

**Legend**

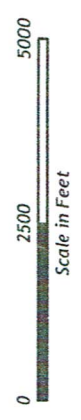
- Municipal boundary
- Adjacent municipalities
- Tax parcels
- Roads
- Reservoirs, lakes, and ponds
- Streams
- Wetlands
- Steep Slope District Overlay
- Floodplain District Overlay
- Public Water Supply District Overlay

**Zoning Districts**

- L-2 - Limited Industrial
- L-1 - Limited industrial
- MSI - Medical/Service Institutional
- R-1 - Agricultural/Residential
- R-2 - Rural Residential
- R-3 - Residential
- R-4 - Residential
- RM - Rural mixed use

# Map 6-2 Zoning/Overlay Districts

## West Brandywine Township Comprehensive Plan



DATA SOURCE: Base data from Chester County GIS data distribution, 2001. Wetlands from FWS National Wetlands Inventory, 1996. Zoning Districts digitized by Brandywine Conservancy from West Brandywine Township Zoning Ordinance, 2003. Updated tax parcel data from subdivision plans supplied by developers, 2004 and 2005.



**Brandywine Conservancy**  
Environmental Management Center  
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Date: July 1, 2005



<a href="#">Index</a>	<a href="#">Township of West Brandywine, PA</a>	Search <input type="text"/>
<a href="#">New Laws</a>	<a href="#">CHAPTER 200 ZONING</a>	<a href="#">Print</a>
<a href="#">ARTICLE V. R-2 Rural Residential District</a>	<a href="#">Help</a>	<a href="#">ARTICLE VII. R-4 Residential District</a>

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[Jump to Content](#)

[ARTICLE VI. R-3 Residential District](#)

[§ 200-22. Purpose.](#)

[§ 200-23. Use regulations.](#)

[§ 200-24. Area and bulk regulations.](#)

[§ 200-25. Multiple-family regulations.](#)

[§ 200-26. Design standards.](#)

## Article VI. R-3 Residential District

### § 200-22. Purpose.

The R-3 Residential District has been designed to provide for a variety of residential housing types at densities which are compatible with the rural character of the Township, and are related to the availability of off-site facilities.

### § 200-23. Use regulations.

A. Uses permitted by right:

(1) Single-family dwelling.

(2) Single-family dwelling using interior lot design in accordance with § [200-113](#).

**[Added 2-7-1985 by Ord. No. 85-01; amended 3-6-1986 by Ord. No. 86-01]** *Editor's Note: Former Section 601A.3 and 4, two-family dwelling (twin) and two-family dwelling (duplex), which immediately followed this subsection, were repealed 5-5-1994 by Ord. No. 94-04.*

(3) Municipal, county, state and federal use, excluding dumps and correctional institutions.

(4) Agriculture, in accordance with § [200-15](#).

(5) Woodlots, Christmas tree farms, nurseries, arboretums or conservation purpose.

(6) Accessory uses. The following accessory uses are permitted when located on the same lot and customarily incidental to any of the foregoing permitted uses, and when in accordance with the applicable provisions under Article [XIV](#):

(a) Customary residential accessory uses, structures and swimming pools.

(b) Minor home occupations.

**[Amended 8-3-2000 by Ord. No. 00-03]**

(c) Customary agricultural accessory uses and structures.

(d) Sale of farm products.

(7) Forestry, except that timber harvesting shall be subject to the provisions of § [200-100B\(2\)](#).

**[Added 11-21-2002 by Ord. No. 02-05]**

- B. Uses permitted by special exception, when authorized by the Zoning Hearing Board, and when in accordance with Article [XIV](#):

[Amended 5-5-1994 by Ord. No. 94-04]

- (1) Residential conversion of detached building or farm building, in accordance with § [200-84](#). *Editor's Note: Former Section 601B.2, retirement community, which immediately followed this subsection, was repealed 11-16-1994 by Ord. No. 94-08.*
- (2) Educational use.

[Amended 8-3-2000 by Ord. No. 00-03]

- (3) Religious use.

[Added 8-3-2000 by Ord. No. 00-03]

- (4) Public library.
- (5) Firehouse or other emergency service facility.

- C. Uses permitted by conditional use when authorized by the Board of Supervisors in accordance with Article [XXI](#), Conditional Use Process:

[Added 5-5-1994 by Ord. No. 94-04; amended 2-15-1996 by Ord. No. 95-08]

- (1) Cemeteries in accordance with Article [XIV](#), § [200-99](#), Cemetery regulations.
- (2) Development under the open space design option, including single-family, two-family and multiple-family dwellings in accordance with Article [XXII](#).
- (3) Golf course and country clubs.
- (4) Public utility facility.
- (5) Major home occupations.

[Added 8-3-2000 by Ord. No. 00-03]

- (6) Country properties in accordance with § [200-15](#).

[Added 10-4-2001 by Ord. No. 01-02]

#### § 200-24. Area and bulk regulations.

- A. The following area and bulk regulations shall apply to all uses permitted by right within the R-3 District, with the exception of agricultural uses:

- (1) Minimum lot area, whether served by individual sewer, water and/or public sewer, water: 1.0 acre.

[Amended 2-5-1987 by Ord. No. 87-01; 5-6-1993 by Ord. No. 93-02; 2-15-1996 by Ord. No. 95-08; 12-21-2000 by Ord. No. 00-04]

- (2) Minimum lot width at building line: 150 feet.

[Amended 2-5-1987 by Ord. No. 87-01; 5-6-1993 by Ord. No. 93-02]

- (3) Minimum lot width at street line: 100 feet.
- (4) Minimum side yard (each): 20 feet.
- (5) Minimum front yard: 50 feet.
- (6) Minimum rear yard: 40 feet.

- (7) Maximum building coverage: 20%.
- (8) Maximum lot coverage (total): 25%.
- (9) Maximum building height: 35 feet.

**B.** The following area and bulk regulations shall apply to uses permitted by special exception and/or conditional use under the R-3 District, with the exception of multiple-family use (§ [200-25](#)) and retirement community use (§ [200-93](#)):

**[Amended 2-15-1996 by Ord. No. 95-08; 12-21-2000 by Ord. No. 00-04]**

- (1) Minimum lot area per use/unit:
  - (a) Golf course and country clubs: five acres.
  - (b) Residential conversion: two acres.
  - (c) Institutional use; public library; firehouse or other emergency facility: 1.5 acres.
  - (d) Cemetery: 10 acres.
- (2) Minimum lot width:
  - (a) Building line: 150 feet.
  - (b) Street line: 100 feet.
- (3) Minimum side yard (each): 20 feet.
- (4) Minimum front yard: 50 feet.
- (5) Minimum rear yard: 40 feet.
- (6) Maximum building coverage: 25%.

**C.** Sewerage capability.

**[Added 2-15-1996 by Ord. No. 95-08]**

- (1) Except for lots established under the open space design option, where any lot is served by an individual on-site sewage system, a contiguous net lot area of at least 33,000 square feet shall be provided which shall not be divided completely by any of the following areas:
  - (a) Any permanent right-of-way or easement for a public or private street.
  - (b) Any area within the Flood Plain District as established in Article [XII](#).
  - (c) Any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection.
  - (d) Any area within the Severe Slope District as established in Article [XIII](#).
- (2) Any lot existing prior to the effective date of this provision which does not meet the minimum net lot area requirement may be used for any lawful use subject to demonstration of adequate sewage disposal to the Zoning Officer.

#### **§ 200-25. Multiple-family regulations.**

**[Amended 12-21-2000 by Ord. No. 00-04]**The following regulations shall apply to multiple-family dwellings:

- A.** Minimum tract size: five acres.
- B.** Maximum gross density: three dwelling units/acre.

## C. Minimum building setback:

- (1) Any property line: 100 feet.
- (2) Any internal drive: 50 feet.
- (3) Any internal parking: 25 feet.

## D. Minimum building separation in a multiple building development face to face (within 35 of parallel): 75 feet.

- (1) End to end: 50 feet.
- (2) Perpendicular, where no exterior wall faces the other building: 35 feet.

## E. Maximum building coverage: 25%.

## F. Maximum lot coverage (total): 35%.

## G. Minimum landscaped open space: 30%.

## H. Maximum building height: 35 feet.

**§ 200-26. Design standards.**

The following design standards under Article [XV](#) shall apply to all uses under the R-3 Residential District:

- A. Required off-street parking regulations, § [200-101](#).
- B. Parking lot standards, § [200-102](#).
- C. Visibility at intersections, § [200-103](#).
- D. Access and traffic control regulations, § [200-104](#).
- E. Interior circulation standards, § [200-105](#).
- F. Landscaping standards, § [200-107](#).
- G. Screening and buffering standards, § [200-108](#).
- H. Storage standards, § [200-109](#).
- I. Lighting standards, § [200-110](#).
- J. Pipeline setback standards, § [200-112](#).

[Prev](#)[Up / Top](#)[Next](#)[↑](#)[Change Views](#)[Contents](#)[Privacy Policy](#)[Help](#)[Terms of Service](#)[e](#)



<a href="#">Index</a>	<b>Township of West Brandywine, PA</b>	Search <input type="text"/> <input type="button" value="Q"/>
<a href="#">New Laws</a>	<b>CHAPTER 200 ZONING</b>	<a href="#">Print</a>
<a href="#">ARTICLE XXI. Conditional Use Process</a>	<a href="#">Help</a>	<a href="#">ARTICLE XXIII. Special Provisions for Historic Resources</a>
<a href="#">s</a>		

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[Jump to Content](#)

#### [ARTICLE XXII. Open Space Design Option](#)

[§ 200-177. Purpose.](#)

[§ 200-178. Eligibility.](#)

[§ 200-179. General regulations.](#)

[§ 200-180. Area and bulk regulations.](#)

[§ 200-181. Conservation and development design standards.](#)

[§ 200-182. Standards for ownership of restricted open space.](#)

[§ 200-183. Open space management provisions.](#)

[§ 200-184. Open space performance bond.](#)

### Article XXII. Open Space Design Option

[Added 2-15-1996 by Ord. No. 95-08; amended 3-4-1999 by Ord. No. 99-03; 7-18-2002 by Ord. No. 02-04; 11-21-2002 by Ord. No. 02-05; 7-17-2003 by Ord. No. 03-10; 10-6-2005 by Ord. No. 05-05; 6-7-2007 by Ord. No. 07-01; 4-3-2008 by Ord. No. 08-01]

#### § 200-177. Purpose.

The purposes of this article are:

- A. To provide an opportunity for flexibility in lot designs and building arrangement not afforded by conventional lot-by-lot development;
- B. To provide for a more varied, innovative, and efficient development pattern;
- C. To preserve unique and sensitive landscapes and site features by locating new dwelling sites in areas removed from such features;
- D. To protect scenic vistas from encroachment by development;
- E. To retain and protect open space areas within residential development;
- F. To provide a means to attain the aims and objectives of the West Brandywine Township Comprehensive Plan *Editor's Note: See Ch. A206, Comprehensive Plan.* relative to orderly growth and the enhancement of environmental resources.
- G. To support the specific objectives of the West Brandywine Township Open Space, Recreation and Environmental Resources Plan. *Editor's Note: See Ch. A207, Open Space, Recreation and Environmental Resources Plan.*

#### § 200-178. Eligibility.

- A. The open space design option shall be permitted in the R-1, R-2, R-3, R-4 and MSI Zoning Districts where applicant, to the satisfaction of the Board of Supervisors, can demonstrate compliance with all design standards and criteria of this article. The Board of Supervisors may retain such consultants as necessary to review and certify the accuracy of all plans and other documentation submitted in accordance with Article [XXI](#), reasonable and necessary charges therefor to be borne by the applicant.
- B. Applicant is strongly encouraged to submit a sketch plan to the West Brandywine Township Planning Commission

and to discuss community development and open space resource conservation objectives with the Planning Commission prior to formal conditional use application.

- C. Development under the open space design option shall be served by individual, community, or public water supply systems, where applicant, to the satisfaction of the Board of Supervisors, can demonstrate adequate supply for the intended residential and open space uses and for fire emergency purposes.
- D. Development under the open space design option shall be served by individual, community, or public sewage disposal systems consistent with the West Brandywine Township Sewage Facilities (Act 537) Plan, subject to demonstration of compliance with all applicable regulations of the Chester County Health Department and/or the Pennsylvania Department of Environmental Protection. Provision of capped sewers shall be required where future public sewer service is anticipated or where the subject development is located within or adjacent to any public sewer service area identified in the Act 537 Plan.
- E. The proposed development will be generally consistent with the West Brandywine Township Open Space, Recreation and Environmental Resources Plan, *Editor's Note: See Ch. A207, Open Space, Recreation and Environmental Resources Plan.* and with the Chester County Future Land Use Plan and West Brandywine Township Comprehensive Plan, *Editor's Note: See Ch. A206, Comprehensive Plan.* as applicable.
- F. The tract or tracts of land to be developed, including noncontiguous tracts where applicable, and whether in single or multiple ownership, shall be developed according to a single plan with common authority and responsibility.
- G. Where any provision of any other section of this Chapter [200](#), Zoning, or any provision of Chapter [167](#), Subdivision and Land Development, is inconsistent with the purposes and provisions of this article, the provisions of this article shall apply.

#### **§ 200-179. General regulations.**

- A. The open space option shall be used to develop single-family dwellings on lots in excess of 20,000 square feet in area where approved by the Board of Supervisors in accordance with the provisions of this article.
- B. The open space design option maybe used to establish open space uses as set forth in § [200-181D\(2\)](#) of this article.
- C. Where permitted by the Board of Supervisors as a conditional use, an applicant may utilize the open space design option for development of any of the following uses, in addition to or in place of single-family dwellings on lots in excess of 20,000 square feet:
  - (1) Single-family dwellings on lots less than 20,000 square feet.
  - (2) Two-family dwellings, except that two-family detached (duplex) dwellings shall not be permitted in the R-1 or R-2 Zoning Districts;
  - (3) Multiple-family dwellings, except that apartment dwellings shall not be permitted in the R-1 or R-2 Zoning Districts;
  - (4) Where the open space design option is utilized to develop dwellings comprising an age-restricted community, common or congregate facilities and other uses customarily accessory to an age-restricted community also may be included within the development, subject to conditional use approval and where primarily intended to serve residents of the development and their occasional invited guests.

#### **§ 200-180. Area and bulk regulations.**

- A. Qualified open space requirement. At a minimum, qualified open space shall be provided equal in area to the sum of the following and subject to the measurement criteria set forth in § [200-181D\(2\)](#):
  - (1) All area(s) excluded from the net tract area as provided in § [200-180B](#) below; and
  - (2) Forty-five percent of the net tract area as established in accordance with said § [200-180B](#).
- B. Establishment of net tract area. For purposes of establishing the maximum permissible number of lots or dwelling units on any tract utilizing the open space design option, and establishing open space requirements, the net tract area shall include all areas within the legal property lines of a tract, excluding the following:
  - (1) Any existing area that has been set aside as a permanent right-of-way or easement for a public or private street,

or for aboveground or underground utilities other than for local service;

- (2) Any existing area comprising permanent drainage or stormwater management easements;
- (3) Any existing area comprising sewage disposal facilities;
- (4) Any area within the Flood Plain District as established in Article [XII](#);
- (5) Any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers and/or the Pennsylvania Department of Environmental Protection;
- (6) Any area within the Severe Slope District as established in Article [XIII](#);
- (7) Any area of hydric soils as defined in § [200-8](#). To the extent that any Glenville soils are proven to be upland (nonhydric) in nature, there shall be no net out once proven and approved by the Township Engineer;
- (8) Any area equivalent to 75% of any area within 50 feet of the top of bank of any stream, and where not coextensive with any area excluded in accordance with § 180-180B(1) through (7) above;
- (9) An area equivalent to 75% of any area within the Moderate Slope District as established in Article [XIII](#) and where the Moderate Slope District does not coincide with any area excluded in accordance with § [200-180B\(1\)](#) through [\(8\)](#) above.

C. The maximum permissible number of lots or dwelling units on any tract utilizing the open space design option shall be calculated by multiplying the net tract area in acres by the multiplier stipulated below. This density calculation shall be rounded to the next lower whole number (i.e., a permitted density calculation of 17.7 would yield 17 lots.).

- (1) In the R-1 Zoning District: 0.55.
- (2) In the R-2 Zoning District: 0.9.
- (3) In those portions of the R-3, R-4 and MSI Zoning Districts outside of areas designated for public sewerage service by the West Brandywine Township Sewage Facilities (Act 537) Plan: 1.0.
- (4) In those portions of the R-3, R-4 and MSI Zoning Districts within areas designated for public sewerage service by the West Brandywine Township Sewage Facilities (Act 537) Plan, and where public sewerage service is provided:
  - (a) Where single-family and/or two-family dwellings are developed: 2.0.
  - (b) Where multiple-family dwellings are developed, the multiplier shall be 3.0 on that portion of any tract devoted to multiple-family dwellings.
- (5) Various portions of any single tract may be planned for development in accordance with differing density options as provided above. In such event, applicant shall demonstrate that appropriate land areas, including required qualified open space, can be identified to separately apply to each density multiplier utilized. No land area used for calculation under any one option shall also be used for calculation under another option.
- (6) Where permitted density calculated as provided herein is utilized for development of dwellings in an age-restricted retirement community, the density applied to the age-restricted retirement community may be increased such that 1.25 age-restricted dwellings may be developed for each dwelling otherwise permitted in accordance with the density calculations provided herein.

D. Applicant is advised that the maximum number of units calculated under the provisions herein may not always be achievable while meeting requirements for minimum restricted open space and all other standards, criteria, and regulations herein.

E. (Reserved)

F. Maximum tract coverage. Coverage by impervious surfaces shall be limited to the percentage of net tract area established for each zoning district as follows:

- (1) In the R-1 Zoning District: 15%.
- (2) In the R-2 Zoning District: 20%.



- (3) In those portions of the R-3, R-4 and MSI Zoning Districts outside of areas designated for public sewerage service by the West Brandywine Township Sewage Facilities (Act 537) Plan: 25%.
  - (4) In those portions of the R-3, R-4 and MSI Zoning Districts within areas designated for public sewerage service by the West Brandywine Township Sewage Facilities (Act 537) Plan, and where public sewerage service is provided: 35%.
- G. The following area and bulk regulations shall apply to all principal and accessory residential structures and to any structures containing any permitted open space use(s) on any tract developed pursuant to this article. For any structure containing any other permitted use, the applicable area and bulk requirements of the underlying zoning district shall apply.
- (1) Except in accordance with § [200-180G\(2\)](#) below, the minimum separation between any principal and/or accessory structures, at any point, shall not be less than 40 feet. Where applicant demonstrates to the satisfaction of the Board of Supervisors that adequate fire protection shall be provided, minimum separation may be reduced to 20 feet.
  - (2) Minimum separation shall not be less than 50 feet measured perpendicularly from any rear wall of any residential structure to any point on any other building except permitted accessory structures.
  - (3) Minimum setback from the edge of cartway (or outside edge of curb, if applicable) of any street shall be not less than 25 feet, except as provided in § [200-181A\(2\)](#) below.
  - (4) Maximum building height shall not exceed 35 feet measured from the average elevation of all corners of the building at ground level to the peak of the building's roof; provided, however, that a building height of 35 feet or less than 35 feet may, when considered in conjunction with building location, be a factor in denying conditional use approval (or a lower building height maybe a condition imposed) if; in the judgment of the Board of Supervisors, the purposes of this article pertaining to, among other things, the preservation of scenic vistas, are not satisfied by the applicant's plan.
  - (5) Maximum building length, measured in any continuous linear direction, shall not exceed 150 feet, regardless of length of individual facades.
  - (6) No individual residential structure shall contain more than four single-family attached dwellings and no individual group or cluster of residential structures shall comprise more than eight residential structures nor include more than 24 individual dwelling units. For example, where multifamily dwelling units are provided, 24 units may be provided in eight structures of three units each. Each group or cluster of residential structures shall be separated from any other group or cluster by a landscape buffer of a minimum of 150 feet in width, measured between any principal residential structures, and landscaped in accordance with the provisions of § [200-181A\(5\)](#).
  - (7) Where individual residential lots are established, no individual lot shall be less than 8,000 square feet in area for single-family detached dwelling units nor less than 5,000 square feet in area for each individual dwelling unit within a two-family structure, nor less than 2,500 square feet for each individual dwelling unit within any multifamily structure.
  - (8) Individual residential lots shall have a minimum lot width at street line as follows, including lots located on the bulb of a cul-de-sac street:
    - (a) Single-family detached residential lots: 50 feet.
    - (b) Two-family residential lots: 40 feet.
    - (c) Single-family attached residential lots: 20 feet.
  - (9) Notwithstanding parking requirements otherwise stipulated in this chapter, in any development utilizing the open space design option, the Board of Supervisors may require four parking spaces per dwelling unit plus one quarter parking space per dwelling unit for visitor parking. The Board may require additional parking to serve recreational or other common facilities where applicable.
  - (10) For any development utilizing the open space design option, the area and bulk provisions herein shall supersede any other provisions of this chapter or Chapter [167](#), Subdivision and Land Development, which may be inconsistent herewith. The provisions herein maybe modified by the Board of Supervisors where applicant has demonstrated to the satisfaction of the Board that variation from these standards results in a pattern of development more fully in compliance with the objectives of this article.

(11) Notwithstanding the above and subject to conditional use approval, the following specific area and bulk regulations may be applied to a tract or tracts where, and to the extent that, the open space design option is utilized to develop dwellings comprising an age-restricted community. Where not otherwise provided herein, the area and bulk standards set forth in § [200-180G\(1\)](#) through [\(9\)](#) shall apply.

(a) Within an age-restricted community, where individual lots are not provided, the following minimum separation distances shall apply:

[1] The minimum separation between any principal and/or accessory structures, at any point, may be reduced to not be less than 10 feet, provided that adequate fire protection shall be provided and except as provided in § 200-180G(10)(a)[2] below.

[2] Minimum separation shall not be less than 30 feet measured perpendicularly from any rear wall of any residential structure to any point on any other building.

(b) Within an age-restricted community, where individual lots are provided, the following setback requirements shall apply in lieu of minimum separation requirements:

[1] Minimum front yard: 20 feet.

[2] Minimum rear yard: 25 feet.

[3] Minimum side yard: 7.5 feet.

(c) Where individual residential lots are established, no individual lot shall be less than 5,000 square feet in area for single-family detached dwelling units nor less than 3,000 square feet in area for each individual dwelling unit within a two-family structure, nor less than 2,000 square feet for each single-family attached dwelling unit.

(d) Individual residential lots shall have a minimum lot width at street line as follows, including lots located on the bulb of a cul-de-sac street:

[1] Single-family detached residential lots: 45 feet.

[2] Two-family residential lots: 35 feet.

[3] Single-family attached residential lots: 20 feet.

(e) In any age-restricted community, recreation facilities such as clubhouses, community centers, swimming pools, tennis courts and other customary accessory uses shall be subject to the following provisions:

[1] No building shall be closer than 50 feet to any residential lot line or to any residential structure where individual lots are not provided.

[2] Parking for a clubhouse or community center shall be provided at one space per 250 square feet of gross floor area.

H. Where a tract or tracts of land subject to development in accordance with the open space design option is or are located in more than one zoning district, or comprise noncontiguous tracts, applicable density, qualified open space and tract coverage calculations shall be performed separately for each tract and in each zoning district and summed to establish total permissible density, tract coverage and qualified open space. Where approved as a conditional use, the locations of dwellings, permitted accessory uses, impervious coverage and open space may be provided without regard to application of density, coverage and open space regulations to any individual tract or zoning district. Notwithstanding the above, not less than 25% of the tract area of any single tract shall comprise qualified open space and not more than 60% of the tract area of any single tract shall be developed as impervious coverage.

## § 200-181. Conservation and development design standards.

### A. General development standards.

(1) All applicable standards provided in Articles [XIV](#) and [XV](#) of this chapter shall apply to any development utilizing the open space design option.

(2) All proposed dwelling units in a development utilizing the open space design option shall be situated so that they

are set back a minimum of 50 feet from the predevelopment perimeter boundary of the tract. Existing dwellings and dwellings resulting from the conversion of existing structures shall be exempt from this requirement.

- (3) Placement of buildings and design of internal circulation systems shall minimize adverse impact to existing Township roads.
  - (4) Architectural design.
    - (a) For any residential structure other than a single-family dwelling, where any individual building facade visible from any public right-of-way or public space (including internal public spaces within a development) exceeds 50 feet in length, there shall be a clear dimensional differentiation of roofline (i.e., an obvious difference in height) and/or an offset in facade of at least 10 feet, effectively breaking the single facade into two or more facades each no more than 50 feet in length. Where approved by the Board of Supervisors as a conditional use, single facades greater than 50 feet in length may be permitted, where applicant demonstrates to the satisfaction of the Board that the design of the building and its relationship(s) to surrounding buildings, landscaped areas and topographic features mitigates any negative impacts of long, continuous building facade (s). Mitigating factors may include design which emulates characteristic historical building forms which typically included relatively long individual facade lengths such as barns, stables, churches, meeting houses, or other public buildings. Building arrangements which rely on repeated use of the same long facade element shall not be approved.
    - (b) At its sole discretion the Board of Supervisors may require applicant to provide architectural renderings generally illustrating the intended exterior design, including principal exterior materials, of structures to be built on lands developed in accordance with this section. Such drawings shall effectively present an overall architectural theme which is internally consistent and compatible with surrounding properties and community resource protection objectives and which utilizes materials of long-term durability and low maintenance. The Board may further require, as a condition of approval, establishment of specific architectural design guidelines and/or a formal design review process, or other appropriate means to guarantee adherence to the intended architectural theme presented by the applicant.
  - (5) Any required landscape buffer between clusters of dwelling units shall be landscaped in accordance with the provisions of § [200-107](#) of this chapter and shall visually screen dwelling units in any one cluster from those in any other cluster and/or shall take advantage of existing site conditions to provide such screening.
- B. Historic resources.** Historic resources and their historic landscape context shall be preserved through incorporation into development plans and design to the greatest degree feasible, including historic structures, ruins or sites, historic road or other transport traces, paths and trails, and any other historic landscape features. In considering conditional use approval, the Board of Supervisors may request testimony from recognized expert(s) in the area of historic resource analysis and preservation, reasonable and necessary charges therefor to be borne by the applicant.
- C. Open space resource protection standards.** In utilizing the open space design option, the proposed design shall limit disturbance of all open space resources identified in the required natural and cultural resources analysis and accompanying material submitted in accordance with § [200-174C](#) of this chapter.
- (1) Where applicable, applicant shall comply with the specific objectives of the West Brandywine Township Open Space, Recreation and Environmental Resources Plan. *Editor's Note: See Ch. A207, Open Space, Recreation and Environmental Resources Plan.*
  - (2) Applicant shall demonstrate maximum conservation of scenic views from public roads and, where feasible, neighboring residential properties, including but not limited to lines of view from vista points as noted in the West Brandywine Township Open Space, Recreation and Environmental Resources Plan *Editor's Note: See Ch. A207, Open Space, Recreation and Environmental Resources Plan.* and direct lines of view from adjacent public roads to visual accents mapped in said plan. Applicant may demonstrate conservation of views through retention of existing vegetation, structures, or changes in topography or through provision of landscaping to screen proposed development from view.
    - (a) In considering conditional use approval, the Board may reduce screening requirements where applicant submits individual building design plans with sufficient detail to demonstrate, in terms of how such buildings may be viewed from public roads or neighboring residential properties, reasonable replication of proportional relationships of form and massing evident in existing historic resources, including ratios of height to width, length of individual facade segment, roof pitch, relative size and placement of windows, doors, and other facade details. The distance from point of public or neighboring view also may be considered as a mitigating factor in review of plans for buildings within such view.

- (3) Lands within the Flood Plain District shall comply with the terms of Article [XII](#) of this chapter.
- (4) Lands within areas of severe steep slopes (over 25%) or moderate steep slopes (15% to 25%) shall comply with the terms of Article [XIII](#) of this chapter.
- (5) Applicant shall demonstrate compliance with applicable state and/or federal regulation of streams and wetlands, including compliance with special protection guidelines for designated special protection waters. For any proposed activity requiring the submission of a wetland delineation report, stream or wetland encroachment permit, or mitigation plan to the Pennsylvania Department of Environmental Protection and/or U.S. Army Corps of Engineers, a copy of all such documentation shall be submitted to West Brandywine Township.
- (6) Where feasible, applicant shall demonstrate conservation of any site included in the Chester County Natural Areas Inventory and/or any unique natural area inventoried in the Chester County Open Space and Recreation Study, as may be amended from time to time.
- (7) Mature trees and woodlands, including any existing trees greater than eight inches caliper, hedgerows, fencelines, rock outcroppings and other noted landscape features, shall be preserved to the greatest degree feasible. Woodland removal shall not exceed 25% of total woodland area on any tract, except where the Board is satisfied that conservation of other significant open space resources can be best achieved with additional woodland removal. In no case shall more than 50% of existing woodland be removed. For the purposes of this section, the extent of area occupied by any tree or woodland (tree mass) shall be measured from the outermost drip line of such tree or of all the trees in a woodland (tree mass). Applicant shall give special consideration to the conservation of significant woodland habitat areas identified in the West Brandywine Township Open Space, Recreation and Environmental Resources Plan. *Editor's Note: See Ch. A207, Open Space, Recreation and Environmental Resources Plan.*

**D. Open space designation and use standards.**

- (1) Areas designated as open space shall be consistent with the West Brandywine Township Open Space, Recreation and Environmental Resources Plan. *Editor's Note: See Ch. A207, Open Space, Recreation and Environmental Resources Plan.* The location and layout of open space shall be configured so as to promote adherence to resource protection standards in § [200-181B](#) and [C](#) above.
- (2) No portion of any designated open space shall be considered as meeting the qualified open space requirement where:
  - (a) Occupied by existing or proposed impervious surfaces;
  - (b) Extending less than 150 feet in the narrowest dimension at any point;
  - (c) Located within the bounds of any lot whose principal use(s) are not permitted open space use(s) in accordance with § [200-181D\(2\)](#). Parcels or lots where agriculture or other open space uses are the principal use(s) may also include residential dwelling unit(s) and still be counted as open space, subject to all criteria herein for measurement of minimum restricted open space.
  - (d) Located within 20 feet of any structure except structures devoted to permitted open space uses or required infrastructure.
  - (e) Occupied by stormwater detention or retention facilities, sewage collection, conveyance, treatment or disposal facilities, or water supply facilities, subject to the following:
    - [1] In determining compliance with this section, areas devoted to stormwater detention or retention facilities shall be measured to include all of the following:
      - [a] All areas within the contour line established by the top elevation of the stormwater detention/retention embankment on the outlet or downhill side of the detention/retention area (i.e., basin); plus
      - [b] All areas between said contour line and the toe of slope of any embankment established to contain the stormwater detention/retention facility; plus
      - [c] All area within (or directly over top of) the physical limits of any surface or subsurface stormwater management structure; plus
      - [d] Any area within 10 feet of any area as set forth in Subsection [D\(2\)\(e\)\[1\]\[a\]](#), [b] and [c] above; plus

- [e] Any area within 10 feet to either side of any stormwater management pipe or other stormwater conveyance structure; plus
  - [f] Any additional area, if any, within any easement established for stormwater management or drainage.
- [2] In determining compliance with this section, areas devoted to water supply facilities or to sewage collection, conveyance, treatment or disposal facilities, including any drip dispersion tubing and any area subject to spray irrigation, shall be measured to include all areas subject to any easement established for such purposes and/or any area within 10 feet of the outermost limits of any area where such facilities have been or shall be installed, whichever area is greatest in extent. Water supply and sewage collection lines serving only one individual residential dwelling shall be excluded from this provision.
- (3) Areas designated for open space purposes may be used for any of the following as approved by the Township:
- (a) Woodland, meadow, pasture, wildlife habitat, game preserve, agricultural area, or similar conservation-oriented area;
  - (b) Park or recreation area.
- (4) For management and ownership purposes, water supply, sewage service and stormwater management facilities may be located within areas designated and managed as open space, but shall not contribute to the measurement of qualified open space, as stipulated in § [200-181D\(2\)\(e\)](#). Where such facilities are so located, easements satisfactory to the Board of Supervisors shall be established to require and enable maintenance of such facilities by the appropriate parties.
- (5) Except to provide for permitted open space uses, all designated open space areas shall be restricted from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the Township and duly recorded in the office of the Recorder of Deeds of Chester County. Restrictions shall run in favor of the Township and owners of all new lots created by the development under application.

#### § 200-182. Standards for ownership of restricted open space.

Subject to permanent conservation restrictions, open space lands in any subdivision may be owned by a homeowners' association, the Township, a land trust, another conservation organization recognized by the Township, or by a similar entity, or, where required by the Township as provided in § [200-182F](#), may be placed in private ownership.

##### A. Offer of dedication.

- (1) The Township may, but shall not be required, to accept dedication in the form of fee simple ownership of open space land provided:
  - (a) Such land is accessible to the residents of the Township;
  - (b) There is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance; and
  - (c) The Township agrees to and has access to maintain such lands.
- (2) Where the Township accepts dedication of open space land that contains improvements, the Board of Supervisors may require the posting of financial security to ensure structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed 18 months from the date of acceptance of dedication. The amount of financial security shall not exceed 15% of the actual cost of installation of said improvements.

##### B. Homeowners' association. Open space lands and associated facilities may be held in common ownership by a homeowners' association. The association shall be formed and operated under the following provisions:

- (1) The developer shall provide a description of the association including its bylaws and methods for maintaining the open space.
- (2) The association shall be organized by the developer and operating with financial subsidization by the developer, before the sale of any lots within the development.
- (3) Membership in the association is mandatory for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified.

- (4) The association shall be responsible for maintenance and insurance on common open space land, enforceable by liens placed by the homeowners' association. Maintenance obligations may be enforced by the Township which may place liens to recover its costs. Any governmental body with jurisdiction in the area where the development is located may place liens on the owners of the open space to collect unpaid taxes.
  - (5) The members of the association shall share equitably the costs of maintaining and developing such common land. Shares shall be defined within the association bylaws. Association dues shall be structured to provide for both annual operating costs and to cover projected long-range costs relating to the repair of any capital facilities (which shall be deposited in a sinking fund reserved for just such purposes).
  - (6) In the event of a proposed transfer, within the methods here permitted, of common open space land by the homeowners' association, or of the assumption of maintenance of such land by the Township, notice of such action shall be given to all property owners within the development.
  - (7) The association shall have or hire adequate staff to administer common facilities and properly and continually maintain the common open space land.
  - (8) The homeowners' association may lease open space lands to any other qualified person, or corporation, for operation and maintenance of such lands, but such a lease agreement shall provide:
    - (a) That the residents of the development shall at all times have access to the open space lands contained therein (except that access to land that is actively farmed shall be limited to times of the year with the fields are fallow);
    - (b) That the common open space land to be leased shall be maintained for the purposes set forth in this chapter; and
    - (c) That the operation of open space facilities may be for the benefit of the residents only, or may be open to the residents of the Township, at the election of the developer and/or homeowners' association, as the case may be.
  - (9) The lease shall be subject to the approval of the Board and any transfer or assignment of the lease shall be further subject to the approval of the Board. Lease agreements so entered upon shall be recorded with the Recorder of Deeds of Chester County within 30 days of their execution and a copy of the recorded lease shall be filed with the Secretary of the Township.
- C. Condominiums. Open space lands and associated facilities may be held in common through the use of condominium agreements, approved by the Board of Supervisors. Such agreement shall be in conformance with the Uniform Condominium Act of 1980. *Editor's Note: See 68 Pa. C.S.A. § 3101 et seq., the Uniform Condominium Act.* All common open space land shall be held as "common element."
- D. Dedication of easements. The Township may, but shall not be required to, accept easements for public use of any portion or portions of the open space, title of which is to remain in common ownership by condominium or homeowners association, provided:
- (1) Such land is accessible to Township residents;
  - (2) There is no costs of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and
  - (3) A satisfactory maintenance agreement is reached between the developer, condominium or homeowners association and the Township.
- E. Transfer of easements to a private conservation organization. With the permission of the Township, an owner may transfer easements to a private, nonprofit, organization recognized by the Township, among whose purpose it is to conserve open space and/or natural resources, provided that:
- (1) The organization is acceptable to Board, and is a bona fide conservation organization with perpetual existence;
  - (2) The conveyance contains appropriate provision for proper reverter or retransfer in event that organization becomes unwilling or unable to continue carrying out its functions; and
  - (3) A maintenance agreement acceptable to the Board is entered into by the developer and the organization.

- F. Private ownership of open space. All or portions of the designated open space, where required by the Township, may be included within or divided among one or more of the individual lots. Regardless of ownership, where deemed appropriate, the Board of Supervisors may require that responsibility for maintenance of open space be conferred upon and/or divided among the owners of one or more individual lots.

**§ 200-183. Open space management provisions.**

- A. Required open space management plan. Any application under the open space development option shall include a plan for the long-term management of the open space which is to be created as part of the development as well as the maintenance and management of any wastewater disposal, water supply, stormwater management or any other common facilities. Such a plan shall include a narrative discussion of:
- (1) The manner in which any open space or common facilities will be owned and by whom it will be managed and maintained;
  - (2) The conservation, land management and agricultural techniques and practices which will be used to conserve and perpetually protect the open space, including conservation plan(s) approved by the Chester County Conservation District, where applicable;
  - (3) The professional and personnel resources that will be necessary in order to maintain and manage the property;
  - (4) The nature of public or private access that is planned for any open space; and
  - (5) The source of money that will be available for such management, preservation and maintenance on a perpetual basis.
- B. The Board of Supervisors may require that the management plan be recorded, with the final subdivision and land development plans, in the Office of the Recorder of Deeds of Chester County. The Board may require as a condition of land development approval that appropriate management contracts be established as evidence of the ability to adhere to the provisions of the approved management plan. In order to allow for the changing needs inherent in the perpetual management of land, the management plan shall contain a provision to the effect that it may be changed by written application to the Board of Supervisors. Approval of such application by the Board shall not be unreasonably withheld or delayed, so long as the proposed change is feasible and consistent with the purposes of preservation of open space set forth in this article and so long as the plan for such change avoids a likelihood of the obligation for management and maintenance of the land falling upon the Township without the consent of the Board of Supervisors.
- C. Provisions for maintenance of any open space and any community facilities held in common ownership, including wastewater disposal, water supply, and stormwater management facilities.
- (1) In the event that the association or any successor organization shall, at any time after establishment of a development containing open space land, fail to maintain such land in reasonable order and condition in accordance with the development plan, the Township may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the open space land in reasonable condition.
  - (2) Failure to adequately maintain the open space land in reasonable order and condition constitutes a violation of this chapter. The Board is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same within 20 days.
  - (3) Should any bill or bills for maintenance of open space land by the Township be unpaid by November 1 of each year, a late fee of 15% shall be added to such bills and a lien shall be filed against the premises in the same manner as other municipal claims.

**§ 200-184. Open space performance bond.**

All landscape improvements, plantings, accessways, and recreational facilities within designated open space areas shall be provided by the developer as applicable. A performance bond or other securities shall be required to cover costs of all installation of proposed improvements in the open space area. The performance bond or other security shall be in the same form and adhere to the same conditions as otherwise required for proposed improvements under § [167-19](#) of Chapter [167](#), Subdivision and Land Development, of the Code of the Township of West Brandywine. An appropriate portion of the performance bond or other security will be applied by the Township should the developer fail to install the planting or recreational facilities.