

Frequently Asked Questions about TDR for Historic Preservation in Fanwood

New and Updated!

GENERAL QUESTIONS ABOUT TDR

WHAT IS TRANSFER OF DEVELOPMENT RIGHTS (TDR)?

TDR is the transfer of the development potential of one piece of property to another by leveraging the power of the real estate market. TDR redirects growth from areas with important natural or community resources to places where growth and development are more appropriate. For Fanwood, developers in a designated “receiving area” would purchase TDR credits from homeowners in our Historic Preservation District (“sending area”) or from the owners of other historic properties in the borough, who, through easement or deed restriction, have promised to permanently maintain their properties’ historic characteristics.

WHY ARE WE PURSUING THE TDR PROGRAM? **NEW!**

Fanwood’s TDR Demonstration Program achieves three things:

- 1) It provides a mechanism to preserve our historic district;
- 2) It provides an incentive program to attract new development along the South Avenue corridor;
- 3) It provides us with \$160,000 in funding to pay a professional planning team to create a revitalization plan for the South Avenue corridor that reflects our community’s vision.

ARE WE LETTING OTHERS TELL US WHAT TO DO?

Absolutely not. No outside agency is forcing us to do anything we don’t want to do. We will implement TDR in a manner that reflects the decisions we as a community make about our destiny.

HOW MUCH WILL IT COST THE BOROUGH TO OPERATE THE PROGRAM? **NEW!**

The program will be paid for through incentives created in the private real estate market—not by taxpayers. The borough will be responsible for maintaining the TDR Registry, but will not have to hire additional staff or incur other expenses to operate the TDR program. TDR program participants may be assessed a modest administrative fee to cover paper-processing costs.

WHO’S PAYING OUR TDR CONSULTANTS? **NEW!**

The New Jersey Department of Community Affairs and the New Jersey TDR Bank have provided Fanwood with \$160,000 in grant funding to hire planning experts to help us establish our TDR program and to create a revitalization plan for the South Avenue corridor. Our lead consultant, T&M Associates of Middletown, N.J., has been certified by the New Jersey Office of Smart Growth as having special expertise in providing Smart Growth planning services.

EARLIER, THERE WAS TALK OF CREATING A HISTORIC PRESERVATION AND MAINTENANCE TRUST. WHY IS THAT OFF THE TABLE? **NEW!**

Unfortunately, after exhaustively researching New Jersey statutes, our *pro bono* legal experts concluded that there is no state enabling legislation that would give the borough the authority to establish such a trust.

WHY DOES THIS PROCESS SEEM TO BE TAKING SO LONG? **NEW!**

Two reasons: Given the complexity of TDR and the relative novelty of using TDR in an historic preservation context, Fanwood’s elected leadership insisted that the process not be rushed; but rather that residents and property owners be given plentiful opportunities to participate in the process and learn about TDR to determine if it is right for Fanwood. Secondly, this is a pilot program. The state is essentially paying Fanwood to put together a program that hasn’t been done before. So we aren’t reinventing the wheel; we’re *inventing* the wheel—and that takes a little more time.

SUPPOSE THE TDR PILOT DOESN'T WORK IN FANWOOD? **NEW!**

Since the initiative is being paid for by the state, we're no worse for the experience. In fact, no matter how you look at it, Fanwood comes out ahead because the state is still paying our consultants to create a much-needed revitalization plan for the South Avenue corridor.

WHERE CAN I FIND MORE INFORMATION ON HISTORIC PRESERVATION TOPICS? **NEW!**

Studies, articles, and other publications available on the web regarding the economic impact of historic properties:

- Advisory Council on Historic Preservation: <http://www.achp.gov/economicstudies.html>
- National Trust for Historic Preservation: <http://www.nthp.org>

Information on preservation easements:

- National Park Service: <http://www.cr.nps.gov/hps/tps/tax/easement.htm>

Information on preservation programs and incentives in New Jersey:

- New Jersey State Historic Preservation Office: <http://www.nj.gov/dep/hpo/>
- Preservation New Jersey: <http://www.preservationnj.org/>
- New Jersey Historic Trust: <http://www.njht.org/>

QUESTIONS FOR SENDING AREA

I AM IN THE HISTORIC DISTRICT. HOW AM I AFFECTED?

The TDR program will help us to preserve and enhance the character of our Historic Preservation District and other historic properties in Fanwood. It also will provide necessary funds so homeowners can maintain their homes appropriately and in some cases restore the historic integrity of their properties.

WHAT RIGHTS DO I GIVE UP?

Participation is voluntary. In choosing to participate, you agree to an easement or deed restriction that controls the types of alterations or additions you may make to your home. For example, you would not be able to tear down your historic home for new construction, and you might not be able to install vinyl siding over clapboard shingles. Homeowners would have some flexibility. For example, a building expansion may be permitted if it does not affect the historic character of a home. It is also important to remember that you are not relinquishing ownership of your home, nor your ability to sell your home. Keep in mind that a new purchaser would be bound by the same requirement to preserve the home's historic character.

WHAT HAPPENS WHEN I SELL MY CREDITS?

When you sell your credits, you agree to an easement or deed restriction that controls the types of alterations or additions you may make to your home. You may also be permitted to sell only a portion of your development rights. For example, you might be limited in the types of alterations you can make to the front of your home while you would be allowed to make compatible expansions to the side or rear of your dwelling. What rights you give up will be up to you and dependent on the amount of credits that you wish to sell.

COULD WE ACCOMPLISH THE SAME GOALS BY HISTORIC PRESERVATION ORDINANCE?

Such an ordinance would not achieve the goals of the TDR program. These goals not only include protecting our Historic Preservation District and other historic properties, but also include fostering revitalization in the commercial and industrial district along South Avenue. The TDR program also includes a funding mechanism to assist homeowners with costs associated with maintaining and restoring their historic properties. A historic preservation ordinance would not include such a funding mechanism.

HOW WILL POTENTIAL BUYERS FIND ME? NEW!

The process will be straightforward. You will go to Borough Hall and add your name to the borough's TDR Registry. Information about the number of credits you have to sell will be made available to interested buyers on a first-in, first-out basis. This means that sending area property owners who are the first to register will be contacted by interested buyers first.

HOW MUCH ARE MY CREDITS WORTH? NEW!

A real estate analyst has conducted market studies to determine initial values. Once the program is up and running, the real estate marketplace will take over. For example, developers may be in a position to negotiate with sending area property owners, and vice versa, depending on demand. In either case, the borough will keep a record of all transactions, which will help you determine current values.

IF I DON'T SELL MY CREDITS NOW, WILL I BE SHUT OUT IF THE MARKET FOR CREDITS BECOMES 'TAPPED OUT'?

There always is that risk. However, the key to the TDR program's success will be to balance demand for credits with available supply. Ensuring a proper balance can be done in a number of ways. For example, the size of the receiving area can be increased to increase market demand. Also, the development potential of the receiving area can be increased through increased zoning incentives that are consistent with the borough's vision plan.

IF THE PRICE OF CREDITS GOES UP AS THE AMOUNT OF AVAILABLE CREDITS SHRINK, WOULDN'T IT BE BETTER FOR ME TO WAIT FOR A BETTER PRICE?

You can do that if you choose. However, you might run the risk that the market for credits dries up as the receiving area is built up.

IF I REGISTER, DOES THAT MEAN I HAVE TO SELL MY CREDITS? NEW!

You are not committing to anything when you register. Your commitment begins only when you receive money for your credits from a buyer and enter into a contract for the sale of the credits.

WHEN WILL I ENTER INTO THE CONTRACT? NEW!

Both parties will meet to sign a contract in a process that is similar to a real estate closing. When you meet, the buyer will give you a check covering the purchase price and you will sign a contract, which will include a deed restriction agreement, which will be recorded with the county. In order to receive a certificate of purchase and use the development incentives associated with the credits, the buyer must provide proof that the deed restriction was recorded.

WHAT WILL THE DEED RESTRICTION SAY? NEW!

The deed restriction will be dependent on the development rights that you are selling. The basic restriction will include a prohibition on the tear down of your house and a commitment to maintain its historic character. Other optional restrictions could include a prohibition on the subdivision of your lot. A standard deed restriction document, with alternate templates for the various options available to sellers, will soon be available. You will be able to review these documents before opting into the program.

HOW WILL I KNOW HOW MANY CREDITS I HAVE TO SELL? NEW!

You can ask at Borough Hall, where a list for all properties in the sending area will be available. Your credit allocation will be based on the level of restrictions you agree to accept. For example, you will be allocated credits for agreeing to not tear down your historic home, for agreeing to not expand your home, for agreeing to not subdivide your property, or for agreeing to any combination of these options.

CAN I SPEND THE MONEY HOWEVER I WANT? NEW!

You may spend the money any way you wish. However, keep in mind that you will be required to maintain your property in the condition that existed on the day you signed the deed restriction. For example, if you had window shutters on your home on the day of signing, you will be expected to maintain window shutters.

HOW WILL FANWOOD ENFORCE THE DEED RESTRICTIONS? NEW!

The borough will develop a mechanism for monitoring compliance and will also be empowered to cite property owners who are in violation of a deed restriction.

WILL MY PROPERTY VALUE DROP IF I SELL MY CREDITS? WILL I SEE A REDUCTION IN MY PROPERTY TAXES? NEW!

Neither is likely. Having a deed restriction isn't likely to change the assessment on your property. In order to request a reduction in property taxes, you would need to demonstrate that your property value decreased by 15 percent as a result of the deed restriction—which is also very unlikely.

QUESTIONS FOR RECEIVING AREA

I AM IN THE RECEIVING AREA. HOW DOES TDR HELP ME?

If you are in the receiving area, you will have an opportunity to purchase TDR credits that will increase the development potential of your property. This will make your property more valuable should you wish to sell, or it will give you more options to develop your property in accordance with the borough's plans for the area. As part of the process, portions of the receiving area are likely to be designated in need of rehabilitation, in which case a plan will be prepared based on our community's vision for the future of Fanwood.

WILL I LOSE MY RIGHT TO DEVELOP MY PROPERTY OR TO SEEK A ZONING VARIANCE IF I DON'T WANT TO PARTICIPATE IN THIS PROGRAM?

No. Your rights under the borough's existing zoning ordinance are intact. You also always have the right to apply for a zoning variance. Keep in mind, however, that preparing a plan and hiring professionals to represent you before the land use board also costs money, and that you are not assured a favorable decision from the board. One benefit of purchasing TDR credits is that it provides you with a greater level of certainty.

ARE WE JUST ENCOURAGING MORE GROWTH IN FANWOOD?

Development in the receiving area will be controlled by a plan reflecting the community's vision. This plan will establish limits on the types and amount of growth we will allow. The proposed receiving area includes light industrial and commercial areas that the borough has already targeted for revitalization.

WHAT IS THE DIFFERENCE BETWEEN TDR CREDITS AND DEVELOPMENT RIGHTS?

They are essentially the same thing.