

## **A harvest of peace on E. Vincent farm**

### **Development deal hailed as a model.**

By Nancy Petersen

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Sheila Fleming, a senior planner for the Brandywine Conservancy, was standing in a field several years ago trying to figure out where to put dozens of new homes on a northern Chester County farm when a goat ate her map.

It was a sign of things to come.

For the next five years, the East Vincent Township farm once owned by twin brothers John and William Reiff was a legal battleground. The last surviving brother, John, had spurned proposals from conservationists. He signed an agreement of sale with a developer, whose plans for the farm triggered a citizens' opposition movement, countless heated meetings before planners and supervisors, and appeals up to the state Supreme Court.

And yet, in the end, a tentative agreement was finally reached after the parties turned to a model being used increasingly across the country to create win-wins for everyone involved.

First, this is who gets what in East Vincent:

The township gets a new 36.5-acre park.

The farm's historic farmhouse and tenant house will be restored.

The developer, the David Cutler Group, gets to build six houses on the site - down from the 72 originally proposed - and the right to build 40 others elsewhere in the township.

And the Reiff twins, both now deceased, have one of their wishes fulfilled: the release of a multimillion-dollar windfall to the Twins Days Festival in Twinsburg, Ohio, an annual summer gathering the Reiffs attended religiously. They made the festival's organizing committee their estate's beneficiary.

"It is an amazing success story," former Supervisor Christine McNeil said of the agreement.

Key to the outcome is a technique called the transfer of development rights (TDR), which removes development from an area targeted for preservation to one designated for growth. Once viewed by many planners and officials as too complicated to work, TDRs are gaining increased attention as the number of successes grows nationwide, from the New Jersey Pinelands to Washington state's King County/Seattle area.

The goal of TDRs is to manage growth but also to fairly compensate landowners and protect their property rights, according to Chadds Ford planning consultant H. William Sellers.

Just as each property can have mineral or water rights, it also comes with development rights, Sellers said.

For example, if a 100-acre property is zoned for one house per acre, its development rights could be 100 houses. If the landowner builds only 20, without a TDR he would lose the opportunity to build the other 80 houses - and lose a considerable profit. With a TDR, the same landowner could build 20 houses on the original site, and work with local officials to build 80 more in a part of town where denser development is welcome.

"TDRs is one of the best things going," said Ronald Bailey, executive director of the Chester County Planning Commission. "It provides for the rights of landowners, it finds a way to compensate them, and it allows the development where it is most appropriate."

One of the first uses of TDRs was in New York City, Bailey said. In order to save Grand Central Station, a developer was allowed to transfer the air rights above Grand Central to build a taller building elsewhere in the city.

"We love TDRs," said Clare Quinn, a supervisor in West Vincent Township, where hundreds of acres have been preserved using the technique. "Nothing has come up that has stymied us or created a new level of government. It is very straightforward."

The use of TDRs is growing for two reasons, according to Armando Carbonell, a senior fellow with the Lincoln Institute of Land Policy in Cambridge: the increasing cost of land, and the increased demand for preserving it.

"It's not a new idea, but quite a few places have been applying it in recent years," Carbonell said. He points to Maryland's Montgomery County, where 50,000 acres have been protected, and the Highlands region in North Jersey.

The alternative would be government or a nonprofit buying the land outright, he said, but "when there is a lot of land involved - 100,000 acres in the Jersey Highlands, for example - it would be prohibitively expensive. So this is an alternative to fee-simple ownership and regulation without any compensation."

Locally, the Montgomery County Lands Trust said it is about to launch an initiative that would make its communities more comfortable with trying the concept, said executive director Dulcie Flaherty.

"We have to find out how to use them so they are both effective and they feel right for the community in which they are being implemented," she said. "I do think it is time to try this."

Under what was then a new East Vincent zoning ordinance, TDRs were one of the options Cutler could have originally pursued for the 154-acre Reiff Farm. The other choices were 20 houses on large lots, or 72 clustered on small lots, keeping the bulk of the farm in open space.

When Cutler chose the latter, residents objected. They didn't want that many houses or public water lines on a property zoned for agricultural use.

"I got the zoning ordinance out and I figured out the rules," said township resident Elaine Milito, a professor of math and computer science at West Chester University. "Then, I wrote a big flyer and sent it out to all the neighbors."

It worked.

Hundreds of residents turned out for the first township hearing on Cutler's proposal.

Residents organized themselves into the Concerned Citizens of East Vincent Township. They paid dues. They hired a lawyer. They consulted land-use and wetlands experts. They even conducted their own traffic study.

When the supervisors finally said no to Cutler, the builder went to court. After a split decision by Commonwealth Court and a refusal by the Supreme Court to hear the case, Cutler made an offer: 30 houses and transfer the remaining development rights to another tract Cutler owned in the township.

Sellers, then executive director of the French and Pickering Creeks Conservation Trust, countered with six houses, 36.5 acres for a township park, and the transfer of 40 development rights.

They had the makings of a deal.

Officials and Cutler are working out the final details of the settlement now, said Township Manager Mary Flagg, adding that East Vincent has already received \$1.2 million in grants to buy the land for the park.

Neither township officials nor the builder's attorneys would comment for this article, but Milito is pleased with the citizen group's efforts.

"Everybody is making out here," she said.

Especially the Twins Days Festival, which is expected to receive the bulk of the Reiffs' \$4 million estate.

Forrest Norman, the festival's lawyer, said the Reiffs loved Twins Days and they were in turn beloved by everybody.

"For otherwise quiet and subdued people, when they came to the festival they just lit up," said Norman. "It's been a wonderful blessing for the Twins Days to have this bequest."

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