



State of New Jersey

DEPARTMENT OF STATE
BUSINESS ACTION CENTER
OFFICE OF PLANNING ADVOCACY
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DONNA A. RENDEIRO
Executive Director

MEMORANDUM

TO: Plan Implementation Committee
FROM: Donna Rendeiro
RE: Woolwich Township TDR
DATE: April 20, 2021

The Township of Woolwich in Gloucester County was Endorsed by the State Planning Commission and its Center officially designated on April 18, 2008. Transfer of Development Rights or TDR was an integral component of the municipality's planning package. To facilitate and support Woolwich's TDR efforts and to provide relief to landowners in Sending Areas awaiting infrastructure in Receiving Areas, the NJ TDR Bank granted \$5 million to Woolwich. In October 2020, Woolwich asked OPA to look into any potential impacts for the Township should they choose to unwind their TDR program as they believe that it is not in the best interest of the Township. Woolwich requested to (1) terminate their TDR program and (2) be released from any obligation under their agreement with the State Transfer of Development Rights Bank.

For Plan Endorsement, a municipality must agree to a Plan Implementation Agreement (PIA) that outlines the long-term responsibilities of both the State and the municipality to ensure consistency with the State Plan. In Woolwich's case, there were two PIAs – a general one that addresses all other requirements and one that is TDR specific.

The review of the Township's request involves several pathways. The Plan Endorsement Process and a TDR program involves numerous state agencies and coordination and, as a result, has numerous complexities. While the review is mostly complete, there are still some items that need to be addressed. To further complicate matters, several state agencies were brought into a lawsuit involving a developer and the Township that is currently stayed, but still on the books.

Review Process and Current Status

- OPA reviewed the status of actions within both PIAs to determine the Township's performance in maintaining consistency with the State Plan. Of the 32 Township responsibilities on the General PIA, 28 have been completed, are ongoing, or on target to meet their deadline. Of the 15 Township responsibilities on the TDR PIA, 14 have been completed, are ongoing or on target to meet their deadline. Based on these statistics, the Township has nearly met its responsibilities as outlined in the PIAs, though some outstanding items will need to be renegotiated. If these items (or agreeable substitutes) are achieved, a determination of consistency is likely.
- Several grants were awarded to the Township in anticipation of completing TDR. Our research to date, has indicated grant funding or financing from the New Jersey Infrastructure Trust, DVRPC and the State TDR Bank. There were also some road improvements completed by the NJDOT on or around Route 322 that were not associated with the TDR program. Both the NJ Infrastructure Trust and DVRPC have indicated that there are no outstanding obligations on the part of the Township.
- The largest grant, for \$5 million, was awarded by the State TDR Bank to fund the purchase of credits, which was to be reimbursed upon the extinguishment of the credits through TDR. Receiving Area capacity was to be maintained in perpetuity. Woolwich was required (and did) match the expenditure with a \$2 million investment in the reverse auction that was held to purchase Sending District development rights from qualifying farms. None of these credits, however, were offered to or purchased by potential developers.
- Several land use accommodations were given by NJDEP in anticipation of the completion of the TDR program. While several conservation efforts were implemented, there are still some Township obligations that remain. If these items (or agreeable substitutes) can be achieved, it is this Office's opinion that these actions are acceptable.
- Sewer service to certain environmentally sensitive areas were granted in anticipation of conservation of significant agricultural and environmentally sensitive areas in the Sending Areas. Some SSAs may need to be clipped depending on revised conservation commitments.
- It is an absolute requirement that the pending lawsuit be either settled or, at a minimum, all state involvement must be dismissed with prejudice.
- OPA has incorporated State agency and planning partners comments herein; OPA has presented our preliminary findings and a summary list of requests for further information as defined in Appendix A to the Township.
- The Woolwich Transfer Development Rights Plan Implementation Agreement is attached. Additionally, the Woolwich General Plan Implementation Agreement 3/21 Status provides additional detail of commitments made in 2008 and their status.

Next Steps

- Preliminary findings will be presented to the Plan Implementation Committee April 21st for discussion purposes only.
- Ultimately, following PIC discussions, review of Township responses to Appendix A, and SPC determination, the State TDR Bank will receive the Commission's determination of consistency, with newly negotiated commitments from the Township/State agencies. This information can be used for the TDR Bank's decision regarding the \$5 million grant obligations.

Appendix A List of Requirements for New Jersey State Planning Commission Consistency And Consideration for Termination of Woolwich's Transfer of Development Rights Program

1. The pending lawsuit on the subject matter be either settled or, at a minimum, all state involvement needs to be dismissed with prejudice prior to SPC resolution.

Status: Woolwich Township agrees to dismiss with prejudice if case not settled.

2. Woolwich to submit its most current Recreation and Open Space Inventory (ROSI) for review and certification, ensuring that all open space committed to be protected is included. Areas, at a minimum should include the 1,200 ft buffer along the north and south banks of Raccoon Creek, 89 acres of protected open space in the Rt 322 corridor Receiving Area, 30 acres in the Auburn Road Receiving Area, and any other committed open space.

Status: OPA Awaiting submittal

3. Status of Auburn Road Receiving Area wastewater treatment, including justification for why it should be included in the Sewer Service Area. NOTE: The PIA indicates that this Receiving Area be converted to a Sending Area, however if there is consideration for unwinding TDR, this point may be moot.

Status: Submission received 4/20/21, under review

4. Submission of Woolwich's 2019 Environmental Resource Inventory developed with DVRPC adopted as part of the Master Plan.

Status: Potential Action Plan item

5. Submission of a Master Plan update to reflect center-based planning and resource protection in lieu of TDR (ex. How will land be preserved/conserved?)

Status: Potential Action Plan or PIA item

6. Submission of updated and adopted Farmland Preservation Plan.

Status: Potential Action Plan or PIA item

Appendix B
Additional Discussion Items
New Jersey State Planning Commission Consistency
And Consideration for Termination of Woolwich's Transfer of Development Rights Program

Determination regarding outstanding severed credits – Can the unused credits be used to conserve or preserve land elsewhere in the Township? Can using these credits address the \$5 million grant obligation, or do they just expire with the termination of the program? Are there other alternatives to think about?

Woolwich's Plan Endorsement and Center Designation upcoming expiration -- Woolwich's Plan Endorsement and Center Designation is set to expire soon but has been extended through various permit and other extension acts. If the Township wishes to pursue Endorsement and continuation of Center Designation as a result of that expiration, all of the above requirements as well as the new PE Guidelines would need to be met.