

SECTION 10 DEVELOPMENT RIGHTS AND USE

10.1 General:

- 10.1.1 Development rights granted by this Ordinance will be determined according to parcels on certificates of survey, deeds, subdivision plats or other documents showing ownership as recorded in the office of the Clerk and Recorder.
- 10.1.2 Development rights only exist in the Agricultural and Rural Residential District (AR) created by this Ordinance. They may not be transferred to any other district. For a development right to be granted in any other district requires an amendment to this Ordinance.
- 10.1.3 Development rights are valued by the private market and may be conveyed and reconveyed.
- 10.1.4 A current record of development rights shall be maintained by the Gallatin County Planning Office. Any use or transfer of development rights shall be recorded with the office of Clerk and Recorder. Notification of the use or transfer shall be provided to the Planning Office.

10.2 Development Rights as a Matter of Right:

- 10.2.1 For each parcel containing 160 acres or less, existing on the date of adoption of this Ordinance, there is one (1) development right.
- 10.2.2 For each parcel containing more than 160 acres, existing on the date of the adoption of this Ordinance, there is a development right for each 160 acres. In the event the acreage is within 95% or higher of the 160 acre minimum there is a development right for that acreage.

10.3 Additional Development Rights:

- 10.3.1 For every 80 acres within an original parcel, there is one (1) additional development right. The additional development right can be used to subdivide the original parcel, or be transferred to another parcel to be subdivided (see Section 10.4). In the event the acreage of the original parcel is within 95% or higher of the 80 acre minimum, the parcel would qualify for an additional development right.

10.3.2 An additional development right can only be used through the conditional use permit procedure. An owner desiring to use an additional development right on the original parcel shall apply for a conditional use permit and follow the procedures specified in Section 13 of this Ordinance.

10.4 Transferred Development Rights:

10.4.1 A development right existing as a matter of right or an additional development right may be transferred from one parcel to another.

10.4.2 An owner of property intending to use a development right transferred from another parcel shall apply for a conditional use permit. The application shall include documentation between the owner of the property transferring the development right and the owner of the property receiving the development right specifying the arrangements for the transfer.

10.5 Standards for Use of Additional or Transferred Development Rights:

10.5.1 Additional or transferred development rights shall only be used on 15% or less of the total original parcel area. The 15% area designated for development may be separated within the original parcel.

10.5.2 Minimum lot sizes within the designated areas shall be one (1) acre.

10.5.3 When a total of 15% of the original parcel is platted for development purposes, the owner must then place a permanent open space restriction on the remaining 85% of the original parcel prohibiting further subdivision of the open space for residential uses. The deed restriction shall be filed with the certificate of survey or subdivision plat creating the new parcels.

10.5.4 A site for the use of an additional or transferred development right shall be designed to achieve as many of the following conditions as possible. However, at least three (3) of the conditions shall be required for permit approval:

- a. The building site is located in an area least likely to interrupt or detract from scenic vistas, as seen from public roads and neighboring properties.
- b. The building site is located on the least fertile soils for agricultural uses, and in a manner which maximizes the usable area remaining for such use.
- c. The building site is located within any woodland contained in the original parcel, or along the edges of open field adjacent to any woodland in order to reduce impact upon agriculture; to provide summer shade and shelter from winter wind; and to enable new construction to be visually absorbed by natural landscape features.
- d. The building site is located with the least disturbance to the natural topography, landscape, and vegetation.
- e. The building site location avoids exposed hillsides, ridgetops, and creekbanks.
- f. The building site is in close proximity to existing homes and roads.

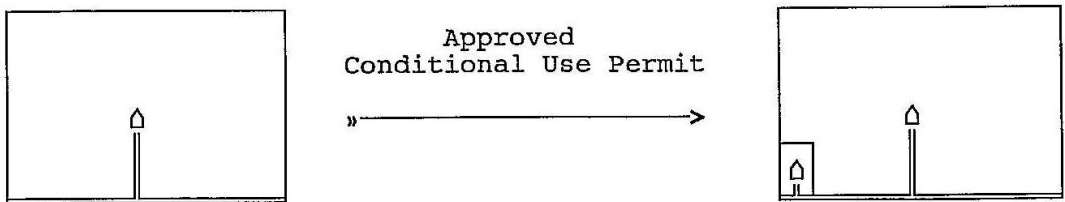
10.6 Examples of the Use of Development Rights:

10.6.1 EXAMPLE A ADDITIONAL DEVELOPMENT RIGHTS:

A-1 160 acre parcel using one (1) additional development right

Development Rights:

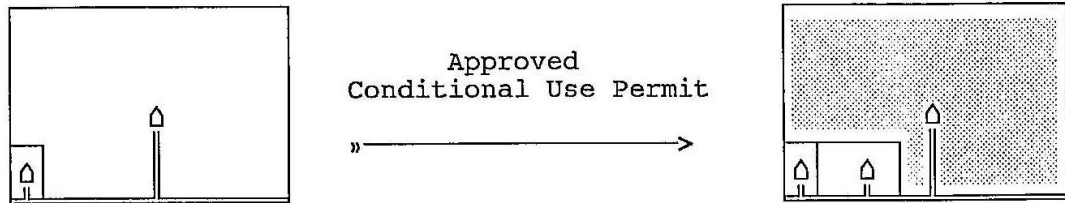
- 1 development right permitted as a matter of right
- 1 development right per additional 80 acres with an approved conditional use permit



- original dwelling on 160 acre parcel

- newly platted 8 acre lot on 5% of the original parcel
 - 10% (16 acres) of the original parcel can be further developed with application for another conditional use permit (see EXAMPLE A-2)

A-2 160 acre parcel using the second development right



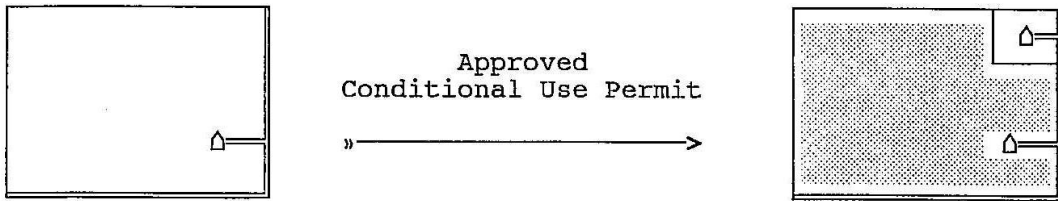
- original dwelling on 152 acre parcel
 - 8 acre lot (5%), previously approved CUP

- 136 acre parcel (85%) with open space restriction (shaded area)
 - one (1) additional platted 16 acre lot, total of 2 lots (15%)

A-3 100 acre parcel using one (1) additional development right

Development Rights:

- 1 development right (principal structure) permitted as a matter of right
- 1 additional development right per parcel with an approved CUP



- 1 dwelling per parcel

- 85 acre parcel (85%) with open space restriction (shaded area)
- one (1) platted 15 acre parcel (15%)

10.6.2 EXAMPLE B TRANSFERRED DEVELOPMENT RIGHTS:

B-1 20 acre parcel using one (1) transferred development right

Development Rights:

- 1 development right (principal structure) permitted as a matter of right

