R, MR, CC and S Districts, and in addition to all the applicable standards of this Zoning Ordinance, the requirements of §6.100 shall apply.

ITEM 3 - Replace §6.100 - Cluster Development with the following:

6.100 CONSERVATION SUBDIVISION DESIGN RESIDENTIAL DEVELOPMENT

(Note: Conservation subdivision design is not mandatory, but simply an option available to a developer.) 6.101

Purposes and Development Option

A. Purposes - In conformance with the Pennsylvania Municipalities Planning Code the purposes of this section, among others, are as follows:

1. To conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, flood plains and wetlands, by setting them aside from development.
2. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development.
3. To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes.
4. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the community's population diversity may be maintained.
5. To implement adopted municipal policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the *Palmyra Township Comprehensive Plan*.

6. To implement adopted land use, transportation, and community policies, as identified in the Township's Comprehensive plan.
 7. To protect areas of the Township with productive agricultural soils for continued or future agricultural use, by conserving blocks of land large enough to allow for efficient farm operations.
 8. To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity.
 9. To provide for the conservation and maintenance of open land within the Township to achieve the above-mentioned goals and for active or passive recreational use by residents.
 10. To provide an option for landowners in order to minimize impacts on environmental resources (sensitive lands such as wetlands, flood plain, and steep slopes) and disturbance of natural or cultural features (such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls).
 11. To provide standards reflecting the varying circumstances and interests of individual landowners, and the individual characteristics of their properties.
 12. To conserve scenic views and elements of the Township's rural character, and to minimize perceived density, by minimizing views of new development from existing roads.
- B. Development Option - In order to achieve these purposes, this §6.100 provides for flexibility in designing new residential subdivisions by allowing residential uses at a density higher than the density permitted by the underlying zoning provided not less than forty (40) percent of the tract is preserved as conservation open space.
- C. Densities and Required Open Space Percentages - See §6.104.

6.102 General Regulations

The design of all new subdivisions in the Conservation Design Overlay District shall be governed by the following minimum standards:

- A. Ownership - The tract of land shall be controlled by the applicant and shall be developed as a single entity.
- B. Site Suitability - As evidenced by the *Existing Resources/Site Analysis Plan*, the Preliminary Subdivision Plan, and the Final Subdivision Plan, the tract incorporating this design option shall be suitable for supporting development in terms of environmental conditions, its size, and configuration.
- C. Combining Dwelling Types - The various dwelling types permitted by this section may be combined at the discretion of the Board, based upon demonstration by the applicant that such a combination would better fulfill the intent of this Ordinance, in particular the stated purposes of this section.
- D. Intersections and Access - The number of driveways entering onto existing public streets shall be minimized. Instead, the development shall make maximum use of driveways entering onto an internal local street. Intersections and access shall be governed by the Township Subdivision and Land Development Ordinance.
- E. Primary Conservation Areas - The design shall strictly minimize the disturbance of the following primary conservation areas:
 1. Wetlands
 2. Floodway

3. Floodplain
4. Slopes in excess of twenty-five (25) percent

6.103 Minimum Parcel Size and Use Regulations

Tracts of ten (10) acres or more in the Conservation Design Overlay District may be used for the following purposes:

- A. Single-Family Detached Dwellings - Single-family detached dwellings.
- B. Two-family Dwelling Units or Multi-Family Dwellings - Two-family dwelling units, townhouses, or multi-family dwellings in subdivisions or land developments at the same density as single-family dwellings unless otherwise permitted in the District where proposed in which case the normal standards, including, but not limited to, density requirements, shall apply. (See §6.200 for two-family dwellings and §6.300 for multi-family projects.)
- C. Conservation Open Space - Conservation open space comprising a portion of the development, as specified above and according to requirements of §6.105.
- D. Retail and Service Establishments - In developments of two hundred (200) or more dwelling units, retail and service establishments, as defined by this Ordinance, may be permitted as a conditional use. Such uses shall be an integral part of the design of the development and shall primarily serve the residents of the development. The development standards for the LC District shall apply.
- E. Other Nonresidential Uses - The following other non-residential uses:
 1. Agricultural uses, including horticultural, wholesale nurseries, and the raising of crops, and buildings related to the same.
 2. Wood lots, arboreta, and other similar silvicultural uses.
 3. Woodland preserve, hunting club, game preserve, wildlife sanctuary, or other similar conservation use.
 4. Municipal or public uses; public park or recreation area owned and operated by a public or private nonprofit entity or agency; governmental or public utility building or use; not to include business facilities, storage of materials, trucking or repair facilities, the housing of repair crews, private or municipal solid waste disposal facilities.
- F. Accessory Uses - Accessory uses shall be permitted on the same lot with and customarily incidental to any permitted use and not conducted as an independent principal use.

6.104 Density Determination and Dimensional Standards

A. Density Standards and Minimum Required Conservation Open Space

1. Density - The number of permitted dwelling units is determined by multiplying the adjusted tract acreage by the applicable density factor (# of dwelling units per acre) as shown in the Density Standards Table. The density factor is increased by fifteen (15) percent from that of a standard subdivision. The increased density factor, when multiplied by the adjusted tract acreage, yields a bonus number of units.

DENSITY STANDARDS			
CONSERVATION DESIGN SUBDIVISIONS			
Density Requirements for Single-Family & Two-Family Dwellings			
Zoning district ->	R	MR, CC	S
<u>Type of Water Supply / Sewage Disposal</u>	Density Factor (# of dwelling units per of adjusted tract acreage)		
individual on-lot water supply AND individual on-lot sewage disposal	0.6	0.6	0.6
individual on-lot water supply OR individual on-lot sewage disposal	1.2	1.2	0.6
off-site water supply AND off-site sewage disposal	1.5	1.5	0.6
Density Requirements for Multi-Family Dwellings			
off-site water supply AND off-site sewage disposal required	0.6	\$6,300 applies	0.6

2. Minimum Required Conservation Open Space - All developments, including, but not limited to, properties which use transferable development rights, shall include as conservation open space at least forty (40) percent of the adjusted tract acreage plus all of the constrained land calculated after applying the adjustment factors in §6.104,D,1.

B. Dimensional Standards for Single-Family Detached and Two-Family Dwellings - The dimensional standards in the Single-Family Detached and Two-Family Dwellings Dimensional Standards Table shall apply.

DIMENSIONAL STANDARDS SINGLE-FAMILY DETACHED AND TWO-FAMILY DWELLINGS	
Minimum Individual Lot Area	7,500 sq ft
Minimum Lot Width at Building Line	65 feet
Minimum Street Frontage	20 feet
Flag Lots	permitted in accord with provisions of the subdivision and land development <u>ordinance</u>
Yard Regulations - the principal building position and orientation should be varied.	
- minimum front	20 feet
- minimum rear	30 feet; 20 feet where the rear yard adjoins conservation open space
- minimum side	- 30 feet separation of principal buildings - no side yard less than 5 feet
Maximum Lot Coverage	40 percent per individual lot

C. Dimensional Standards for Multi-Family Dwellings - The standards in the following Table, shall apply:

DIMENSIONAL STANDARDS MULTI-FAMILY DWELLINGS	
Minimum Individual Lot Area	none
Maximum lot depth to width r a t i o •	5 : 1
Minimum Lot Width at Building Line	18 feet (24 feet if a 2-car garage or parking of two cars side-by-side is provided in the front)
Yard Regulations - the principal building position and orientation should be varied.	
- minimum front	20 feet
- minimum rear	20 feet
- minimum side	- 35 feet separation of principal buildings
Maximum Impervious Coverage	70 percent per individual lot
Maximum Height Regulations	35 feet

D. Adjusted Tract Acreage - Determination of the maximum number of permitted dwelling units on development tract shall be based upon the adjusted tract acreage of the site. The adjusted tract acreage shall be determined by multiplying the acreage classified as being in the categories of constrained land by the numerical *constraint actor* for that category of constrained land, summing all factored constrained land areas, and then deducting the total from the gross tract area. The following areas of constrained land shall be deducted from the gross (total) tract area:

Multiply the area of:	by this Constraint Factor:
rights-of-way of existing public streets or highways, existing or proposed overhead rights-of-way of utility lines, and any other rights-of-way	1.00
land under existing private streets	1.00
designated wetlands as determined by a delineation	0.95
floodway (if not mapped by FEMA assume 50 feet each side of top-of-bank of stream)	1.00
100-year floodplain (if not mapped by FEMA area is included in floodway above)	0.50
natural ground slopes exceeding 25 percent	0.80
natural ground slopes of between 20 and 25 percent	0.30
ponds, lakes and streams	1.00
Note: If a portion of the tract is underlain by more than one constrained area, that acreage shall be subject to the most restrictive deduction only.	

6.105 Design Standards

- A. Dwelling Lots - Dwelling lots shall not encroach upon Primary Conservation Areas and the layout shall respect Secondary Conservation Areas as identified in the Township Subdivision and Land Development Ordinance.
- B. Setbacks - All new dwellings shall meet the setback requirements in following Dwelling Setbacks Table:

DWELLING SETBACKS		
SETBACK FROM:	DWELLING TYPE	
	Single-Family and Two-Family	Multi-Family Dwellings
external road rights-of-way	100 feet	300 feet
other tract boundaries	50 feet	200 feet
Lake Wallenpaupack; PPL Project Line	see §7.403,D,4	

- C. Dwelling Access - Dwellings shall generally be accessed from interior streets, rather than from roads bordering the tract.

6.106 Conservation Open Space Use and Design Standards

Protected conservation open space in all subdivisions shall meet the following standards:

- A. Uses Permitted on Conservation Open Space - The following uses are permitted in conservation open space areas:
 1. Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow).
 2. Agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, associated buildings, excluding residences that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.
 3. Pasture land for horses used solely for recreational purposes. Equestrian facilities shall be permitted but may not consume more than half of the minimum required conservation open space.
 4. Silviculture, in keeping with established standards for selective harvesting and sustained-yield forestry.
 5. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Township.
 6. Active non-commercial recreation areas, such as playing fields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required conservation open space or five acres, whichever is less.
 7. Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the conservation open space. However, water treatment plants and storage tanks, central sewage treatment plants and lagoons, and a 50-foot buffer around such facilities shall not be included within the minimum conservation open space requirement.
 8. Easements for drainage, access, sewer or water lines, or other public purposes.

9. Underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required conservation open space.
- B. Primary Conservation Areas - The primary conservation areas listed in §6.102,F, shall be included in the conservation open space except that slopes in excess of twenty (20) percent may be included in individual building lots for single-family dwellings provided each lot contains a designated building envelope of not less than seven thousand five hundred (7,500) square feet in contiguous size which is free of any primary conservation area.
- C. Layout - The conservation open space shall be in the largest blocks possible and shall be laid out to ensure that an interconnected network of open space will be provided.
- D. Ownership - The conservation open space may be owned and maintained in accord with Article X and the Township Subdivision and Land Development Ordinance.
- E. Use by Development Residents - In no case shall the amount of land available for the common use and enjoyment of the subdivision residents be less than thirty (30) percent of the total conservation open space. Not less than fifteen (15) percent of the conservation open space shall be free of wetlands, floodway, and slopes in excess of twenty-five (25); and, this minimum percentage shall be included in the conservation open space set aside for the common use and enjoyment of the subdivision residents.
- F. Access - Adequate pedestrian and maintenance access shall be provided to conservation open space reserved for subdivision residents
- I. Permanent Conservation Open Space - The required conservation open space shall be subject to permanent conservation easements prohibiting future development, prohibiting its use to meet open space requirements for any other development, and defining the range of permitted activities.

ITEM 4 - Add §7.800 as follows:

7.800 OPTIONAL TRANSFERABLE DEVELOPMENT RIGHTS (TDR)

7.801 Purpose

The primary purpose of establishing the transferable development rights (TDR) program 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 enable landowners who desire to preserve their land the opportunity to sell on the free market their right to develop to other areas of Palmyra Township deemed appropriate for higher density development based on the availability of community facilities and infrastructure.

7.802 Basic Concept and Authorization

- A. Sending Properties and Receiving Properties - The provisions of this Zoning Ordinance which permit transferable development rights allow owners of parcels in Palmyra Township proposed for conservation, called *sending properties*, to sell the right to develop all or a portion of their land to the owners of qualifying parcels in Palmyra Township proposed for additional development, called *receiving properties*.
- B. Pennsylvania Municipalities Planning Code - The transferable development rights provisions set forth in this section are specifically authorized under §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 property* to a *receiving property*.
- C. Development Rights - When landowners sell their right to develop all or a portion of their land, they must restrict

that portion of land from which development rights are sold against any future development as provided in this Ordinance, although the land may still be used for purposes that do not involve development, such as agriculture or forestry. When the owner of a *receiving property* buys the development rights from the owner of a *sending property*, they receive the right to build more dwelling units on their land than they would have been allowed had they not purchased development rights.

D. Voluntary Agreement - The owners of the *sending property* and *receiving property* shall voluntarily commit to participate in the transfer of development rights. Once the required conservation easement is established, it shall be binding upon all current and future owners of the *sending property*. The applicant for the *receiving property* is responsible to negotiate with, and pay compensation to, the owner of the *sending property* for the conservation easement. Such transaction shall occur privately, and the value shall be determined by the private market. The Township is under no obligation to pay the owner of the *sending property*.

C. Conservation Easement

1. Land Sale and Development - The conservation easement imposed on the *sending property* will not prohibit the landowner's sale of the land after the development rights have been severed, although such land cannot thereafter be used for development purposes.

2. Easement Holders - The easement shall be held by the Township and a, bonafide nonprofit conservation organization (a nonprofit organization created in accord with U.S. Code Title 26, Subtitle A, Chapter 1, Subchapter F, Part I, §501(c)(3) which is devoted to the conservation of open space) acceptable to the Township.

3. Conservation Organization Terms - It shall be responsibility of the *sending property* owners to meet all of the terms of acceptance of the easement by the conservation organization, including, but not limited to, baseline documentation, monitoring endowment, and legal fees.

D. Disposition of Development Rights - The owner of the *sending property* from which the development rights are severed or any subsequent purchaser or purchasers of the development rights may declare the development rights for sale, may hold the development rights, or may resell the development rights. The only use which may be made of the development rights is the ultimate transfer to a developer with a *receiving property*. The Township shall have no obligation to purchase the development rights which have been severed from a *sending property*.

E. Donations or Intermediaries - The development rights from a *sending property* may be purchased by or may be donated to the Township, the County or a bona fide conservation organization acceptable to the Township. A permanent conservation easement shall be established on the *sending property* at the time of such purchase or donation.

F. Permanent Severance - Once severed from a *sending property*, development rights shall remain a separate estate in land and shall not be joined with the antecedent estate.

G. Term of Development Rights - The development rights severed from a *sending property* shall have no term regardless of the number of intermediate owners unless such rights are legally extinguished.

7.803 *Sending Property* Qualifications, Calculations and Requirements

Owners of qualifying tracts may sell their development rights in accord with the following:

A. *Sending Property* Qualifications - The *sending property* shall not be otherwise restricted from development and:

1. The *sending property* shall be located in any R, MR, S, or CC Zoning District and shall be a minimum of ten (10) acres in size.

2. At least eighty (80) percent of the *sending property* shall be restricted from future development by a conservation easement in accord with this §7.800.
3. The restricted acreage shall be contiguous and shall not be less than seventy-five (75) feet in the narrowest dimension at any point except for such lands specifically serving as trail links.
4. The portion of the parcel which will not be restricted shall be useable under the use, area, dimensional, performance and other standards of this and other Township Ordinances.

B. Declaration of Transferable Development Rights and Certification by Township - Any owner of a qualified *sending property* may elect to declare the severance of development rights, and may request a written certification from the Township of the number of rights that may be severed, which certification shall not be unreasonably withheld. Such request shall be made to the Zoning Officer on the form provided by the Township.

C. Calculation of Transferable Development Rights; Conditional Use - The calculation of transferable development rights shall be considered a conditional use based on application made by the *sending property* owner.

1. **Determination of Number of Development Rights** - The Township shall determine the total number of development rights available from a *sending property* by multiplying the adjusted tract acreage as calculated for the property in accord with §6.104,D of this Ordinance by the density factor (# of dwelling units per acre) in the Calculation of Transferable Development Rights Table. The density factor is increased by fifty (50) percent from that of a standard subdivision with on-lot sewage disposal and off-site water supply, and the increased density factor, when multiplied by the adjusted tract acreage, yields a bonus number of development rights.

CALCULATION OF TRANSFERABLE DEVELOPMENT RIGHTS	
<small>(See §7.803,C,2 below for parcels subdivided after 12/20/05)</small>	
Zoning District	Density Factor <small>(# of dwelling units per acre)</small>
S	1.00
R, MR, CC	2.00

2. **Subdivision Prior to Transfer** - The density factors in §7.803,C,1 shall not apply where the transfer of rights is proposed from any parcel to any other parcel created by a common subdivision approved after the effective date of this §7.800 (December 20, 2005). Density in such case shall be determined using the density factors in §6.104,A,1 applicable to conservation design subdivisions.
3. **Plan Requirement** - The applicant shall provide a plan prepared by a professional consultant as defined by the Pennsylvania Municipalities Planning Code to document to the satisfaction of the Township the determination of Adjusted Tract Acreage. At a minimum, the plan shall show the site features enumerated in §6.104,D of this Ordinance.
4. **Partial Severance** - If the severance of development rights would entail less than an entire parcel, the portion of the parcel from which the development rights are severed shall be clearly identified on a survey of the entire parcel made and sealed by a surveyor licensed in Pennsylvania.
5. **Preserved Land** - Land previously restricted against development by covenant, easement or deed restriction

shall not be eligible for transferable development rights unless and until such time as said covenant, restriction or easement is dissolved or rescinded with agreement of all beneficiaries of such covenant, restriction or easement.

D. Severance of Transferable Development Rights.

1. Severance - Transferable development rights which have been severed shall be conveyed by a Deed of Transferable Development Rights duly recorded in the Office of the Pike County Recorder of Deeds. The Deed of Transferable Development Rights shall specify the tract of land to which the rights shall be permanently attached or that the rights shall be transferred to the Township, retained by the owner of the *sending property*, or another person in gross.
2. Conservation Easement - The Deed of Transferable Development Rights which severs the development rights from the *sending property* shall be accompanied by a conservation easement which shall permanently restrict development of the sending property as provided below and which shall be recorded in the Office of the Recorder of Deeds at the same time as or prior to the Deed of Transferable Development Rights.
3. Township Approval of Easement - All Deeds of Transferable Development Rights and conservation easements shall be endorsed by the Township prior to recording, which endorsement shall not be unreasonably withheld.
 - a. Deeds submitted to the Township for endorsement shall be accompanied by a title search of the *sending property* and a legal opinion of title affirming that the development rights being transferred by the Deed have not been previously severed from or prohibited upon the *sending property*.
 - b. A title report shall be prepared not less than ten (10) days prior to submission of the Deed, and the legal opinion of title must meet the reasonable approval of the Township Solicitor.
4. Partial Sale of Severed Rights - If an agreement of sale of development rights would entail less than the entire number of development rights represented by a recorded Deed of Transferable Development Rights, the applicant shall indicate in the Deed the disposition of the remaining development rights.

E. Sending Property Conservation Easement - Any *sending property* from which development rights have been severed must be permanently restricted from future development by a conservation easement provided by the Township which meets the following minimum requirements:

1. Development Restricted - Except where any development rights are retained, the restrictive covenant shall permanently restrict the land from future development for any purpose other than agricultural uses, public park land, conservation areas and similar uses.
2. Township Approval - The conservation easement shall be approved by the Board of Supervisors of Palmyra Township, in consultation with the Township Solicitor.
3. Enforcement Rights - The conservation easement shall designate Palmyra Township, and a bona fide conservation organization acceptable to the Township, as the beneficiary/grantee, but shall also designate the following parties as having separate and independent enforcement rights with respect to the easement:
 - a. All future owners of any portion of the *sending property*, and
 - b. All future owners of any portion of any parcel to which the transferable development rights are permanently attached.
4. Specification of Rights Sold and Retained - The conservation easement shall specify the number of

development rights to be severed as well as any to be retained.

5. Lot Area and Yard Prohibition - No portion of the tract area used to calculate the number of development rights to be severed 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.
6. Other Provisions - The conservation easement shall include all other necessary provisions to address the specific circumstances of the subject property in terms of meeting the requirements of this Section.
7. Legal Interest Owners - All owners of all legal and beneficial interest in the tract from which development rights are severed shall execute the conservation easement. All lien holders of the tract from which development rights are severed shall execute a joinder and/or consent to the conservation easement.
8. Development Approval - Final approval for any subdivision or land development plan using transferred development rights shall not be granted prior to the recording of the required conservation easement and other applicable documents at the Pike County Recorder of Deeds.

7.804 Receiving Property Qualifications, Calculations and Requirements

Owners of tracts which meet the following requirements may use development rights that are purchased from *sending property owners*.

- A. Receiving Property Prohibition - Development rights shall not be transferred to any property in any S District.
- B. Residential: Off-Site Sewage and Off-Site Water; Other Receiving Property Qualifications - Residential density of permitted residential types on a *receiving property* may be increased through the use of TDR's in accord with the provisions of this §7.800 when the *receiving property* is located in an R, MR, or CC District and is:
 1. Served by publicly owned off-site sewage disposal and public or private off-site water supply; or is
 2. Served by private off-site sewage disposal existing at the effective date of this provision with adequate capacity without expansion and public or private off-site water supply; or is
 3. Served by soil-based off-site sewage disposal and public or private off-site water supply.
 4. All *receiving properties* in the R District shall be governed by the conservation subdivision design standards in §6.100.
- C. Receiving Property Base Residential Density - The base residential density of the *receiving property* shall be determined by dividing the adjusted tract acreage as calculated for the property in accord with §6.104,D of this Ordinance by the applicable zoning district minimum lot size requirement for lots served by off-site sewage disposal and off-site water supply.
- D. Receiving Property Increase in Permitted Residential Density - The number of dwelling units on a *receiving property* may be increased above the *receiving property* base density only to the extent that all applicable standards, including, but not limited to, the minimum required open space are satisfied.
- E. Modification of Area and Bulk Standards via Conditional Use - For any development where at least twenty (20) transferable development rights are received, applicable area and bulk requirements, but not density requirements, may be modified up to twenty-five (25) percent subject to conditional use approval by the Board of Supervisors. Any conditional use approval to permit such modification(s) shall be subject to the following criteria:
 1. Ordinance Consistency - The design and modifications shall be consistent with the purposes and the design standards contained in this Ordinance.

2. Street System - The design and modifications shall not produce lots or street systems that would be impractical in terms of layout or circulation, or detract from the appearance of the development or surrounding community, and shall not adversely affect emergency vehicle access.
3. Quality of Design - The applicant shall demonstrate to the Board of Supervisors that the proposed modification(s) will produce equal or better development design and open space conservation results than could be achieved without the requested .
4. Burden: Conditions - If the Board of Supervisors determines that the applicant has met the burden of proof, it may grant a conditional use for the modification of the requirements. The Board of Supervisors may impose such conditions as will, in its judgment, secure the objectives and purposes of this Ordinance.

7.805 Plan Submission Process.

- A. Plans Required - All applicants for use of transferable development rights shall submit subdivision or land development plans in accord with the Palmyra Township Subdivision and Land Development Ordinance for the development to which the transferable development rights will be added. A conditional use application shall be submitted where applicable. Such plans shall, in addition to meeting all other applicable provisions, include the following:
 1. Proof of Available Development Rights - A Deed of Transferable Development Rights or an agreement of sale for all development rights proposed to be purchased from the *sending property*.
 2. Dwelling Unit Numbers - A note on the plan showing the total number of dwelling units proposed on the *receiving property*, the total number that could be built not using TDR's, and the incremental difference between the two.
 3. Plan - The Adjusted Tract Acreage plan of the *sending property* required by §7.803,C,3 for the site(s) from which the applicant proposes to purchase development rights. If the applicant is purchasing development rights from a portion of a *sending property*, the plan show the areas of severed rights. If the development rights have previously been severed from a *sending property*, a copy of the recorded Deed of Transferable Development Rights shall be submitted.
 4. Title Search - A title search of the *sending property* sufficient to determine all owners of the tract and all lien holders. If the development rights have previously been severed from the *sending property*, a title search of the rights set forth in the Deed of Transferable Development Rights sufficient to determine all of the owners of the development rights and all lien holders shall be provided to the Township.
- B. Final Approval: Conservation Easement - In order to receive final plan approval, the Applicant must provide documentation that the required conservation easement has been recorded for all *sending property* lands whose development rights are being used by the applicant. These restrictive covenants must meet the requirements stipulated herein. The restrictive covenant on the *sending property* shall be recorded first, followed by a Deed of Transfer, in accord with the provisions of the Pennsylvania Municipal Planning Code, which transfers the development rights from the *sending property* landowner to the *receiving property* landowner.
- C. Public Acquisition - Palmyra Township may purchase development rights and may accept ownership of development rights through transfer by gift. All such development rights may be resold or retired by the Township. Any such purchase or gift shall be accompanied by the conservation easement required by §7.803.E.

7.806 Amendment and/or Extinguishment

- A. Amendment - The Township reserves the right to amend this Ordinance in the future, and expressly reserves the right to change the manner in which the lumber of development rights shall be calculated for a *sending property*

and the manner in which development rights can be conveyed.

- B. Termination - The Township further expressly reserves the right to terminate its transferable development rights program at any time.
- C. Claims - No owner of the land or owner of development rights shall have any claim against the Township for damages resulting from a change in this Ordinance relating to the regulations governing the calculation, transfer and use of development rights or the abolition of the transferable development rights program.
- D. Vested Rights - If the transferable development rights program is abolished by the Township, only those rights which were severed prior to the effective date of the ordinance abolishing the transferable development rights program may be attached to any *receiving property*. This shall also apply in the case where an application for severance in conformity with the provisions of this §7.800 was filed prior to the effective date of such ordinance, and the application thereafter is continuously processed to approval.

ITEM 5 - Amend §6.300 as follows:

6.300 MULTI-FAMILY DWELLINGS

Multi-family projects are permitted in certain districts in accord with the Schedule of Uses in order to provide the opportunity for the development of a variety of housing types in the Township.

6.301 Project Design Process and Procedure

- A. Subdivision and Land Development - Multi-family projects shall be considered major subdivisions and land developments also subject to the Township Subdivision and Land Development Ordinance. This: "major subdivision" classification shall apply to all subdivision of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision.
- B. Conservation Design - Multi-family projects shall be designed in accord with the requirements of §3.1000 Conservation Design Subdivisions and Land Developments, of the Township Subdivision and Land Development Ordinance.
- C. Site Plan - A proposed site plan showing all necessary information to include at a minimum, location of all buildings and improvements including roads, parking areas, planting strips, signs, overall grading plan with storm drainage facilities, water supply and distribution systems, sewage treatment and collection systems and the specific areas provided as open space pursuant to the requirements of this Ordinance. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas, lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in the Township. Setbacks from property lines, improvements, and other buildings shall also be specifically shown.
- D. Open Space
 - 1. Minimum Requirement - The development shall include as conservation open space at least thirty (30) percent of the adjusted tract acreage plus all of the constrained land calculated after applying the adjustment factors in §6.302,C.
 - 2. Standards - Open space area shall meet the standards of §6.106 and shall be preserved to the maximum extent possible in accord with a schedule or plan, and proposed agreement(s) either with the Township or a property owners' association, for the purpose of preserving the open space in accord with Article X of this Ordinance.

6.302 Parcel Configuration; Bulk and Density Standards

- A. Parcel Configuration - All land proposed for a particular multi-family dwelling project shall be part of the same parcel and contiguous.
- B. Bulk and Density - Bulk and density factors listed on Table 6.302 shall apply to multi-family dwellings and projects.

TABLE 6.302 MULTI-FAMILY DWELLING STANDARDS			
PROJECT STANDARDS	Townhouses	Garden Apartments	Apartment Buildings
Minimum size for project parcel (acres)	none		
Density -- number of dwelling units per acre of adjusted tract acreage (See §§C below for adjusted tract acreage)	1.5	1.5	1.5
Maximum number of dwelling units per building	6	8	12
Maximum building height (feet)	35	35	35
Maximum lot coverage (percent)	see §6.301,C,1		

- C. Adjusted Tract Acreage - Determination of the maximum number of permitted dwelling units on any development tract shall be based upon the adjusted tract acreage of the site. The adjusted tract acreage shall be determined by multiplying the acreage classified as being in the categories of constrained land by the numerical *constraint factor* for that category of constrained land, summing all factored constrained land areas, and then deducting the total from the gross tract area. The following areas of constrained land shall be deducted from the gross (total) tract area:

Multiply the area of:	by this Constraint Factor:
rights-of-way of existing public streets or highways, existing or proposed overhead rights-of-way of utility lines, and any other rights-of-way	1.00
land under existing private streets	1.00
designated wetlands as determined by a delineation	0.95
floodway (if not mapped by FEMA assume 50 feet each side of top-of-bank of stream)	1.00
100-year floodplain (if not mapped by FEMA area is included in floodway above)	0.50
natural ground slopes exceeding 25 percent	0.80
natural ground slopes of between 20 and 25 percent	0.30
ponds, lakes and streams	1.00
Note: If a portion of the tract is underlain by more than one constrained area, that acreage shall be subject to the most restrictive deduction only.	

6.303 Design Criteria

The following design criteria shall apply to multi-family projects:

- A. Setbacks - No structure in a multi-family dwelling project shall be constructed within twenty (20) feet of the edge of the shoulder of any access drive (without a designated right-of-way) to or through the development or within ten (10) feet of any parking area. Setbacks of multi-family project buildings from access roads through the project shall meet these minimums, however, setbacks of adjacent buildings shall be varied so that adjacent buildings have a setback variation of not less than five (5) feet. A setback of fifty (50) feet for any structure shall be maintained from all existing or proposed public or private road rights-of-way and the boundary line of the entire project parcel.
 - B. Road Standards - Access roads through the development shall comply with the street requirements of the Township Subdivision Ordinance for minor roads. Access drives serving twelve (12) units or less shall be considered driveways and need not meet minor road standards. Direct access of individual parking spaces to a minor road shall not be permitted, and any such access drive shall remain private. (See §5.508 for access road and parking area setbacks.)
 - C. Building Separation - All principal multi-family structures shall be separated by a distance as may be required by any applicable building code, but in no case less than twenty (20) feet.
 - D. Landscaped Buffers - Buffers, not less than fifteen (15) feet in width shall be provided in accord with §7.101 of this Ordinance where multi-family structures adjoin existing one-family dwellings, two-family dwellings or any R or S District. In all cases, a landscaping plan shall be prepared and submitted by the developer for approval by the Township.
 - E. Pedestrian Access - Walkways of such design and construction as approved by the Township shall be provided from all buildings and/or units to their respective parking area and shall meet the requirements for sidewalks as set forth in the Township Subdivision Ordinance.
 - F. Trash Storage - Exterior storage areas for trash and rubbish shall be screened from public view on three sides: and shall be contained in covered, vermin-proof containers. Interior storage areas for trash shall at all times be kept in an orderly and sanitary fashion.
 - G. Architectural Renderings - Preliminary architectural renderings, models or photos for multi-family dwelling projects of more than ten (10) dwelling units shall be provided at the time of submission of the conditional use application. The exterior appearance of the building(s) shall be unified in type, design, and exterior wall treatment, and so constructed and maintained, in order to retain the residential character of the neighborhood. Fire escapes, when required, shall be in the rear of the building and shall not be located on any wall facing a street unless any building, fire or other code so requires.
 - H. Townhouses: Facade Changes - A minimum of two (2) changes in the front wall plane with a minimum offset of four (4) feet shall be provided for every attached grouping of townhouses in one (1) building. This can be met by varying setbacks among different dwellings or varying setbacks along the front of a dwelling, or dwellings set back farther than attached private garages.
 - I. Parking - Parking for multi-family dwelling projects shall comply with §5.500 of this Ordinance. (See §5.508 for access road and parking area setbacks.)
 - J. Fire Protection - A plan for fire protection shall be provided in accord with §7.120 of this Zoning Ordinance.
-

SEVERABILITY

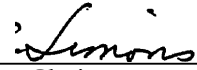
Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole, or any parts thereof.

REPEALER

All other Ordinances or sections of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

ADOPTION

ENACTED AND ORDAINED into law by the Board of Supervisors of Palmyra Township, Pike County, Pennsylvania, this 20th day of December of 2005.



Thomas A. Simons, Chairman

Eric J. Ehrhardt, Vice-Chairman



Kenneth Coutts, Secretary

ATTEST:



Jo-Ann M. Rose, Administrator