



Public Land Dedication & Fee-in-Lieu

Introduction

What issues does this tool address?

Communities need open space for passive and active recreation and natural areas where wildlife can flourish.

What does this tool accomplish?

Municipalities can require developers to provide land for this purpose, while also permitting several voluntary alternatives, including a fee-in-lieu. Public dedication is sometimes called “mandatory dedication” by land-use planners.



Implementation

How is this tool implemented?

- A municipality must first adopt a Parks and Recreation Plan.
- Then, it amends an existing, or adopts a new, subdivision and land development ordinance that provides for public dedication. This ordinance must contain definite standards (such as number of acres per person).

Voluntary alternatives to public dedication can be offered but not mandated

- Developers may pay a “fee-in-lieu” to be used for parks and rec facilities accessible to the new development.
- Developers may construct recreational facilities.
- Developers may reserve private land within the development for parks and rec use.

If fees-in-lieu are collected:

- **Time:** They must be used within 3 years.
- **Used for:** They can be used to buy parkland, provide infrastructure, buy new equipment, or improve existing parkland that is accessible to the new development.
- **Not used for:** They cannot be used to maintain existing parkland or buy maintenance equipment.



Success

Where has this tool been used successfully?

- This tool has been used with great success in hundreds of municipalities statewide, concentrated in high-growth areas such as Chester County. Local examples include Pocopson, East Brandywine, East Bradford, and Upper Uwchlan townships.

Applicability

How can this tool be used in the BCG?

- This tool helps to achieve a number of the goals of the Greenway, including: non-motorized transportation, conservation, recreation, and aesthetics. Specific functions that public land dedication can fulfill include the preservation of open space and the provision of recreational trails and facilities for residents.

More Information

Where can one learn more about this tool?

- The Brandywine Conservancy.
- Chester County Planning Commission.

Public Dedication of Land and Fees-in-Lieu for Parks and Recreation:

1. <http://conservationtools.org/guides/show/17>
2. http://conservationtools.org/libraries/1/library_items/253-Public-Dedication-of-Land-and-Fees-in-Lieu-for-Parks-and-Recreation



Resource Protection Regulations

Introduction

What does this tool accomplish?

Promoting the conservation of a broad array of resources while providing for on-going community development. Regulations can protect:

- Flood Plains, Wetlands, and Steep Slopes.
- Riparian Buffers.
- Woodlands.
- Unique Natural Areas.
- Greenway Corridors.
- Scenic Landscapes.
- Historic Resources.



Implementation

How is this tool implemented?

- Most resource protection regulation is accomplished via the Zoning Ordinance, which applies all the time and not just to development scenarios.
- Some municipalities regulate certain resources within the SALDO only, so as not to apply rigorous resource protection standards to the average homeowner.
- Resource protection regulations that may stipulate use limitations or outright prohibitions, or may more liberally apply disturbance limitations and/or performance standards.
- Historic resource protection requires provision for viable economic re-use or adaptation.
- A clear and accurate inventory of all subject resources serves as an import qualifier to resource protection regulation.
- All resource regulation should take into account the unique character of individual properties and the need for landowners to undertake lawful land use.

Success

Where has this tool been used successfully and what were the outcomes?

- Every municipality is subject to Flood Plain regulation and Wetland regulation which have minimized disturbance of these resources in recent decades.
- Most municipalities regulate the disturbance of steep slopes with relative success.



- Few municipalities regulate unique natural areas or riparian buffers beyond regulation imposed by the state.
- Limited regulation has successfully been imposed at the municipal level for woodlands, greenways, scenic landscapes and historic resources, although we enjoy some excellent examples in the Brandywine Creek Greenway region.

Applicability

How can this tool be used in the BCG and in which municipalities might it be suitable?

- Local regulation of natural and cultural resources can be enacted or enhanced in every municipality within the Brandywine Creek Greenway region.
- Suitability of specific forms and applicability of regulations are dependent upon both the unique characteristics of each municipality (e.g., what resources are present?) and the community conservation and development objectives.

More Information

Where can someone learn more about this tool?

- Chester County Planning Commission.
- The Brandywine Conservancy.



Transferable Development Rights

Introduction

What does this tool address?

- Loss of farms and forests.
- Development impacts to watersheds.
- Suburban sprawl.

What does this tool accomplish?

- Saves land and manages growth.
- Pays landowners for development rights.
- Balances “zoning’s” winners and losers.



Implementation

How is this tool implemented?

Established in zoning by:

- Creating the sending areas—resources to be protected permanently.
- Creating the receiving areas—development to be accommodated through planning.
- Administering the program—simple tracking of the TDR exchanges.

Success

Where has this tool been used successfully?

Chester County-Honey Brook Township; West Vincent Township. Lancaster County- Warwick Township; Penn Township; Caernarvon Township.

Applicability

How can this tool be used in the BCG?

- Can be applied to remaining areas of farms and forests.
- Could help limit public infrastructure encroachment.
- Discourage subdivisions outside of growth areas.
- Utilize urban areas for intended development.
- Partner with land trusts to encourage tool use.



More Information

Where can one learn more about this tool?

- The Brandywine Conservancy's publication – Transfer of Development Rights, A Flexible Option for Redirecting Growth in Pennsylvania.
- Chester County Planning Commission.
- <http://pa-lancastercountyplanning.civicplus.com/documentcenter/view/162>
- <http://conservationtools.org/guides/show/12-Transfer-of-Development-Rights>,
- <http://www.beyondtakingsandgivings.com/tdr.htm> (An up-to-date TDR website)



Stormwater Management with Best Management Practices (BMPs)

Introduction

What issues does this tool address?

- Localized and downstream flooding.
- Groundwater recharge.
- Stream baseflow.
- Water quality.
- Streambank erosion.
- Nonpoint source pollutant loadings in runoff.
- Temperature impacts.
- Source water protection.



What does this tool accomplish?

- Balances land development with water resource needs/values.
- Quantitatively, minimizes runoff volumes and slows peak rates to minimize local and downstream flooding, protect recharge and baseflow, and mimic pre-development hydrology.
- Qualitatively, minimizes addition of sediment, nutrients, toxics, other runoff-borne pollutants in order to protect aquatic biota/macroinvertebrates and to protect water supplies and minimize treatment costs and protect recreational values and overall quality of life in the watershed.
- Satisfy increasing legal/regulatory/permitting requirements from State and Federal.

Implementation

How is this tool implemented?

Municipal Prominence with County Role and State Role and Federal Role.

For Existing Sources of Stormwater

- MS4/TMDL: Most, not all are MS4s.
- All have TMDLs though varies with Urbanized Areas, Regulated Outfalls, etc.

For New Sources of Stormwater



- New Act 167 Model Ordinance Minimum.
- Relatively New Chapter 102 and other Regs.
- PADEP BMP Manual, other sources for LID, Green Infrastructure, Smart Growth, etc.
- See our GreenTreks/StormwaterPA Site Design Process.

Success

Where has this tool been used successfully?

In many Chester County municipalities and beyond.

What were the outcomes of using the tool?

When BMPs are properly matched to site and development being proposed, then installed and maintained correctly, there is proven quantitative/qualitative success.

Applicability

How can this tool be used in the BCG?

MS4/TMDL requirements must be satisfied. Act 167 model ordinance requirements must be satisfied.

Integrate BCG “extras” to provide added benefits and achieve Greenway goals and objectives.

In which municipalities might this tool be suitable?

Virtually all municipalities can/should use this tool to the maximum, given that it’s basically a requirement, and provides maximum environmental and quality of life/community enhancement bang for the buck.

Perhaps a BCG overlay that sorts out special MS4/TMDL and 167/New Source provisions for LID/Green Infrastructure/Smart Growth varying by municipal density context?

More Information

Where can someone learn more about this tool?

- Brandywine Conservancy.
- CCWRA website.
- PADEP and EPA websites.
- Center for Watershed Protection website.



Rural Conservation Zoning

Introduction

What does this tool address?

Loss of farms and forests.

Loss of rural character.

Suburban sprawl.

What does this tool accomplish?

Protects prime farm lands.

Retains viable mass of agriculture.

Protects rural resources while providing landowners with rural housing options.



Implementation

How is this tool implemented?

Typically establishes zoning districts that:

- Favor continued agriculture over non-farm residential uses (effective agricultural zoning) or allow for farming, forestry, and low-density residential uses (rural conservation zoning).
- Include incentives for conservation.
- Complement the uses of conservation easements and transferable development rights.

Rural conservation protects natural/cultural resources through choosing the residential subdivision options.

Success

Where has this tool been used successfully?

Used in various forms within the upper reaches of the Greenway, including Honey Brook, West Caln, West Nantmeal and West Brandywine Townships.

Applicability

How can this tool be used in the Brandywine Creek Greenway?

Apply to remaining areas of farms and forests.

Limit public infrastructure encroachment.



Combine with natural/cultural resource protection regulations.

Discourage cookie-cutter subdivisions.

Promote use of conservation design/open space developments.

More Information

Where can someone learn more about this tool?

- www.co.lancaster.pa.us. Greenscapes Element of the Lancaster County Comprehensive Plan – *Balance*.
- <http://conservationtools.org/guides/show/67-Agricultural-Protection-Zoning>,
- The Center for Rural Pennsylvania, Zoning for Farming, A Guidebook for Pennsylvania

on



Municipalities
How to Protect
Valuable
Agricultural
Lands, 1995.



The Official Map

Introduction

- Provides the right of first refusal to municipalities.
- Helps focus limited financial resources on projects to meet community goals.
- Helps municipalities make improvements such as improving the local street network; protecting important natural areas; and providing more green space, recreation facilities, trails, and sidewalks.
- Saves time and money by informing property owners and developers of municipal goals and intentions ahead of development plans.
- Helps to ensure that development is compatible with and supportive of public goals.
- Supports zoning and subdivision/land development ordinances by helping provide infrastructure and acquire public spaces.
- Helps secure grants.

Implementation

How is this tool implemented?

- Based on a current, adopted Comprehensive Plan and possibly other plans and studies, such as traffic studies, open space & recreation plans, etc.
- Public education.
- The map itself is the ordinance.
- The Zoning and Subdivision ordinances should be amended to reference the Official Map.

Success

Where has this tool been used successfully?

- 64 municipalities in the state have an Official Map (as of 6/2011) including: 16 in Chester County and 6 in the Brandywine Creek Greenway (Birmingham, East Bradford, East Caln, Honey Brook, Uwchlan, and West Bradford Townships).

What were the outcomes of using the tool?

- Open space preservation and multi-use trails in East Bradford Township.

Official Map East Bradford





- Development of an extensive, interconnected trail network in Uwchlan Township.
- Preservation of important natural areas in Bushkill Township, Northampton County.

Applicability

How can this tool be used in the BCG?

The top four goals for the entire Greenway have been identified as

1. **Recreation:** The Official Map can be used to prioritize land for acquisition and use as public parks and trails.
2. **Conservation:** It can also be used to identify land as a conservation priority.
3. **Water quality:** If that land includes riparian areas, conserving it can protect and improve water quality.
4. **Transportation:** The Official Map can be used to identify multi-use trail corridors, as well as to improve the street network.

In which municipalities might this tool be suitable?

- Any municipality!

More Information

Where can someone learn more about this tool?

- *The Official Map: A Handbook for Preserving and Providing Public Lands & Facilities.*
http://conservationtools.org/libraries/1/library_items/931
- The Brandywine Conservancy.



Non-regulatory Tools

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Agricultural Best Management Practices (BMPs)

Introduction

What does this tool accomplish?

Agricultural Best Management Practices (BMPs) are farming methods designed to mitigate the potential adverse environmental effects farming can have while maintaining the agricultural business' vitality of the farm.

Implementation

How is this tool implemented?

The first step is to have a Conservation Plan and possibly a Nutrient Management Plan completed for the farm. These plans will analyze the physical properties of the farm in conjunction with the type of Agri-business being conducted. The analysis will then dictate the types of BMPs for the specific cropping situation in combination with the land type (for example: soil, slope, or proximity to open water).

Applicability

How can this tool be used in the BCG?

All farms should meet with an agricultural consultant to ensure that the current stewardship of the farm is capitalizing on all the up to date opportunities to mitigate the impact of their activities on the environment.

More information

Where can one learn more about this tool?

Chester County Conservation District

- Dan Miloser 610-925-4920.

Natural Resources Conservation Service (NRCS)

- Beth Sassaman, 610-696-0398 ext 114.

The Brandywine Conservancy

- John Goodall 610-383-9515
- Grant DeCosta 610-388-8117





Agricultural Easements

Introduction

What does this tool accomplish?

Enables landowners to separate and sell their development rights from other property rights.

Landowners retain all other rights of ownership, including the right to farm, prevent trespass, sell, bequeath or otherwise transfer the land.

County pays the difference between value of the land for agriculture and the value of the land for its “highest and best use,” generally residential or commercial development.

Implementation

How is this tool implemented?

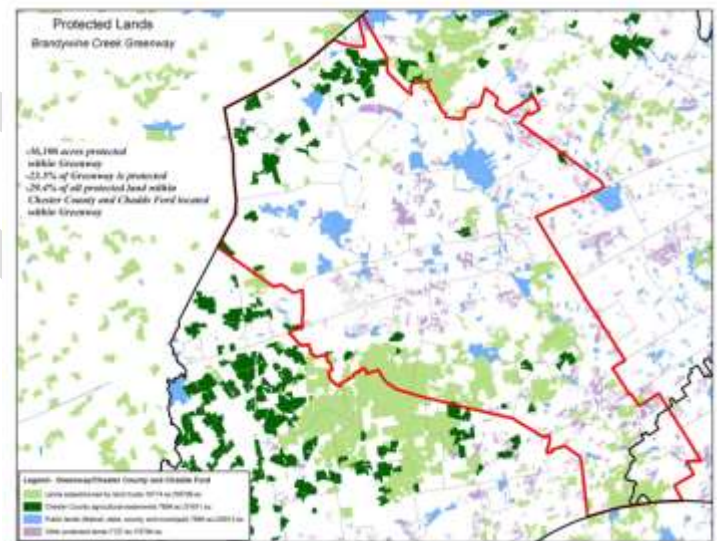
Farm selection gives 40% consideration to land evaluation (how productive soils are) and 60% consideration to site evaluation. The 60% consideration to site evaluation breaks down into 25% for Farmland Productivity and Conservation practices, 10% for development risks, and 25% for farmland clustering.

Applicability

How can this tool be used in the BCG?

To apply to the County/State Agricultural Preservation Program, a farm must have:

- At least 50 acres (challenge grant 25 acres), or at least 10 acres producing a crop unique to the area, or at least 10 acres contiguous to a property with a perpetual conservation easement.
- At least 50% of the soils must be available for Ag production and in Classes I through IV.
- Contain the greatest option of either 50% or 10 acres of harvested cropland, pasture or grazing land.



More information

Where can one learn more about this tool?

Chester County Agricultural Preservation Program



- Diana Hoopes 610-344-5656.

Brandywine Conservancy

- John Goodall 610-383-9515.

Application Deadline may be in August but is subject to change.

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Agricultural Security Areas (ASAs)

Introduction

What issues does this tool address?

The Agricultural Security program began in 1981 as a tool for strengthening agriculture as part of the “Right –to-farm”. An ASA is an area where agriculture is the primary activity and farmers are entitled to special protection from condemnation and laws and ordinances that would unreasonably restrict farming operations.

Farms enrolled in an Agricultural Security Areas (ASA) are protected from municipal zoning that adversely affects the farming operation and are also given a level of protection from eminent domain. A farm enrolled in an ASA is also eligible to participate in County/State Farmland Preservation Programs.

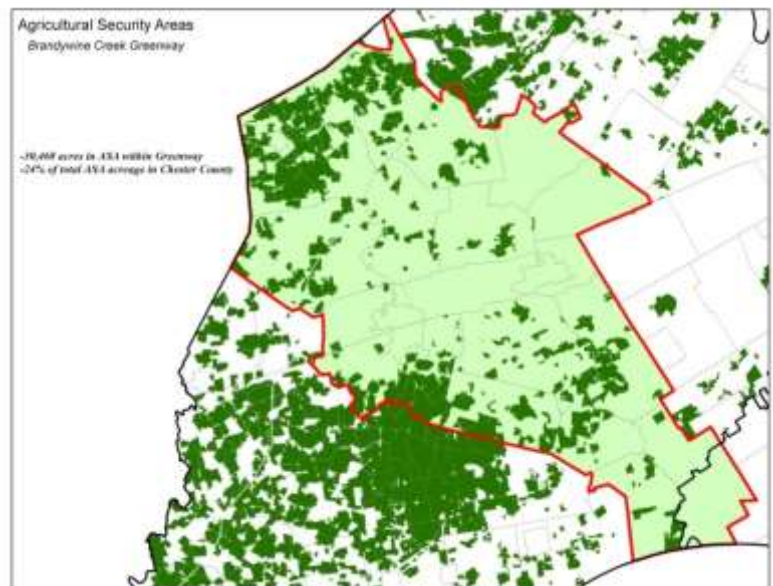
Implementation

How is this tool implemented?

ASAs are created by local municipalities with individual farmers that agree to collectively place at least 250 acres in an ASA. An eligible farm must be at least 10 acres in size and have viable farmland. Every seven years the municipality reviews their ASA.

Participants receive special consideration regarding:

- Local ordinances affecting farming activities.
- Nuisance complaints.
- And review of farmland condemnation by state and local government agencies.



An ASA qualifies land for consideration under Chester County’s Easement Purchase Program at the landowner's request, if the ASA has at least 500 acres enrolled.

Applicability

Where can this tool be used within the BCG?

An ASA is a productive tool to alleviate potential unforeseen municipal/Agra-community ordinance conflicts while also creating opportunities for municipalities to engage the farming community in other dialogues (i.e. farmland preservation).



More Information

Where can someone learn more about this tool?

- Your Municipal Office.
- Brandywine Conservancy Western Area Manager; John Goodall 610-383-9515.
- Chester County Planning Commission.

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Conservation Easements

Introduction

What issues does this tool address?

A conservation easement allows land to be permanently preserved at a potentially lower cost than the cost of purchasing and holding a fee interest. The land remains in private hands. A land trust or government entity can hold the easement and be responsible for monitoring and enforcing it. There is no obligation to require public access.

What does this tool accomplish?

A conservation easement is a voluntary restriction of private property rights. An easement permanently restricts the uses and activities on the land to protect its conservation values. Restrictions are tailored to the particular property and the mutual goals of the holder and the landowner.

Implementation

How is this tool implemented?

A conservation easement is a legal agreement between landowner and an eligible organization. Eligible organizations (under the tax code) include land trusts, municipalities, and other government entities. An easement is recorded as a deed restriction in the county office of the Recorder of Deeds and applies to all future owners.

Easement Preparation Process

A land trust can work with a municipality to help it preserve land by means of conservation easements. After initial meetings with an interested landowner to explain the easement preparation process and confirm their interest in placing an easement on their property, deeds should be checked for any encumbrances and a title report is ordered. The land trust sends a proposal letter to the landowner and the township, outlining the terms of the easement and the project costs. These costs include the time to write the easement and the baseline documentation report and to create an easement plan (map); an endowment to perpetually monitor and enforce the easement; and the cost of any needed surveying. Once the proposal is approved and signed by the landowner and the township, the land trust drafts the easement. If the easement is being purchased, an appraisal is ordered. An easement purchase agreement is prepared with an offer price based on the appraisal and is presented to the landowner. The township board of supervisors passes a resolution authorizing the easement purchase. A survey of the property boundary or designated building areas is ordered if needed. The easement is finalized and the baseline documentation report is prepared. Title insurance is ordered, and settlement occurs. (This, of course, would be slightly different if the project doesn't involve a township.)