

**TRANSFER OF DEVELOPMENT RIGHTS (TDR) EASEMENT
FOR BUILDING LOT TERMINATION (BLT)**

THIS TRANSFER OF DEVELOPMENT RIGHTS (TDR) EASEMENT FOR BUILDING LOT TERMINATION (BLT) (“Easement”), made this _____ day of _____, 20____ by and between _____ (“Grantor”), and **MONTGOMERY COUNTY, MARYLAND**, a body corporate and politic, hereinafter (“Grantee”).

RECITALS

Chapter 59 of the Montgomery County Code defines “Development Right” as: “The potential for the improvement of a parcel of real property, measured in dwelling units or units of commercial or industrial space, existing because of the zoning classification of the parcel”, and sets forth a procedure for the transfer of Development Rights for the purpose of preserving agricultural land.

Further, Chapter 59 defines a Building Lot Termination Development Right (“BLTs”), in pertinent part, as one that is created from land at least 25 acres in size and is capable of being served by an individual sewage treatment unit which meets the requirements of Chapter 27A and applicable regulations issued under that Chapter (“individual sewage treatment unit”).

Grantor is the owner in fee simple of _____ acres, more or less, of real property known as Parcel _____, hereinafter more particularly described in Exhibit A, attached hereto and made part hereof, in the Rural Density Transfer Zone, located in Planning Area _____ Montgomery County, Maryland (the “Property”). The Property is now improved with _____ one-family dwellings.

Chapter 59 of the Montgomery County Code recognizes the right of an owner of property in the Rural Density Transfer Zone to transfer a certain number of BLTs, provided that such a conveyance contains an easement extinguishing the future right to construct some or all potential one-family dwellings on the property by, among other things, extinguishing the right to use one or more individual treatment units. The parties intend that this Easement so restrict the Property and that, _____ BLTS numbered BLT-_____ through BLT-_____ may be conveyed from the Property by a deed in a recordable form approved by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission without the conveyance of an additional Easement to Grantee.

Grantor represents that it is the owner in fee simple of the Property as of the date of execution of this Easement.

A current title report for the subject Property, identified as Exhibit B, is attached hereto and made a part hereof; a current tax map for the subject Property, identified as Exhibit C, is attached hereto and made part hereof; and, a septic system site plan identifying the individual septic sewage treatment unit extinguished by this Easement, identified as Exhibit D, is attached hereto and made a part hereof.

NOW, THEREFORE, to permit the transfer of the BLTs and in consideration of the covenants, terms, conditions and restrictions hereafter set forth and other good and valuable

consideration, receipt of which is hereby acknowledged, Grantor does grant and convey to Grantee, its successors and assigns, forever and in perpetuity, an interest and Easement of the nature and character and to the extent hereinafter set forth in respect to all that Property located at [insert address] Montgomery County, Maryland, as is more particularly described in Exhibit A hereto.

The terms, conditions and restrictions, of this Easement are these:

1. This Easement shall be perpetual. It is an easement in gross, and as such, is inheritable and assignable and runs with the land as an incorporeal interest in the Property enforceable with respect to the Property by the Grantee, and its successors and assigns, against the Grantor and his heirs, successors, and assigns.

2. The term "one-family dwelling" includes mobile, manufactured, or similar dwelling, but excludes farm tenant dwelling permitted by Chapter 59, Montgomery County Code, as amended.

3. A one-family dwelling may not be constructed, occupied, or maintained on the Property unless one BLT is retained with the Property for each one-family dwelling constructed, occupied, or maintained.

4. The restrictions imposed by this Easement shall operate independently of the restrictions imposed by the zoning of the Property.

5. The Property contains a total of _____ acres, more or less. [Previous BLTS Easements and/or previous Transferable Development Rights (TDR) Easements recorded at Liber _____ Folio _____ among the land records of Montgomery County, Maryland limited the number of one-family dwellings that may be constructed on or maintained on the Property to _____ and authorized the conveyance of _____ BLTs and/or TDRs numbered _____ through _____.] There are _____ existing one-family dwellings on the Property. As a result of this Easement, the Parties intend that Grantor may convey [an additional] _____ BLTs numbered BLT- _____ through BLT- _____. From this date forward, no more than a total of _____ one-family dwellings may be constructed on the Property; however, the additional one-family dwellings may not be constructed in a location that would require the utilization of the individual treatment unit described in Exhibit D hereto. This may not be interpreted to prevent the reconstruction of existing one-family dwellings which complied with the terms of this Easement in the event such dwellings may be destroyed or damaged.

6. The Grantor's, and the Grantor's heirs, successors and assigns, right to use the individual sewage treatment unit described in Exhibit D hereto is extinguished by this Easement.

7. Grantee, its successors and assigns, with reasonable notice, may enter the Property from time to time for the sole purpose of inspecting and enforcing the terms, conditions and restrictions of this Easement. This right of inspection does not include the interior of dwellings.

8. Nothing herein may be construed to convey to the public a right of access or use of the Property, and the Grantor, and the Grantor's heirs, successors and assigns, retain exclusive right to such access and use, subject only to the provisions of this Easement.

9. The parties agree that monetary damages would not be adequate remedy for breach of any of the terms, conditions and restrictions herein contained, and, therefore, in the event that the Grantor, or the Grantor's heirs, successors and assigns, violate or breach any of such terms, conditions and restrictions, herein contained, the Grantee, its successors and assigns, may institute a suit to enjoin by ex parte, preliminary and/or permanent injunction such violation and to require the restoration of the Property to its prior conditions. The Grantee, its successors and assigns, by any prior failure to act, does not waive or forfeit the right to take action as may be necessary to insure compliance with the terms, conditions and purposes of this Easement.

IN WITNESS WHEREOF, the Grantor and Grantee have hereunto set their hands and seals in the day and year above written.

WITNESS/ATTEST

GRANTOR

_____, (SEAL)

_____, (SEAL)

WITNESS

GRANTEE

MONTGOMERY COUNTY, MARYLAND

By: _____
Diane R. Schwartz Jones
Assistant Chief Administrative Officer

APPROVED AS TO FORM AND LEGALITY
OFFICE OF THE COUNTY ATTORNEY

BY _____

DATE _____

[FOR AN INDIVIDUAL]

STATE OF MARYLAND *

*

COUNTY OF MONTGOMERY *

*

I HEREBY CERTIFY that on this _____ day of _____ 20____,
before me, the undersigned officer, personally appeared _____
known to me (or satisfactorily proven) to be the person whose name is subscribed to the
foregoing Easement and acknowledged that (s)he executed the same as his/her act for the
purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires: _____

[FOR A BUSINESS ENTITY]

STATE OF MARYLAND

*

*

COUNTY OF MONTGOMERY

*

I HEREBY CERTIFY that on this _____ day of _____, 20____, before me, the subscriber, a Notary Public in and for the aforesaid jurisdiction, personally appeared NAME, TITLE of BUSINESS ENTITY, and did acknowledge that (s)he executed the foregoing Easement for the purpose contained therein, and further acknowledged the foregoing Transfer of Development Rights (TDR) Easement to be the act and deed of BUSINESS ENTITY .

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My commission expires:

STATE OF MARYLAND

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*

COUNTY OF MONTGOMERY

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I HEREBY CERTIFY that on this _____ day of _____ 200__, before me, the subscriber, a Notary Public in and for the aforesaid jurisdiction, personally appeared DIANE R. SCHWARTZ JONES, Assistant Chief Administrative Officer of Montgomery County, Maryland, who executed the foregoing Easement on behalf of Montgomery County, Maryland, for the purposes therein contained, and further acknowledged the foregoing Easement to be the act and deed of said Montgomery County, Maryland.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires: _____

ATTORNEY CERTIFICATE

THE UNDERSIGNED, a member of the Bar of the Court of Appeals of Maryland, hereby certifies that the foregoing instrument was prepared by or under the supervision of the undersigned.

RELEASE OF LENDER:
(If Lender is involved)

THIS INSTRUMENT IS INSURED BY:
(If applicable)

PARCEL IDENTIFICATION NUMBER(S):

GRANTOR'S ADDRESS:

GRANTEE'S ADDRESS: MONTGOMERY COUNTY, MARYLAND
101 Monroe Street, 3rd Floor
Rockville, MD 20852

AFTER RECORDATION, PLEASE RETURN TO:

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