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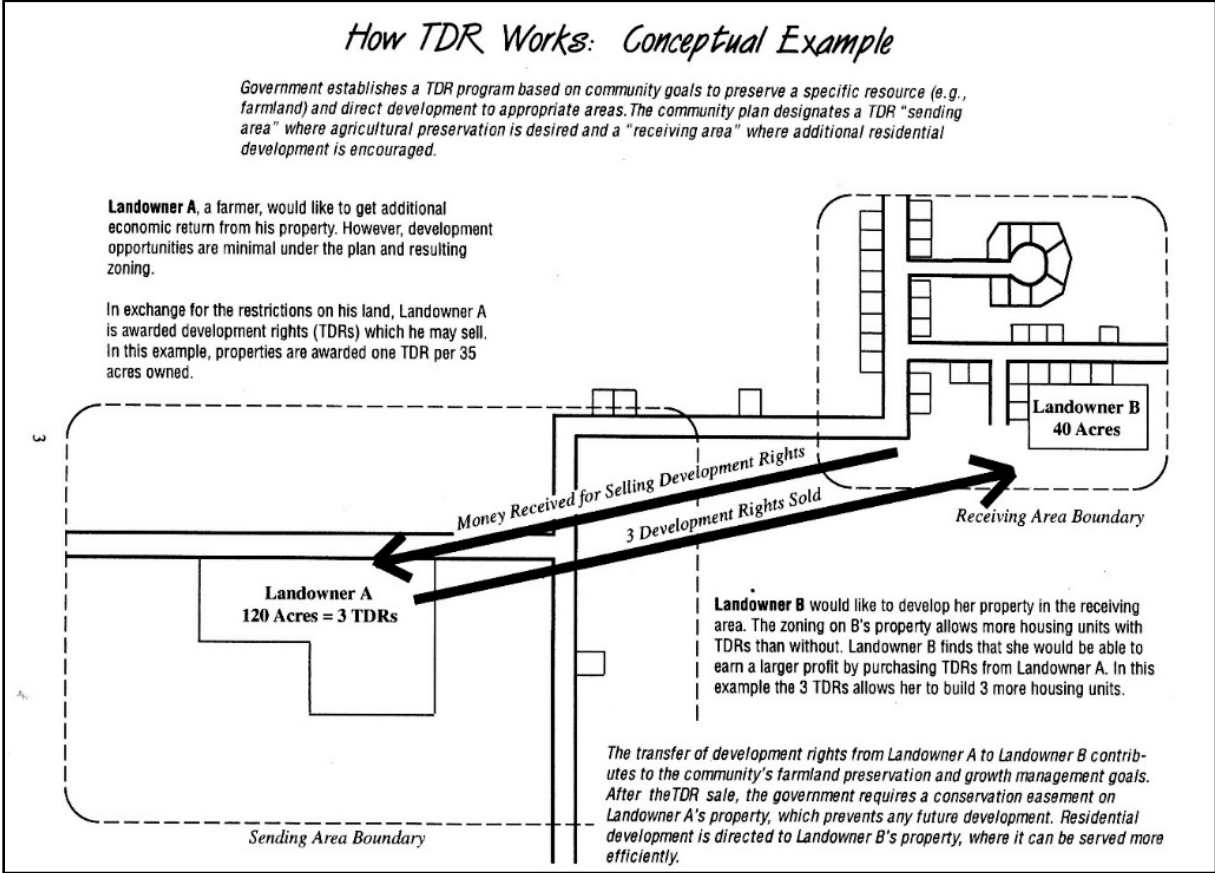
Town of Deerfield Transfer of Development Rights (TDR) Program

Another strategy to preserve land within the Agricultural Preservation District is a Transfer of Development Rights (TDR) program. In a TDR program, the Town would allow development rights to be transferred from “sending areas” where preservation is desired to “receiving areas” where additional development is acceptable. Instead of the government purchasing the development rights, private developers controlling land in receiving areas would have to acquire development rights from landowners in the “sending areas.” The use of the transferred development rights would allow developers in receiving areas to develop at greater densities than would otherwise be allowed. The developer would have to demonstrate that sufficient development rights had been purchased (and a deed restriction or conservation easement placed on the sending area property) before the Town approved any rezonings, plats, or conditional use permits. The graphic below shows how TDR can work.

In 2019, it was determined that the Town of Deerfield will pursue the development and establishment of a customized TDR program. As determined through this planning process, the Town’s new TDR policy includes the following guiding policies. To note, it is also recommended that a Town ordinance be adopted as part of the new program that includes the guiding policies below and the Town’s procedures.

- Applicants under this provision will be required to attend a pre-application meeting between the owner and town and county representatives to discuss the proposal prior to consideration by the Plan Commission or Town Board.
- Landowners proposing transfers under this policy shall be required to first obtain a density analysis from the Dane County Department of Planning and Development for both sending and receiving areas.
- The town may, at its sole discretion, deny any proposed transfer to a substandard parcel.
- Both the sending areas and receiving areas shall be located in the Town of Deerfield.
- Outside of the remaining total available splits within the Town today, based on the long-standing policy of 1 split per 35 acres, no new development splits will be created through the establishment of a TDR program in the Town.
 - On-site splits are still permitted outside of this Transfer of Development Rights policy.
- Following the transfer of development rights from the sending area, the sending property should be permanently protected from additional development through a deed restriction or conservation easement.
- Receiving areas = 1 split per each additional dwelling unit, minimum 2-acre lot size
- Sending and receiving areas are not mapped or specified within the Town and may occur in any location, however any new receiving area development is limited to preserving the most productive agricultural land and in a manner that preserves the rural character of the Town using the following specific siting criteria (also see Development Siting Criteria on p.49):
 - Outside of any Class 1 or 2 soils (Map 2)
 - Outside of steep slopes greater than 12% grade (Map 3b)
 - Outside of any environmentally sensitive areas (Map 3a)
 - Cluster dwelling units together onto adjacent new lots
 - Require lot design and layout for Town Review
 - The receiving parcel must have adequate road access and a suitable building site that would not result in a “flag lot” with a long driveway bisecting agricultural land. The proposed building site must conform to the Town’s Development Siting Criteria within the Agricultural Preservation District.
 - Prior to the purchasing of development rights, at a minimum, a conceptual review of the proposed lot layout must be approved by the Town Plan Commission and Board for the receiving area.

- Appropriate documentation must accompany any transfer, including, at a minimum, a deed restriction and/or agricultural conservation easement on the sending parcel identifying a minimum 35 acres of land, or amount of land commensurate to the number of splits transferred, to be preserved exclusively for long-term agricultural use. Such documentation shall also indicate the number of splits remaining, if any, on the remaining lands of the sending property. Receiving parcels shall also be accompanied by a notice document indicating that the property received a split(s) from the sending property. All such documents must include appropriate legal descriptions of the properties involved, and must be recorded with the Dane County Register of Deeds.
- There is no limit to the number of development rights that can be transferred by one owner in a given time period. However, the Plan Commission and Town Board may place other restrictions on the transaction, including but not limited to, a cap on the number of development rights transferred to one location.
- Splits can be exercised within any given receiving area for 5 years following the completed transfer of rights from one property owner to another.



Below is narrative that has been in all previous versions of the draft plan and was taken directly from the previous Comprehensive Plan. Small changes were made to reflect the new TDR policy above. Those changes are underlined below for reference. Please review and note any additional changes needed.

Summary of the Town of Deerfield’s Residential Development Policy

Summary
<ul style="list-style-type: none"> • Deerfield’s Residential Development Policy is used in Agricultural Preservation District, not the Existing Development District (see Map 5) <ul style="list-style-type: none"> ○ FP-35, FP-1, FP-B, and RM-16 Zoning Districts • A parcel over 35 acres can be rezoned for residential development if it meets all the provisions in the Town’s Comprehensive Plan and Zoning Ordinance • One house for every 35 acres of contiguous ownership in 1978 (year Exclusive Agriculture zoning was adopted) • Divide total 1978 acreage by 35, and round up if result is greater than 0.80 (e.g., 100-acre owner allowed 3 homes because $100/35 = 2.85$) • Deed restriction is applied to land once all allowed houses are built per policy • Transfers between non-contiguous parcels in same ownership allowed <u>Transfers between any qualified sending parcels and receiving parcels allowed. See TDR Policy above.</u> • Future houses go with large land sales, unless otherwise specified • Do not new site housing on Group I or II agricultural soils, if possible • Minimum new lot size is 40,000 square feet if farmland, 80,000 sq. ft. if woodlot or steep slope (12%+) • Meet Town’s environmental protection maps and criteria • Total of one house allowed on pre-1978 lots that are less than 35 acres • Pre-1978 homes remaining on parcels greater than 35 acres in size do not count towards the parcel’s total number of homes allowed

Residential Development Density Standard
<ul style="list-style-type: none"> • New non-farm development shall be restricted to a maximum gross density of one dwelling unit per 35 contiguous acres owned as of October 26, 1978. This baseline date is when the Town of Deerfield adopted the A-1 Exclusive Agriculture zoning district. <ul style="list-style-type: none"> ○ As a guide to determine the total acreage under contiguous ownership on October 26, 1978, the Town will use (a) the acreage amount listed on the parcel’s 1978 tax roll if available or the net acreage from Dane County’s Geographic Information Systems (GIS) database, and (b) ownership information shown on the 1978 Land Atlas and Plat Book for Dane County published by Rockford Map Publishers, Inc. ○ For the purposes of this policy, the terms “contiguous acres owned” or “contiguous ownership” are defined as all parcels under single ownership as of October 26, 1978 which share a common boundary. Parcels in single ownership which are directly across public roads, public or rail right-of-ways, or easements, along with parcels that meet only at a corner, shall be considered contiguous. • The minimum new lot size shall be 80,000 square feet. The Town Board promotes lots close in size to that 80,000 square foot minimum, but may require a larger lot size if it deems in particular cases that the special natural features of the land require a larger lot to protect the resource. • The Town may support rezoning and development of vacant parcels less than 35 acres in size if it meets all of the following prerequisites: (1) research shows the property was created as a legal lot of record prior to 1978, (2) it remains vacant today, and (3) the development meets all Town standards.

- Housing allowed within the FP-35 Zoning District will count toward the one dwelling unit per 35-acre density standard. This housing should be limited to housing for the farm owners/operators and their immediate family members, if the farmer is earning income from the farm operation. An additional farm residence for parents or children of the farm operator may be allowed if the conditional use standards of the FP-35 Zoning District are met and if all Town policies are met. However, it is recommended that all new residential development occur on its own separate residential parcel through the approval of a Certified Survey Map and rezoning. Farm-related housing shall occur on the least fertile soils for agricultural uses and in a manner which maximizes agricultural use of the remaining usable area.
- If a landowner owned non-contiguous parcels in the Town as of October 26, 1978 and continues to own them at the time of the proposed rezone, that landowner may transfer allotted dwelling units from one parcel to the other if (a) the first parcel is more productive for farming, (b) the Town Board determines that such a transfer meets the spirit and policies of this Comprehensive Plan, and (c) a deed restriction will be placed on the parcel from which the dwelling units are transferred.

How to Calculate Development Density Standard

- When calculating the number of dwelling units permitted (or “splits”), the number of contiguous acres owned as of October 26, 1978, which must be at least 35 acres, will be divided by 35. If the result is a fraction greater than 0.80, the landowner can round up to the nearest whole number. Example: a landowner with 100 contiguous acres can get 3 “splits” ($100/35 = 2.85$). A landowner with 95 contiguous acres is limited to 2 “splits” ($95/35 = 2.71$).
- The maximum number of dwelling units on a property shall be calculated based on the land area in contiguous ownership as of October 26, 1978. This means a change of ownership does not commence a new allotment of dwelling units. When portions of an October 26, 1978 parcel change ownership, a contract of sale stipulating the exact number of “splits” going to the purchased parcel and the exact number of “splits” staying with the remaining parcel shall be prepared. Such a stipulation should be recorded with the Register of Deeds and notice should be provided to the County Planning and Development Department. If past transactions have not included this type of deed stipulation, the Town assumes that one “split” went with the purchased parcel if it exceeded 35 acres, two “splits” if it exceeded 70 acres, three “splits” if it exceeded 105 acres, etc.

Development Siting Criteria

- Any and all parcels in the Town may be eligible as TDR sending or receiving areas, including receiving TDRs on parcels that have exhausted their splits, provided that all of the following other siting criteria are complied with.
- All residential development that is located within the Agriculture Preservation District (FP-35 Zoning District) should be low density and should be located in areas posing minimal conflict with agricultural uses. No residential development should be allowed on Group I or Group II soils, unless there is no area on the subject property that is not classified as Group I or Group II soils. In those cases, the Town Plan Commission and Town Board may relax the soil criterion. Residential development should also be located so that natural environmental features are protected. All such development should be designed in accordance with natural resource protection standards specified later in this Plan.
- No new residential development shall be allowed within an Open Space Corridor as shown on Map 5, or as may subsequently be adjusted through a detailed site analysis which more precisely locates the feature(s) which led to its mapping as an Open Space Corridor in the first place.
- New non-agricultural development abutting active farm operations may be fenced, contain adequate setbacks, or otherwise be situated or screened in a manner that will help prevent nuisance complaints that could limit normal agricultural practices. As determined by the Town, the particular strategy(ies) will vary depending on the characteristics of the development, the topography and existing vegetation, the nature of the farm operation, and other factors. The use of one or more

strategies will be particularly important where the farm operation includes a livestock confinement area that is near to the new development.

- New private driveways or roads should not be permitted to cross or bisect Group I or II farmlands, unless aligned along existing property lines, fences, or appropriate natural features.
- Utility extensions (electronic power lines, telephone lines, gas distribution lines) shall not cross farmlands in a manner that will disrupt farming activities.
- Erosion control practices shall be encouraged in accordance with recommendations of the U.S. Natural Resource Conservation Service.
- Mineral extraction operations may be permitted through a conditional use permit provided that they meet all policies and standards of the Town with regards to road usage, meet policies in the “Nonmetallic Mineral Resources” section below, and are compatible with surrounding uses of land.

Subdividing (“Splits”) Policy

- Any land sold to a public agency (e.g., Wisconsin Department of Natural Resources, Dane County Parks, Wisconsin Department of Transportation) after 1978 will not be subtracted from October 26, 1978 parcel size when calculating the maximum number of dwelling units permitted, unless a contract of sale stipulates the exact number of “splits” going to the purchased parcel and the exact number of “splits” staying with the remaining parcel. Such a stipulation should be recorded with the Register of Deeds and notice should be provided to the Dane County Planning and Development Department.
- If more than 35 acres of an October 26, 1978 contiguous ownership parcel is annexed into a city or village, the Town will subtract the annexed acreage from the original parcel total when calculating the maximum number of dwelling units (“splits”) permitted.
- The platting of subdivisions (5+ lots in a five-year period, as further defined in the Dane County Subdivision Ordinance) in the mapped Agricultural Preservation District (FP-35 Zoning District) is not permitted, unless a landowner is exercising five or more of his or her allowed dwelling units. For example, a landowner with 175 acres in the Agricultural Preservation District is permitted to create five homesites under the Town’s density policy. These five lots must be clustered to one portion of the property so the remainder of the land can be used for farming. To create such a cluster, a Certified Survey Map or Subdivision Plat (if 5+ lots) is required. The Town Board promotes the minimum new lot size shall be 80,000 square feet.
- See also the “Housing and Neighborhood Development” chapter for rural housing layout guidelines applicable in the Agricultural Preservation District.

Rezoning Policy

- Whenever a rezone results in reaching the maximum number of development sites available to the parcel under the density provision above, the Town shall, as part of the rezoning, require that the balance of the contiguous lands that remain under the ownership of the applicant requesting the final development site be deed restricted to prevent further development. Except and unless said parcel is proposed and approved as a TDR receiving site.
- Because of its benefits to the local economy and tax base, any commercial or industrial development shall not count toward the one dwelling unit per 35 acre density standard, provided that the development is compatible with an agricultural setting, meets all policies applicable to the General Business future land use category and does not require high water usage.