

# Why Can't We Just Say No to Development?

East Rockhill's beautiful open spaces, convenient highway access and rural quality of life make it an attractive place for many people to live. But rapid growth and development can change the scenic landscape of East Rockhill Township, which attracted people in the first place.

Over the past few decades, new, large-scale housing developments have been built in many places in upper Bucks County. So if sprawl and development potentially change the township in a negative way, why can't the township just tell developers to go elsewhere? Moreover, why would they even try to accommodate development by zoning land for higher-density uses?

Two legal reasons prevent East Rockhill from completely stopping development and even compel the township to accommodate it. **The township cannot keep private property owners from gaining some economic use out of their properties.** Widely known as the 'takings clause,' the Fifth Amendment of the U.S. Constitution states 'nor shall private property be taken for public use, without just compensation.'

When a government regulation denies all economic use or value of a property, a 'taking' of property results. This is applied in a land-use context through zoning regulations and means that all property must be zoned to allow for some form of housing and/or some commercial use.

In addition, **every municipality must provide for basic forms of housing, and all institutional, commercial, and industrial uses.** In a series of court decisions, the Pennsylvania Supreme Court found that every community must provide for its 'fair share' of each particular use.

**If the amount of land zoned for a particular use is disproportionately small, or if the use cannot be reasonably accommodated under the provisions of the zoning ordinances, then the courts will hold the ordinance to be exclusionary, will grant relief, and permit the developer to build whatever he or she wishes, despite the municipality's zoning ordinance.**

Thus, to meet this fair share requirement, East Rockhill's zoning ordinance must contain provisions for all types of development.