



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting January 26, 2008**

DATE: January 10, 2008

SUBJECT: Approval of a policy document to guide decisions on Transfers of Development Rights (TDRs): Consideration of a policy document that sets forth purposes for approval of Transfers of Development Rights, a certification process for application of TDRs to specific properties, the eligibility of property for use as sending or receiving sites and the process to be used. The policy document also contains information about the conditions that may be necessary for TDR approval, the types of transfers of rights, and the method the County Board may use to determine how much density is transferred (see Attachment A).

C. M. RECOMMENDATION:

Approval of the Transfer of Development Rights Policy Document to guide decisions on Transfers of Development Rights (TDRs) and that sets forth purposes for approval of Transfers of Development Rights, a certification process for application of TDRs to specific properties, the eligibility of property for use as sending or receiving sites and the process to be used (Attachment A).

ISSUES:

1. Should the Policy Document restrict the transfer of development rights to sending and receiving sites within the same station area boundaries within the Rosslyn-Ballston and Jefferson Davis Corridors?
2. In the Policy Document, should there be a special process for sending site locations planned "Public" and zoned "S-3A" Special Districts or should they be excluded from being a sending site?
3. Should the County Board direct staff to analyze a policy that would allow the consideration of additional density above the current limits in the "C-O Rosslyn" Zoning District in cases where the additional density on two non-contiguous sites does not exceed an average of 10.0 FAR across the two sites?
4. Should the County Board direct staff to develop a County-Run TDR bank and include related policies in the TDR Policy Document?

County Manager: _____

County Attorney: _____

Staff: Colleen J. Connor, DCPHD, Planning Division

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PLA-4874

SUMMARY: On February 25, 2006, the Arlington County Board approved a Zoning Ordinance amendment allowing for transfers of development rights (Attachment B). The Amendment defined the purposes for the use of TDRs. At the time of adoption of the Ordinance Amendment in 2006, it was determined that additional work was needed to develop the details for the TDR program before it could be fully implemented.

In general, the TDR ordinance approved in 2006 allows a site (sending site) to send density and/or other development rights to a receiving site for certain purposes, including, but not limited to, the preservation or facilitation of open space, historic preservation, affordable housing, community facilities, or community recreation. Since County Board approval in 2006, staff has met with community members and groups and has developed a draft Policy Document (Attachment A) to clarify and implement the TDR program. In addition, staff developed a draft changes to the Administrative Regulations 4.1 for TDR applications (Attachment B). The key policies in the draft Document include:

- Reaffirmation of eligible purposes for sending sites as defined in the Zoning Ordinance to transfer development rights include, among others, the preservation or facilitation of open space, historic preservation, affordable housing, community facilities, or community recreation;
- Eligible sending sites may be located anywhere in the County, but restricted to the purposes defined in the Zoning Ordinance;
- Establishing a TDR Certification Process for sending sites that includes staff evaluation of sending site eligibility and the calculation of TDR quantity, to be forwarded for consideration by the County Board.
- Eligible receiving sites restricted to:
 - sites in the Rosslyn-Ballston or Jefferson Davis Corridors (see Maps in Attachment A)
 - sites that are part of a Special Exception Site Plan application; and
 - sites at least a minimum distance from low residential districts.
- Long-term control of sending and receiving sites through restrictions placed on deeds.

It is important to note that the purpose of the program is to preserve important characteristics or amenities of the community. It is not to move density around the County. The ability to transfer density is not an entitlement. By providing detailed guidance, the Policy Document gives surety that the transfer of density rights are equitable and that the program is manageable by the County. By setting forth parameters for evaluation and calculations of TDRs, the Policy Document will strengthen the efficient and effective implementation of the TDR program. Therefore, staff recommends that the County Board approve the TDR Policy Document.

BACKGROUND: On March 26, 2005, the General Assembly of Virginia enacted 15.2-750, enabling Zoning Ordinance provisions for transfer of development rights under the county manager plan of government. This legislation allowed Arlington County to enact a TDR program through its Zoning Ordinance. Subsequently, the County Board adopted a Zoning Ordinance Amendment on February 25, 2006, to establish a TDR Program. The TDR ordinance

allows a site (sending site) to send density and/or other development rights to a receiving site for certain purposes including, among others, the preservation or facilitation of open space, historic preservation, affordable housing, community facilities, or community recreation. The TDRs would be transferred to another location (receiving site) only through site plan approval where more density and/or development rights is deemed appropriate by the County Board. At the time of adoption of the Zoning Ordinance Amendment in 2006, it was determined that additional work was needed to develop the details for the TDR program before it could be fully implemented.

The General Assembly adopted new legislation (Section 15.2-2316.2) with an effective date of July 1, 2006, authorizing all localities in Virginia to use TDRs. The statute has many specific requirements for a TDR ordinance than the prior legislation. Arlington County's authority to have a TDR program, however, remains under the parameters of the earlier (2005) legislation.

At the November 13, 2007, County Board meeting, the Board authorized the advertisement of the draft Policy Document (Attachment A). The Administrative Regulation changes (Attachment C) are also attached for informational purposes but are not acted upon by the County Board.

DISCUSSION: This section summarizes the key policies described in the Policy Document and outlines major issues that have arisen through the process.

Summary of Key TDR Policies:

Eligible Purposes for a Sending Site:

Reaffirms the intent already established in the Zoning Ordinance that the proposed TDR program would allow for the legal transfer of development rights from sending sites where a commitment to, among other things, historic preservation, open space, affordable housing, community facilities, and/or community recreation will be initiated or expanded, to receiving sites where additional development is found to be appropriate.

Eligible Sending Sites:

A TDR sending site could be located anywhere in the County, as long as they comply with the purposes articulated in Section 36. Administration and Procedures, Subsection H. 5.b. The sending site is not part of the same site plan and need not be located in a zoning district that allows a site plan option.

Certification Process and Calculation of Density:

There are two major steps an applicant must undertake to pursue the use of TDRs.

1. The first step is an application for Certification of the sending site. Based on an evaluation by staff, Certification of the sending site would determine if the sending site meets the eligible purposes as articulated in the Zoning Ordinance. County plans and

policies will be referred to for guidance on eligible purposes of sending sites, including the Arlington County's Comprehensive Plan and other supporting documents. Staff will refer certification applications to appropriate advisory commissions for their recommendations to help guide the final recommendation on certification.

2. Staff would forward a recommendation to the County Board on eligibility and on the quantity of density eligible to be transferred. If the County Board approves the findings and approves the amount of density to be transferred, the sending site becomes certified. If certified, TDRs on a sending site can then be proposed to be used in conjunction with a Special Exception Site Plan application (see below). The County Board would consider, as part of the site plan approval process, whether additional density or other development rights is appropriate on the receiving site. Certification may assist a property owner of a sending site in making a determination to preserve/conservate the property before a receiving site has been identified and would provide clarity to the process and certainty to property owners and developers.

Transferable development rights typically consist of density. The amount of density transferred would generally be based on the unused by-right density on the site. In some circumstances, however, such as historic preservation and affordable housing, density credit may be given for existing density on the site, such as preserved structures or units. Other variables might include the economic value and/or cost of preserving the parcel/structures on the sending site and the individual circumstances of the application. The recommendation to give density credit for preserved structures or units is in recognition of the economic challenges of achieving the goals of affordable housing and historic preservation. In some circumstances, the amount of density to be transferred may be determined based on a higher density potential development on the site; for example a privately-owned parcel designated as "Public" on the General Land Use Plan (GLUP).

Other than density, there could be other types of development rights such as height and other modifications that may be requested by an applicant for certification which this policy document does not specifically address. These requests would need additional study by staff before any recommendation is forwarded to the County Board for their consideration.

Eligible Receiving Sites:

The transfer of development rights to a receiving site would occur only where a site is zoned or proposed for re-zoning to a district that allows for site plan option under the Zoning Ordinance and where additional density and/or development rights are determined to be appropriate by the County Board in accordance with the site plan standards of Section 36.H. of the Zoning Ordinance and existing County plans, County goals and policies.

Staff proposes that potential receiving sites be limited to sites in zoning districts that have a site plan option and are located within the Rosslyn-Ballston or Jefferson-Davis Corridors, as designated on the back of the General Land Use Plan (GLUP) map dated April 27, 2004 and

subsequently approved GLUP amendments. As further protection of low-density residential areas, staff proposes to exclude as receiving sites, those parcels with a GLUP designation of “Low” Residential (1-10 u/a and 11-15 u/a) and/or parcels or those portions of a parcel within 165 feet from R-zoned districts that are planned “Low” Residential (see Maps in Attachment A).

Other areas could be considered as receiving sites if and when planning efforts are completed in these areas and the resulting plans or policies include recommendations for allowing TDRs.

Community Process and Special Exception Site Plan Conditions:

TDRs from a certified sending site can only be used in conjunction with a Special Exception Site Plan application. The application submittal requirements and a description of the public review process regarding TDRs are provided in the County’s Administrative Regulation 4.1 (see Attachment C).

The TDR public review process builds on the well-established site plan process that provides significant community input on projects in the higher density areas of the County. The Site Plan process ensures that community concerns regarding additional density or other development rights are addressed. The site plan process and the site plan conditions are established methods for providing significant community input and the imposition of appropriate conditions. It is recommended that through the site plan process, restrictions be placed on the deeds of the receiving, as well as the sending, sites in order to preserve a record of the TDRs and will ensure the long-term achievement of the TDR program goals. The substance and form of that restriction must be acceptable to the County Attorney.

The additional density that could be absorbed on the Receiving site could be above the development that is otherwise permitted by the General Land Use Plan and the Zoning Ordinance for that site, except where exceeding the limits is expressly prohibited by the Zoning Ordinance.

Issues:

Restriction of TDRs within Station Area Boundaries: One issue that arose during the community input relates to the restriction of density transfers to within each station area boundary or outside of those boundaries if the distance is no more than ¼ mile between the sending site and the receiving site. Staff evaluated this approach to limit TDRs within station areas and determined that this distance limitation would prevent the flexibility needed for the program to work. Some areas of the Corridors may be more able to accommodate additional density and, with this restriction, areas that are not may be unable to benefit from the program. For example, this restriction would preclude a scenario where a station area with lower density and limited options for additional density contains a historic structure that wishes to transfer density to another station area that has more options to receive density. Also, the use of TDRs goes through the site plan process, and would allow community concerns and the County Board to ensure that community concerns regarding additional density are addressed. The public benefits

that arise from TDRs (preservation and conservation among others) are County-wide benefits and are not restricted to a station area.

Special Review Process for Properties Planned “Public” and Zoned “S-3A” Special Districts or Exclusion as Sending Sites: Another issues that came out of the policy development process, was related to whether certain types of property should be excluded as sending sites. Specifically, there was a request that properties planned “Public” and zoned “S-3A” Special Districts be excluded because public properties may not subject to sufficient public scrutiny for review. Staff evaluated this issue and determined that there was not a need for a special process for projects involving County-owned land. As with site plans by private parties, notification will be provided for County-owned projects and a public hearing would be held in regards to both the sending and receiving sites.

Rosslyn and TDRs: One of the districts that expressly prohibit exceeding the density limits is the “C-O Rosslyn” Zoning District. Currently, the County Board may approve special exception site plan projects within the “Rosslyn Coordinated Redevelopment District” (RCRD) with additional density up to 10 FAR and building heights up to 300 feet. One of the areas of the County that could possibly accommodate additional density to help forward the physical and economic development is Rosslyn. The County Board may want to direct staff to analyze the potential pros and cons and implementation steps of an ordinance change that would allow additional density above the current limits in the “C-O Rosslyn” Zoning District. One option to consider would be to average FARs across two non-contiguous sites. A potential policy specifically for “C-O Rosslyn” would allow TDRs in cases where the additional density on two non-contiguous sites does not exceed an average of 10.0 FAR across the two sites. For this option, the Board may also want to limit sending sites to sites located within Rosslyn or from other areas of the County through changes to the Zoning Ordinance.

County-run TDR Bank:

Staff evaluated the TDR banks in other jurisdictions including among others, King County, New Jersey Pinelands, Tahoe Regional Planning Agency, New York Long Island Pine Barrens, and determined that privately negotiated agreements among private parties would be more efficient than a County-run TDR bank. Although a number of jurisdiction have somewhat successful TDR banks, most of the program required additional bureaucracy to administer the program and funds to cover costs resulting from establishing and maintaining the program, marketing TDRs, procuring title reports and appraisals and reimbursing the costs incurred by a department for administering the TDR bank fund, and executing development rights purchases and sales. If the County Board were to propose a TDR Bank, it could require significant start-up costs including funds to capitalize the bank. A TDR bank usually requires capitalization because of the time lag between the purchase and the sale of the development rights. A TDR bank would provide information, marketing and facilitation services, a County-run bank would also be in the position of having to set the costs of TDRs in fluctuating markets. The TDR bank could function as a clearinghouse to connect credit sellers and purchasers at different points in the economic cycles. Staff recommends that the program operate as recommended in the Policy Document, and that

staff reevaluate at a later date whether a TDR Banks is necessary. Also, the TDR policy has provided for a sending site to transfer density to multiple sites at multiple points in time (i.e., private banking) as long as the total does not exceed the certified density overall.

PUBLIC PROCESS: Staff has presented draft program details and the Policy Document to the following groups:

- Housing Commission on May 11, 2006, and is schedules to review revised details on January 15, 2008, at the Tools and Trends Housing Subcommittee, and to the full Housing Commission on January 17, 2008;
- Parks and Recreation Commission on May 23, 2006 and on December 18, 2007
- Transportation Commission on June 22, 2006;
- HALRB on August 16, 2006 and November 28, 2007;
- Zoning Committee (ZOCO) on January 31, March 13, May 4, May 24, and October 11 of 2006, and November 14, 2007, and December 12, 2007; and
- Planning Commission is scheduled to review revised draft documents on January 14, 2008.

ZOCO

Staff has responded below to items raised during a review with the Zoning Committee (ZOCO) on the Draft Policy Document. ZOCO comments focused on the desire for more specificity in certain sections of the Zoning Ordinance and the Policy Document. Specifically, the major issues or recommended changes include the following

1. Include the Eligible Receiving Site Locations maps in the ZOA;
Staff response: The Zoning Ordinance is not being amended at this time.
2. Provide a greater level of detail in the Eligible Receiving Site Locations maps;
Staff response: Staff has revised the maps to illustrate parcel-level detail and has included them in the Policy Document.
3. Include many of the items currently in the Policy Document (including Section #7) in the ZOA;
Staff response: The approach to include items currently proposed in the Policy Document in the ZOA was evaluated by staff. Staff determined that most of the items in the Policy documents are policies rather than standards usually incorporated into the Zoning Ordinance. Therefore, these items are more appropriate in a policy document. Also, the Zoning Ordinance is not being amended at this time.
4. Refer to the Policy Document in the ZOA;
Staff response: The Zoning Ordinance is not being amended at this time.
5. Include more specificity/clarity on the type and contents of the document(s) to be recorded on land deeds for the sending sites;
Staff response: Staff has evaluated this recommendation and determined that listing the types and contents of documents to be recorded would be difficult to specify in the Policy Document and may be too restrictive if interpreted to be a limiting list of options. Because of the potentially unique characteristics of each site, the program requires some

- level of flexibility on the types of documents required for review and approval by the County Attorney.*
6. Identify a publicly-available mechanism to keep track of sending and receiving sites;
Staff response: The approach to identify a publicly-available mechanism to keep track of sending and receiving sites is being evaluated. One option under consideration is a web page on the County's web site that could include a list and/or map of the sending and receiving sites.
 7. Clarify if a restrictive covenant running with the land will override future zoning on a sending site.
Staff response: Staff has evaluated this and concluded that the covenants would override future zoning on a sending site.
 8. Clarify if and how the TDR program defers to policies identified in various area and Sector Plans;
Staff response: Staff has evaluated this recommendation and has determined that the Policy Document, Section #5 as well as the language of Section 36.H.5.B.b of the Zoning Ordinance explains how the TDR program will work with existing area and Sector Plans. A transfer of development rights to a receiving site can only occur as part of a site plan process and the draft Policy Document language indicates that the County Board would take into consideration whether TDR approval is consistent with existing County plans, goals, and policies.
 9. Conduct a work session with the Planning Commission and the County Board on TDRs;
Staff response: Staff agrees that this can be the subject of a future work session between the Planning Commission and the County Board. A joint work session on TDRs and other issues is tentatively scheduled for January 17, 2008.
 10. Specify if deed restrictions will be in perpetuity; If not in perpetuity, specify the term/time limits. Also, could the sites be re-zoned at the time limit, and is that in effect, upzoning the property?
Staff response: Staff has evaluated this recommendation and has determined that the restrictions will be in perpetuity. This issue is addressed in Section 6 of the Policy Document, which calls for the form of the covenants or conditions to run with the land and in a substance and form acceptable to the County Attorney.
 11. Remove the phrase in the ZOA that refers to "for purposes of, among others" as being too vague;
Staff response: There is no Zoning Ordinance Amendment being considered at this time.
 12. Clarify the process for cases involving County-owned land to ensure that there is no conflict of interest;
Staff response: Staff has evaluated this recommendation and determined that the process is clearly articulated, and as with site plans by private parties, notification will be provided for County-owned projects and a public hearing would be held.
 13. Include a discussion about whether TDRs will cause pressure to upzone in the Metro corridors.
Staff response: Staff has evaluated this recommendation and determined that any additional pressure to upzone in the Metro corridors as a result of the TDR program

would be funneled through the well-established long-range planning processes the County currently has in place. Any changes to the General Land Use Plan and any rezonings (as they currently do in other cases) would go through the public process. This process ensures that community concerns regarding additional density or other changes are addressed.

HALRB

In a letter to the County Board Chairman Paul Ferguson of December 21, 2007 (Attachment D), the Arlington County Historical Affairs and Landmark Review Board (HALRB), generally supports the TDR program. Many of the comments came out of its November 28, 2007 meeting on TDRs. Specific comments were made on the draft Policy Document and language used in the Request to Advertise Board report of November 13, 2007. These comments focused on the administration of historic protections. Staff has responded below to the major recommended changes:

1. Additional language in *Section 1-Approach* of the Draft Policy Document to require the application to be reviewed by HALRB to ensure that sending and receiving sites are consistent with the County's preservation goals;
Staff response: Staff has analyzed this and added language to the Policy Document that certification applications be referred to appropriate advisory commissions for their recommendations to the County Board.
2. Historic protections to be administered through the established preservation easement process or through official designation as a local historic district, at the property owner's choice;
Staff response: Staff has analyzed this and is concerned that, if included in the draft Policy Document, this language to require all applicants to conform to one of these protections is too restrictive. Staff recommends that during its review process of TDR applications, the HALRB make a recommendation on a case by case basis to staff and the County Board as to the type of appropriate protection.
3. Additional language for *Section 3 – Certification* to:
 - a. add restrictive language that requires sending sites listed as “Essential,” “Important,” or “Notable” on the Arlington County Historic Resources Inventory not be certified for TDRs unless the owner of the sending site has submitted an application for local historic district designation to the HALRB or has agree to a historic preservation easement;
 - b. add language that all sending site applicants submit a notice to HALRB, whether seeking historic preservation TDRs or not; and
Staff response: Staff has concerns that the language proposed for Section 3 may be too restrictive. Staff does agree that language to require that all applications for certification for historic purposes will be referred to the HALRB for review and comment.
4. Additional language for *Section 7 – Eligible Receiving Site Locations* in the Policy Document and the Board Report:
 - a. add restrictive language that requires that if a receiving site includes or affects a property listed as “Essential,” “Important,” or “Notable” on the Arlington County

Historic Resources Inventory not be certified for TDRs unless the owner of the receiving site application has been approved by HALRB;

- b. add language that all receiving sites submit a notice to HALRB, whether seeking historic preservation TDRs or not.

Staff response: Staff has concerns again that this language may be too restrictive. No additional density will be approved on a receiving site until the project goes through the normal site plan review process, which HALRB receives notice of currently.

PRCR:

In a letter to the County Board Chairman Walter Tejada of January 9, 2007 (Attachment E), the Arlington County Park and Recreation Commission (PRCR) generally supports the TDR program. The PRCR comments came out of its December 19, 2007 meeting on TDRs. The major comment on the draft Policy Document focused on the administration of benefits from the transfer of density from County park land. PRCR requests that a policy be added to ensure that the benefits accruing from TDRs sent from County park land be utilized to establish new parks or recreations areas. Staff has evaluated this issue and is concerned that this restriction may limit the Board's flexibility to respond to opportunities for different types of amenities throughout the County. The public benefits that arise from TDRs (preservation and conservation among others) are County-wide benefits and flexibility is necessary to allow for County-wide public improvements.

Public Forums:

Staff also has made a number of presentations to community groups, including the Civic Federation, the Civic Federation Planning and Zoning Committee, the Chamber of Commerce, and the Ballston-Virginia Square Partnership. A public forum was held on June 24, 2006 for broad community input. In addition, staff has responded to many public inquiries and posted information on the web throughout the process. The following summarizes many of the questions about the proposed program that have arisen over this time period. These questions focused on the identification of sending and receiving site areas, notification of affected property owners and interested parties early enough in the process, and impacts on transportation infrastructure. The following includes the major issues and staff responses:

- Q: How does the proposed Policy address the issue of receiving sites that are not located currently in a receiving area or are not zoned to allow for the site plan option, but that might be appropriate for more density or clustering development?
- R: If a site is appropriate for more density, there is the option for re-zonings in some areas. It is important to note, however, that the TDR program is done through the site plan process.
- Q: Should additional language be added to the Zoning Ordinance to ensure that there are sufficient means for the County to enforce restrictions placed on the sending site?

- R: There is no Zoning Ordinance amendment being considered at this time. The draft Policy Document establishes that any agreement governing the use or development of a sending or receiving site shall provide that its covenants or conditions shall run with the land
- Q: Are there any districts that should be excluded from either sending or receiving?
- R: There are restrictions by purposes for sending sites and by location for receiving sites. The sending sites are limited by the purposes in the Zoning Ordinance. The receiving sites are limited through their location in the Metro corridors, and their eligibility for the special exception site plan option. Additionally, sites with a GLUP designation of “Low” Residential (1-10 u/a and 11-15 u/a) and/or to parcels or those portions of a parcel within 165 feet from R-zoned districts that are planned “Low” Residential (see Map Attachments) are excluded as receiving sites.
- Q: Could the sending site be considered part of the site plan in order to allow the imposition of conditions on the sending site?
- R: No, the sending site may not be part of the same site plan, and is better regulated through changes to the land records. However, an amendment to the conditions of the sending site’s site plan (where there is one) might be appropriate.
- Q: Is there the potential for third party (ies) to be part of the recordation agreements?
- R: There is the potential but not the requirement for third parties to the recordation agreements as a means of strengthening the enforcement of recordation agreements and whose exact form will be dependent on the particular circumstance of the TDR application.
- Q: Should there be a special process for projects involving County-owned land so that there will be sufficient public notification in regards to both the sending and receiving sites?
- R: As with site plans by private parties, notification will be provided for County-owned projects and a public hearing would be held.
- Q: Should density only be transferred within each station area boundary or outside of those boundaries if the distance is no more than ¼ mile between the sending site and the receiving site?
- R: The approach to limit TDRs within station areas was evaluated and determined to be too restrictive for the program to work. Also, the use of TDRs goes through the site plan process, and would allow community concerns and the County Board to ensure that community concerns regarding additional density are addressed. The public benefits that arise from TDRs (preservation and conservation among others) are County-wide benefits.
- Q: To be eligible, should sending sites be located within the Rosslyn-Ballston and Jefferson Davis Corridors as defined on the back of the General Land Use Plan dated April 27, 2004, excluding properties planned “Public” and zoned “S-3A”?
- R: These limitations also were determined to be too restrictive to achieve the goals of the TDR Program. Eligible sending sites for preservation or conservation exist outside of these geographic boundaries.

CONCLUSION: In combination, the proposed Policy Document, the existing Zoning Ordinance, and changes to the *Administrative Regulation 4.1* form the boundaries of the TDR program. Section 36.H.5.b. Administration and Procedures of the *Arlington County Zoning*

Ordinance, adopted by the County Board in 2006, provides the Board with the authority to approve the use of TDRs through the Special Exception Site Plan process for various purposes. Changes to the County's *Administrative Regulation 4.1* provide application submittal requirements and a description of a public review process regarding TDRs.

Specifically, the proposed Policy Document provides guidance for those interested in utilizing TDRs and for those evaluating TDR applications. The Policy Document outlines the general policies for the TDR Program and guides the implementation of the program. The Policy Document is intended to set forth the program policies for the following specific topic areas:

- eligible purposes for sending sites;
- eligible locations for sending and receiving sites; and
- evaluation and calculation of TDRs.

By providing detailed guidance, the Policy Document gives surety that the transfer of density rights are equitable and that the program is manageable. By setting forth parameters for evaluation and calculations of TDRs, the Policy Document will strengthen the efficient and effective implementation of the TDR program.

The Policy Document will effectively assist in the protection against destruction of or encroachment upon, among others, historic areas; to preserve and facilitate open space; to preserve and enhance community recreation and facilities; and to encourage the creation and retention of affordable housing. Therefore, staff recommends that the County Board approve the TDR Policy Document that sets forth the program policies for the topic areas, among others, application submittal, sending sites, receiving sites, and density evaluation and calculation criteria.

TRANSFER OF
DEVELOPMENT RIGHTS

POLICY DOCUMENT



ARLINGTON COUNTY
DEPARTMENT OF COMMUNITY PLANNING, HOUSING, AND DEVELOPMENT
PLANNING DIVISION
January 2008

Transfer of Development Rights Policy Document

The Transfer of Development Rights (TDRs) – Policy Document sets forth the major elements of the TDR Program. The intent of the Policy Document is to serve as a basis for staff recommendations to the County Board on the application and use of TDRs.

The Policy Document includes:

PREFACE

1. Summary of Approach
2. Eligible Purposes for Sending Sites;
3. TDR Certification Process;
4. Eligible Sending Site Locations;
5. Special Exception Site Plan and TDR Application Process;
6. Site Plan Conditions;
7. Eligible Receiving Site Locations;
8. Eligible Types of Transfers
9. Conversion Table (units/acre to GFA); and
10. Other TDR programs.
11. Maps

PREFACE

Approved by the County Board on January 26, 2008, the Transfer of Development Rights (TDR) Policy Document sets forth the program policies for those interested in utilizing TDRs in Arlington County. This is a guiding document that outlines the general policies for the TDR Program and guides the implementation of the program. It is not, however, a regulatory document. The Zoning Ordinance is the regulating document for TDRs. TDR provisions in Section 36. Administration and Procedures of the Arlington County Zoning Ordinance provide the County Board with the authority to approve the use of TDRs through the Special Exception Site Plan process for various purposes and outline a number of specific restrictions related to the use of TDRs.

This Policy Document is intended to be used by diverse sectors of the community, ranging from those looking for a tool to increase open space to a developer looking for a means of increasing a project's viability through additional density. It is intended to inform and provide guidance to those interested in utilizing TDRs in Arlington County.

1. **SUMMARY OF APPROACH:** The Transfer of Development Rights (TDR) program details are located in three documents: the Policy Document; the Zoning Ordinance, and the Section 4.1 Administrative Regulations. Program policies on TDRs can be found in this document.

Section 36.H. 5.b. Administration and Procedures of the *Arlington County Zoning Ordinance* provides the County Board with the authority to approve the use of TDRs through the Special Exception Site Plan process for various purposes and outlines a number of specific restrictions related to the use of TDRs. The County's *Administrative Regulation 4.1* provides application submittal requirements and a description of a public review process regarding TDRs.

The Policy Document is intended to set forth the program policies for those interested in utilizing TDRs in Arlington County for the following specific topic areas including:

- eligible purposes for sending sites;
- eligible locations for sending and receiving sites; and
- evaluation and calculation of TDRs.

The TDR program would allow for the legal transfer of development rights from sites with, among others, existing (or proposed) historic preservation, open space, affordable housing, community facilities and/or community recreation -- through the site plan application process -- to receiving sites that can accommodate additional density and/or development rights. TDRs could occur only through a site plan process on the receiving site. The sending site, however, is not under the same site plan and is not required to be located in a zoning area that allows the Special Exception site plan option.

There are two major steps an applicant must undertake to pursue the use of TDRs. The first step is for an applicant to submit a TDR Certification application to the County for evaluation. The reason for this application is to determine whether or not a proposed sending site meets the eligible purposes and location criteria described in this policy document and to determine the amount of density that is eligible to be transferred. A recommendation would be forwarded to the County Board and, if approved, the sending site becomes Certified.

The second step involves the County's Special Exception Site Plan Process. TDRs from a Certified sending site can only be used in conjunction with a Special Exception Site Plan application on a proposed receiving site. Once a site plan application with TDRs is presented, the County Board would take into consideration the appropriateness of the additional density or other development rights at the proposed receiving site, and whether TDR approval is consistent with the Zoning

Ordinance and approved land use policies and plans, and the public health, safety and welfare, generally. The sending site, however, is not part of the same site plan and need not be located in a zoning district that allows a site plan option.

2. **ELIGIBLE PURPOSES FOR SENDING SITES:** The TDR Program would allow a property owner who has committed to restrict the use and density of a property (i.e., a "Sending" site) for the purposes of, among other things, open space, historic preservation, affordable housing, community recreation and/or community facilities, to "transfer" that property's unused development density and/or other development rights to another location (i.e., a "Receiving" site) that can accommodate the additional development rights. The purposes for transferring development rights are listed in Section 36 Administration and Procedures, Subsection H. 5.b. of the Arlington County Zoning Ordinance. This Subsection provides the County Board with the authority to approve the use of TDRs through the Special Exception Site Plan process for various purposes (and outlines a number of specific restrictions related to the use of TDRs). County plans and policies (including the Arlington County's Comprehensive Plan and other supporting documents) will be referred to for guidance on eligible purposes of sending sites.
3. **TDR CERTIFICATION PROCESS:** There are two major steps an applicant must undertake to pursue the use of TDRs. The first step is an application for Certification of the Sending site. Based on an evaluation by staff, Certification of the Sending site would determine if the Sending site meets the eligible purposes as articulated in the Zoning Ordinance. Staff will refer certification applications to appropriate advisory commissions for their recommendations to the County Board.

Staff would forward a recommendation to the County Board on eligibility and on the quantity of density or other development rights eligible to be transferred. If the County Board approves the findings and approves the amount of density or other development rights to be transferred, the Sending site becomes Certified. If Certified, TDRs on a sending site can then be used in conjunction with a Special Exception Site Plan application on a proposed Receiving site (see Section #6 below).

Transferable development rights typically consist of density. Other than density, there could be other types of development rights that may be requested by an applicant for certification which this policy document does not specifically address, such as height or modifications of other requirements. These requests would need additional study by staff before any recommendation is forwarded to the County Board for their consideration.

The amount of density transferred would generally be based on the unused by-right density on the site. In some circumstances, however, such as historic preservation

and affordable housing, density credit may be given for preserved structures or rents. The approach to give density credit for preserved structures or rents is in recognition of the economic challenges of achieving the goals of affordable housing and historic preservation. Other variables might include the economic value and/or cost of preserving the parcel/structures on the Sending site and the individual circumstances of the application. The Certification approach would: one, assist a property owner of a Sending site in making a determination to preserve/conservate the property before a Receiving site has been identified; and two, provide clarity to the process and certainty to property owners and developers.

In some instances, the Sending site may be rezoned to a higher density zoning district if consistent with the General Land Use Plan designation at that location. This could increase the amount of density that could be transferred. Staff would evaluate each application and forward a recommendation to the County Board for its consideration.

4. **ELIGIBLE SENDING SITE LOCATIONS:** Sending sites may be located anywhere in the County, but only for the purposes identified in Section 36. *Administration and Procedures*, Subsection H. 5.b. (see #1 above). The Sending site is not part of the same site plan and need not be located in a zoning district that allows a site plan option. County plans and policies (including the Arlington County's Comprehensive Plan and other supporting documents) will be referred to for guidance on determining eligible sending sites. To provide flexibility in achieving County goals, eligibility is based on purposes related to the Sending site rather than other criteria such as location or size. This approach also acknowledges that there are potential opportunities for these goals throughout the County.
5. **SPECIAL EXCEPTION SITE PLAN AND TDR APPLICATION PROCESS:** This step involves the County's Special Exception Site Plan Process. The County's Administrative Regulation 4.1 provides application submittal requirements and a description of a public review process regarding TDRs.

TDRs from a Certified Sending site can be used only in conjunction with a Special Exception Site Plan application on a proposed Receiving site. Once a site plan application with TDRs is presented, the County Board would take into consideration the appropriateness of the additional density at the proposed Receiving site, and whether TDR approval is consistent with the site plan standards of Section 36.H.5. of the Zoning Ordinance, and existing County plans, County goals and policies. The Sending site may not be part of the site plan application, but certain deed restrictions on the sending site would be required. For the Receiving site, there would be certain site plan conditions.

The additional density that could be absorbed on the Receiving site could be above the development that is otherwise permitted by the General Land Use Plan and the Zoning Ordinance, except where exceeding the limits is expressly prohibited by the Zoning Ordinance.

The County Board may consider TDRs in combination with other types of bonuses that developers are eligible for under the site plan process option, but only to the degree that the resulting development is acceptable in terms of scale, design, and impacts.

6. **SITE PLAN CONDITIONS:** Conditions on the use of TDRs will be agreed to through the site plan process. The owner(s) of both the sending site and the receiving site would be required to record restrictions on the deeds. Any agreement governing the use or development of the sending or receiving sites will provide that its covenants or conditions shall run with the land. The substance and form of that restriction must be acceptable to the County Attorney.
7. **ELIGIBLE RECEIVING SITE LOCATIONS.** Eligible receiving sites for TDRs are located within the Rosslyn-Ballston Corridor and the Jefferson Davis Corridor as defined on the back of the General Land Use Plan dated April 27, 2004, excluding sites with a GLUP designation of "Low" Residential (1-10 u/a and 11-15 u/a) and/or to parcels or those portions of a parcel within 165 feet from R-zoned districts that are planned "Low" Residential (see Map Attachments). Additionally, Receiving sites are limited to those parcels zoned for a site plan option.
8. **ELIGIBLE TYPES OF TRANSFERS:** The County Board may allow the following types of transfers: 1) a single transfer of all certified density or other development rights from one sending site to one receiving site, 2) a single transfer of all certified density or other development rights from one sending site to multiple receiving sites, 3) a multiple transfer of certified density or other development rights over time from one sending site to one or more receiving sites, where the total transfer of density or other development rights does not exceed the total amount of the original certified density or other development rights of the sending site. This approach is intended to allow flexibility for property owners of larger historic or affordable housing developments, who may achieve the benefits of the program through a multi-phase approach in situations where they may not be able to transfer density or other development rights in one step and to one location.
9. **CONVERSION TABLE:** The table below is a conversion table to use as guide in circumstances that involve transferring density from units/acre land use districts to FAR land use districts (for the conversion of single-family, townhouse, and multi-family apartment units to square feet). There is no conversion necessary in situation involving a commercial Sending and a commercial Receiving site.

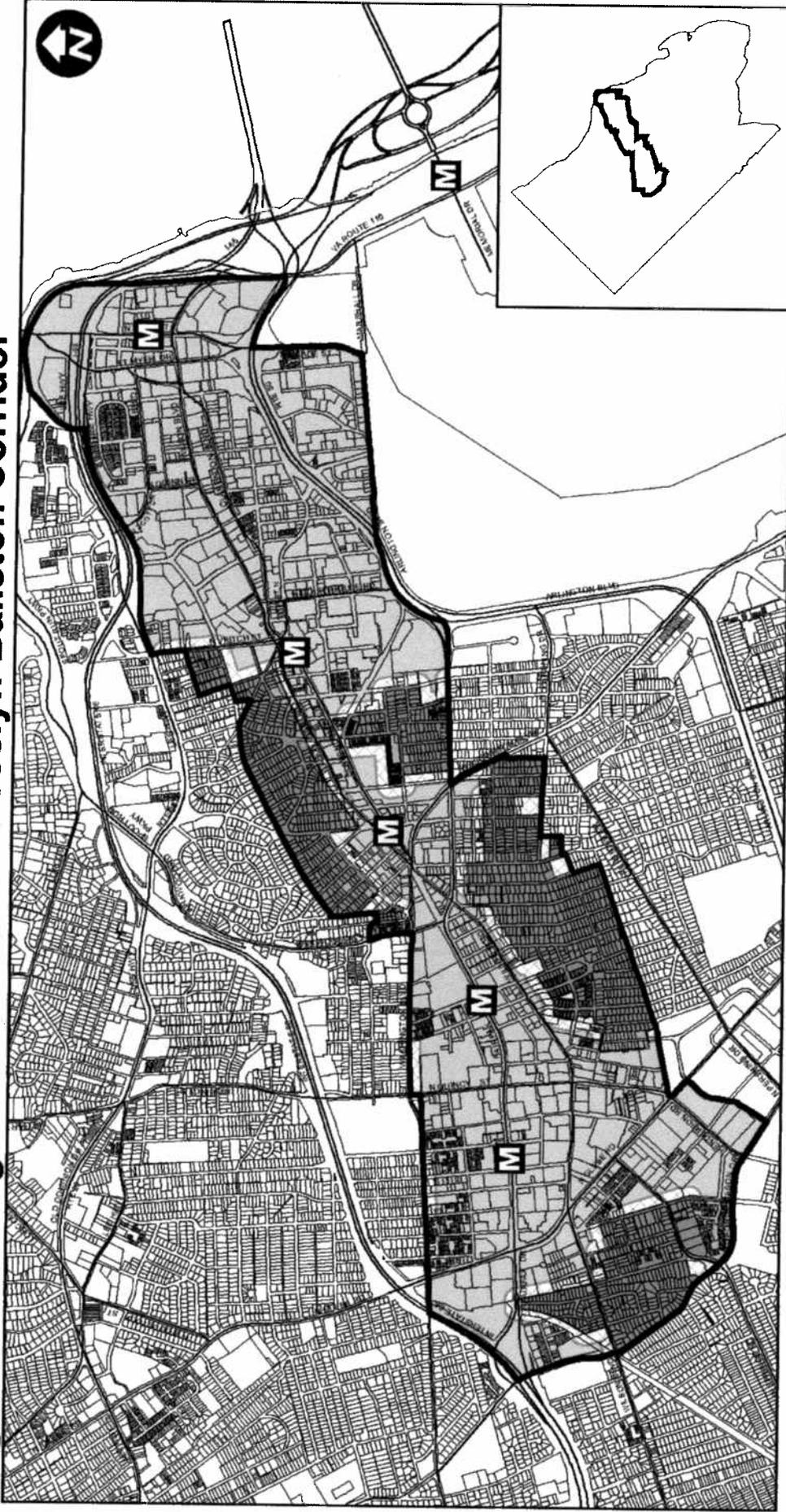
Type of Development	Square Footage Conversion
Single-family and Townhouse	3,000 square feet
Multi-family Apartment Unit	1,500 square feet
Commercial	One square feet for one square feet

10. **OTHER TDR PROGRAMS.** If there are existing or future sector plans or other plans that include TDR policies, the TDR policies within those sector or areas plans supersede this Policy, recognizing that there are a variety of development patterns and community priorities throughout the County.

11. **MAPS:** See Map Attachments.

Transfer of Development Rights - Map A

Eligible Receiving Site Locations - Rosslyn-Ballston Corridor



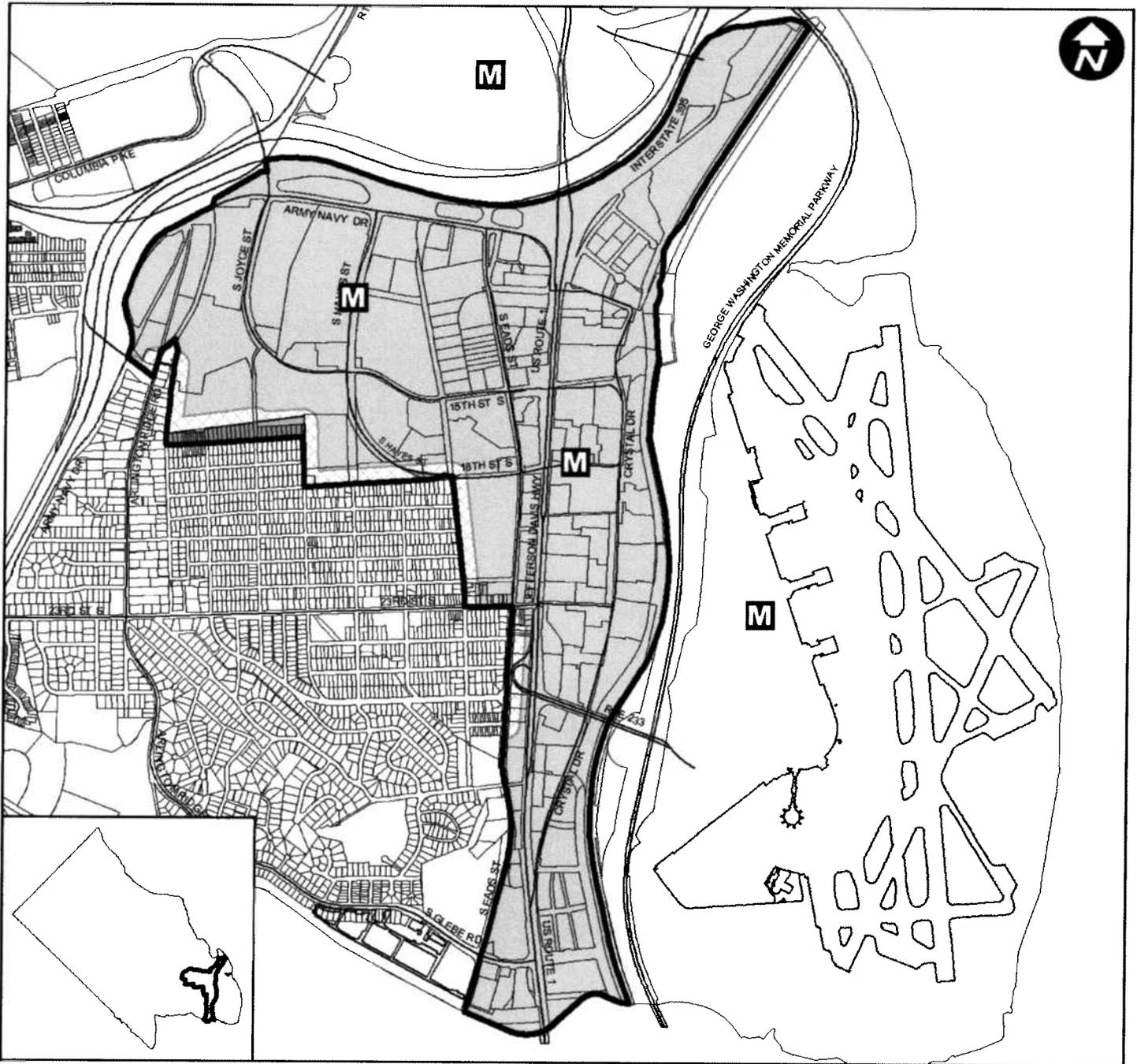
Legend

-  Metro Stations
-  Rosslyn-Ballston Corridor - as defined on the back of the General Land Use Plan map dated April 27, 2004
-  Potential Receiving Areas
-  Property Boundaries
- Areas Not Eligible for Receiving Transferred Density**
 -  R Zones Designated "Low" Residential (1-10 du/acre) or (11-15 du/acre)
 -  Areas Designated "Low" Residential (1-10 du/acre) or (11-15 du/acre)
 -  Areas Within 165 Feet from R Zones Designated "Low" Residential (1-10 du/acre) or (11-15 du/acre)

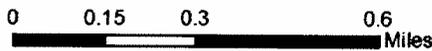


Transfer of Development Rights - Map B

Eligible Receiving Site Locations - Jefferson Davis Corridor



Legend



DEPARTMENT OF COMMUNITY PLANNING,
HOUSING AND DEVELOPMENT

M Metro Stations

Rosslyn-Ballston Corridor - as defined on the back of the General Land Use Plan map dated April 27, 2004

Potential Receiving Areas That Currently or Potentially Have a Site Plan Option

Property Boundaries

Areas Not Eligible for Receiving Transferred Density

R Zones Designated "Low" Residential (1-10 du/acre) or (11-15 du/acre)

Areas Designated "Low" Residential (1-10 du/acre) or (11-15 du/acre)

Areas Within 165 Feet from R Zones Designated "Low" Residential (1-10 du/acre) or (11-15 du/acre)

Map date: May 2007

ZONING ORDINANCE SECTION 36.H.5.B.

* * *

SECTION 36. ADMINISTRATION AND PROCEDURES

* * *

H. Site Plan Approval

5. a. *Uses and Regulations Modified.* The County Board may, in appropriate cases, modify the uses permitted and use regulations in harmony with the general purpose and intent of the districts as follow:

* * *

- b. Transfer of Development Rights: In approving and accepting a site plan, the County Board may, subject to such conditions as the Board may approve, permit the dedication of density or other rights to develop, as determined by the Board, from one or more parcels that are not the subject of a particular site plan application to one or more parcels of property that are the subject of that same site plan application for purposes of, among others, open space, historic preservation, affordable housing, community recreation, and/or community facilities. In considering the approval of such dedication, the County Board shall consider the appropriateness of the dedicated density or other development rights at the proposed location, and whether the dedication is consistent with the Zoning Ordinance, approved land use policies and plans, and the public health, safety and welfare generally.

ADMINISTRATIVE REGULATIONS 4.1

(Note: the italicized section will not be incorporated into 4.1, but is included here as a Summary of the actual 4.1 changes that follow. For the following forms, I've included only the changed sections of the forms).

SUMMARY OF CHANGES TO 4.1

The following is a brief summary description of the proposed changes to the Administrative Regulations 4.1, followed by the specific language changes to be incorporated into the document. The TDR-related items proposed to be included in "Administrative Regulation 4.1" focus on site plan submittals and checklists as part of a site plan application and include:

- *Section 2. Plan Submittal*
- *Section 4. Phased Development Site Plan Specifications*
- *Section 6. Final Site Plan Specifications*
- *Section 7. Advertising*
- *Final Site Plan Specification Form*
- *Site Plan Submittal Checklist*
- *TDR Checklist*

SUMMARY: *The changes proposed to the "Administrative Regulation 4.1". The first change includes in "Section 2. Plan Submittal", a new sub-paragraph, "O". The new sub-paragraph "O. Transfer of Development Rights" would describe TDRs and the use of TDRs through the site plan process.*

The second addition to "Administrative Regulation 4.1" is in "Section 4. Phased Development Site Plan Specifications". A new sub-paragraph, "J" is proposed. The new subparagraph "J" would describe the submittal information required for the use of TDRs. This would include the request for detailed information on the sending and receiving properties, how the density and/or development rights was calculated, and other information such as consent forms from property owners.

The third proposed change to "Administrative Regulation 4.1" is in "Section 6. Final Site Plan Specifications". A new sub-paragraph #15 under sub-paragraph J. Additional Filing Information is proposed and would require data in addition to the existing data required for Final Site Plan Specifications in Section 6., subsections A through subsection I, for both the sending and receiving sites. The additional data should indicate what type of density and/or development rights is proposed to be transferred and how the density and/or development rights were calculated. A table should be included that separates density and/or development rights on the sending and receiving sites and how each was calculated. In addition, consent from all property owners on both sending and receiving sites should be included.

The fourth proposed change to "Administrative Regulation 4.1" is in "Section 7. Advertising". Additional wording is proposed to refer to the proposed Zoning Ordinance changes discussed above. The proposed ZO changes would allow the County Board to initiate on their own motion a public hearing for site plans or major site plan amendments that include TDRs as part of the application.

The fifth proposed area of change to "Administrative Regulation 4.1" is in the "Final Site Plan Specification Form". A new item number 20 ("20. Transfer of Development Rights") would request the applicant to submit the "Attachment __ Transfer of Development Rights Site Plan Specification Forms". The new form would request information for both the sending and receiving sites and how the density and/or development rights were calculated. The form would require consent forms for property owners and also a model covenant deed.

The sixth proposed area of change to "Administrative Regulation 4.1" is in the "Site Plan Submittal Checklist". A new sub-paragraph, "15.O." is proposed. The new sub-paragraph "O. Transfer of Development Rights" would require indication if a site plan submittal proposes to use TDRs. The new subsection would also refer to the attachment at the end of the Administrative Regulations - a new "Transfer of Development Rights Checklist".

The seventh proposed area of change to "Administrative Regulation 4.1" is the addition of the "Transfer of Development Rights Checklist" following the Leed Scorecard. The TDR Checklist makes a list of the information required for both sending and receiving sites in "Section 6. Final Site Plan Specifications", discussed above.

PROPOSED 4.1 TEXT CHANGES (underlined):

Administrative Regulations 4.1

* * *

Section 2. Plan Submittal

* * *

- O. Transfer of Development Rights (TDRs). An application for a site plan may include the dedication of density or other rights to develop, as determined by the County Board, from one or more parcels that are not the subject of a particular site plan application to one or more parcels of property that are the subject of a site plan application for purposes of, among others, open space, historic preservation, affordable housing, community recreation, and/or community facilities (See the Arlington County Zoning Ordinance, Section 36. H. Site Plan Approvals). The appropriateness of the dedicated density or other development rights at the proposed location, and whether the dedication is consistent with the Zoning Ordinance, approved land use policies and plans, and the public health, safety and welfare generally will be considered in the use of TDRs in a site plan.

* * *

Section 4. Phased Development Site Plan Specifications

* * *

- J. If the use of TDRs is proposed, additional data required (in addition to all of Section 4 and the Phased Development Site Plan Specifications Form) includes ATTACHMENT _____, TRANSFER OF DEVELOPMENT RIGHTS SITE PLAN SPECIFICATION FORM. The form requests information for both sending and receiving sites for TDRs. The data shall be provided by the applicant. *This data will be used in the public hearing notices. Use of incorrect data may require re-advertising of the public notice and deferral of the scheduled public hearing. (see attached forms).* The information should indicate:
1. what type of density and/or development rights transfer is proposed;
 2. Either
 - a. Certification of the sending site or

- b. how the density and/or development rights were calculated.

In addition, consent from all property owners on both sending and receiving sites should be included. A table should be included that separates density and/or development rights on the sending and receiving sites and how each was calculated.

* * *

Section 6. Final Site Plan Specifications

- J. Additional Filing Information

* * *

If the use of TDRs is proposed, additional data required (in addition to all of Section 6 and the Final Site Plan Specifications Form) includes ATTACHMENT _____, TRANSFER OF DEVELOPMENT RIGHTS SITE PLAN SPECIFICATION FORM. The form requests information for both sending and receiving sites for TDRs. The data shall be provided by the applicant. *This data will be used in the public hearing notices. Use of incorrect data may require re-advertising of the public notice and deferral of the scheduled public hearing. (see attached forms).*

The information should indicate:

1. what type of density and/or development rights transfer is proposed;
2. Either
 - c. Certification of the sending site or
 - d. how the density and/or development rights were calculated

In addition, consent from all property owners on both sending and receiving sites should be included. A table should be included that separates density and/or development rights on the sending and receiving sites and how each was calculated.

15.

In addition, consent from all property owners on both sending and receiving sites should be included. A table should be included that separates density and/or development rights on the sending and receiving sites and how each was calculated

* * *

Section 7. Advertising

A Final Site Plan or a Major Site Plan Amendment, as specified in Section 36, Subsection H.2.a. and, if TDRs are part of the site plan application, Subsection H.5.a.1, of the Zoning Ordinance, which is accepted as complete by the Zoning Administrator, will be heard by the Planning Commission and the County Board following advertising and posting as specified in Section 36, Subsection I of the Zoning Ordinance.

(CHANGES TO FORMS OR NEW FORMS -underlined)

* * *

**PHASED DEVELOPMENT SITE PLAN SPECIFICATION FORM
(1 of 4)**

STAFF ENTRY:

Assigned Site Plan Number PDSP #
PDSP Phase Number

APPLICANT ENTRY:

Project Title
Project Location
Parcel RPC Numbers

If TDR

1) Parcel RPC Numbers for
Sending and Receiving Sites

SENDING SITE

RECEIVING SITE

If TDR

2) Complete Attachment
TDR Site Plan Specification form

PARCEL OWNERS:

SENDING SITE

RECEIVING SITE

* * *

**FINAL SITE PLAN SPECIFICATION FORM
(1 of 9)**

STAFF ENTRY:

Assigned Site Plan Number SP #
PDSP Phase Number

APPLICANT ENTRY:

Project Title
Project Location
Parcel RPC Numbers

If TDR

1) Parcel RPC Numbers for
Sending and Receiving Sites

SENDING SITE

RECEIVING SITE

If TDR

2) Complete Attachment
TDR Site Plan Specification form

PARCEL OWNERS:

SENDING SITE

RECEIVING SITE

* * *

ATTACHMENT E

**TRANSFER OF DEVELOPMENT RIGHTS SITE PLAN SPECIFICATION FORM
(1 OF 1)**

		Sending Property		Receiving Property			
	PROPERTY OWNER:	-	-	-	-		
	Parcel RPC Numbers	-	-	-	-		
	DEVELOPER	-	-	-	-		
	APPLICATION BY:	-	-	-	-		
	ADDRESS:	-	-	-	-		
	DAYTIME PHONE:	-	-	-	-		
	EMAIL ADDRESS:	-	-	-	-		
	CONTACT:	-	-	-	-		
	PROJECT TITLE:	-	-	-	-		
	PROJECT LOCATION:	-	-	-	-		
		Sending Property		Receiving Property		TOTAL	
	-	<u>Square Feet</u>	<u>Acres</u>	<u>Square Feet</u>	<u>Acres</u>	<u>Square Feet</u>	<u>Acres</u>
1	A. Total Site Area	-	-	-	-	-	-
	B. Site Area in Existing Zoning Districts	-	-	-	-	-	-
	1. District	-	-	-	-	-	-
	2. District	-	-	-	-	-	-
	3. District	-	-	-	-	-	-
	4. District	-	-	-	-	-	-
	5. District	-	-	-	-	-	-
	C. GLUP Designation						
	1. District						
	2. District						
	3. District						
	4. District						
	5. District						
2	Floor Area Ratio (FAR) (GFA divided by site area for density purposes [for mixed use districts, the allocated site area])			-	FAR	-	FAR
	A. Office	-	-	-	-	-	-
	B. Commercial	-	-	-	-	-	-
	C. Hotel	-	-	-	-	-	-
	D. Residential	-	-	-	-	-	-
	E. Other (specify)	-	-	-	-	-	-
	Total	-	-	-	-	-	-
		-	-	-	-	-	-

		SENDING SITE			RECEIVING SITE		
		MAXIMUM	EXISTING	BALANCE			
3	Gross Floor Area	-	-	-	-	-	-
	A. Office	-	-	-	-	-	-
	B. Commercial	-	-	-	-	-	-
	C. Hotel	-	-	-	-	-	-
	D. Residential	-	-	-	-	-	-
	E. Other (specify)	-	-	-	-	-	-
4	Property Owner(s) Consent Forms	-	-	-	-	-	-
5	Model covenant form						

* * *

**SITE PLAN SUBMITTAL CHECKLIST
(8 of 8)**

	Applicant		Staff		Staff Notes
	Prelim.	Final	Prelim.	Final	

15. Additional filing information

O. Transfer of Development Rights

1. TDR Site Plan Specification Form and
2. Certification of sending site and/or detailed description of density and calculations.
2. Model covenant form

* * *

TRANSFER OF DEVELOPMENT RIGHTS CHECKLIST

	SENDING PROPERTY		RECEIVING PROPERTY		TOTAL
	Square Feet	Acres	Square Feet	Acres	
APPLICANT/ DEVELOPER/ PROPERTY OWNER:					
APPLICATION BY:					

	<u>ADDRESS:</u>					
	<u>DAYTIME PHONE:</u>					
	<u>EMAIL ADDRESS:</u>					
	<u>CONTACT:</u>					
	<u>PROJECT TITLE:</u>					
	<u>PROJECT LOCATION:</u>					
1	<u>A. Total Site Area</u>					
	<u>B. Site Area in Existing Zoning Districts</u>					
	<u>1. District</u>					
	<u>2. District</u>					
	<u>3. District</u>					
	<u>4. District</u>					
	<u>5. District</u>					
	<u>C. Site Area in Proposed Zoning Districts</u>					
	<u>1. District</u>					
	<u>2. District</u>					
	<u>3. District</u>					
	<u>4. District</u>					
	<u>5. District</u>					
	<u>D. Site Area in TDR District</u>					
	<u>1. District</u>					
	<u>2. District</u>					
	<u>3. District</u>					
	<u>4. District</u>					
	<u>5. District</u>					
2	<u>Site Area Allocated for Density Purposes To:</u>					
	<u>A. Office</u>					
	<u>B. Commercial</u>					
	<u>C. Hotel</u>					
	<u>D. Residential</u>					
	<u>E. Other (specify)</u>					
3	<u>Floor Area Ratio (FAR)</u>				<u>FAR</u>	

	(GFA divided by site area for density purposes [for mixed use districts, the allocated site area])				
	A. Office				
	B. Commercial				
	C. Hotel				
	D. Residential				
	E. Other (specify)				
	Total				
4	Dwelling Units Per Acre				
5	Hotel Rooms Per Acre				
6	Property Owner(s) Consent Forms				



HISTORICAL AFFAIRS AND LANDMARK REVIEW BOARD

Courthouse Plaza One 2100 Clarendon Boulevard, Suite 700 Arlington, VA 22201
TEL 703.228.3830 FAX 703.228.3834 www.arlingtonva.us

December 21, 2007

The Honorable Paul Ferguson, Chairman
Arlington County Board
2100 Clarendon Boulevard, Suite 300
Arlington, VA 22201

Dear Mr. Ferguson:

Thank you for offering the Arlington County Historical Affairs and Landmark Review Board (HALRB) the opportunity to comment on the proposed drafts of the county Transfer of Development Rights (TDR) policy and report.

First of all, we want to applaud the County Board and County staff for yet another well-thought-out and bold step toward encouraging preservation. Adding a new tool to the toolbox of preservation incentives sends a strong signal to developers, residents, and businesses in the area that Arlington appreciates and values its unique place in history and that this history adds immeasurably to the quality of life and economic vitality in our county.

Second, we commend the County staff's efforts to obtain HALRB feedback early in the process of drafting the policy and report. We appreciate the inclusion of historic preservation language among the criteria for TDR eligibility even in the initial draft we were presented, before we had the opportunity to comment.

Finally, we had a few suggestions to the draft language that we think would strengthen both the policy and report, streamline implementation of the policy, and ensure enforcement. Our goals are to ensure that all eligible properties are afforded the opportunity for historic preservation easements, that the TDR process does not inadvertently *assist* demolition of historic resources (either as sending or receiving sites) and that meaningful historical protections are locked in through an established process that does not present property owners with some cumbersome new bureaucracy. To that end, we propose to administer the historic protections either through the long-established preservation easement process or through official designation as a local historic district, at the property owner's choice. Our specific suggested changes

Policy document:

Section 1 (Summary of Approach):

- At the end of fifth paragraph (which begins with "There are two major steps an applicant must undertake..."), before the last sentence, add: "This application

will also be reviewed by the Arlington County Historical Affairs and Landmark Review Board to ensure that both receiving and sending sites for TDRs are consistent with the County's preservation goals to the maximum extent possible."

Section 3 (TDR Certification Process):

- Add new paragraph at end: "All sites applying for status as a sending site must submit notice to the Arlington County Historical Affairs and Landmark Review Board, whether seeking historic preservation TDRs or not. If at the time of application a sending site is listed as an "Essential," "Important," or "Notable" site on the Arlington County Historic Resources Inventory, the sending site will not be certified for a TDR unless that TDR includes historic preservation and the owner of the sending site has submitted an application for local historic district designation to the HALRB or has agreed to a historic preservation easement whose language is acceptable to the County attorney."

Section 7 (Eligible Receiving Site Locations):

- In the last sentence, add new sentence: "All potential receiving sites must submit notice to the HALRB whether seeking to utilize historic preservation TDRs or not. If at the time of application a receiving site includes or affects a property listed as "Essential," "Important," or "Notable" on the county Historic Resources Inventory HALRB approval is required before a TDR can be certified."

Revised Report

Page 4, section designated "Certification Process":

- At the end of sub-paragraph 1, add a new sentence. "All sites applying for status as a sending site must submit an application to the HALRB, whether seeking historic preservation TDRs or not. If at the time of application a sending site is listed as an "Essential," "Important," or "Notable" site on the Arlington County Historic Resources Inventory, the sending site will not be certified for a TDR unless that TDR includes historic preservation."
- At the end of sub-paragraph 1, add "Owners of potential sending sites whose TDR includes credit for historic preservation must have submitted an application for designation as a local historic district or agreed to historic preservation easement language acceptable to the county attorney before the TDR can be certified."

Page 6, section designated "Eligible Receiving Sites":

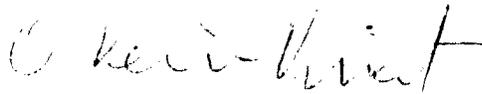
- Second paragraph of section, add new sentence at end: "Potential receiving sites must submit notice to the HALRB whether seeking to utilize historic preservation TDRs or not. If at the time of application a receiving site includes or affects property listed as "Essential," "Important," or "Notable" on the County's Historic Resources Inventory, HALRB approval is required before a TDR can be certified."
- Third paragraph of section, last sentence, strike period and add ", and those sites utilizing a TDR that includes historic preservation can not be certified until the sending site has applied for local historic designation or agreed to historic preservation easement language acceptable to the County attorney."

Page 6, section designated "Community Process and Site Plan Conditions":

- First paragraph, second sentence. After "The Site Plan process" add "and review by HARLB of both sending and receiving sites" so the sentence reads "The Site Plan process and review by HARLB of both sending and receiving sites ensures that community concerns regarding additional density or other development rights are addressed."
- First paragraph, last sentence. After "Restrictions on the deeds" add "(or designation as local historic districts)" so sentence reads "Restrictions on the deeds (or designation as local historic districts) of the sending and receiving sites will ensure the long-term achievement of the goals."

Again, the HALRB wants to commend county staff and the County Board for having taken this important step forward and for continuing efforts on behalf of historic preservation.

Sincerely,



O. Kevin Vincent
Chairman

cc: Ron Carlee, County Manager
Susan Bell, Planning Director
Michael Leventhal, DCPHD, Historic Preservation Coordinator
Colleen Connor, DCPHD, Planning Division



ARLINGTON COUNTY
PARK AND RECREATION COMMISSION
2100 Clarendon Boulevard Suite 414
Arlington, VIRGINIA 22201

January 11, 2008

The Honorable Walter Tejada
Chairman
Arlington County Board
2100 Clarendon Blvd Suite 300
Arlington, VA 22201

Dear Chairman Tejada:

On behalf of the Park and Recreation Commission, I write to convey our support for the adoption of the Transfer of Development Rights (TDR) Policy Document.

The Transfer of Development Rights Program will strengthen the County's ability to preserve and expand open space and recreational opportunities, especially within the Rosslyn-Ballston and Jefferson Davis Corridors. By establishing a TDR Program, the County can address the concerns of many constituencies involved in the development process. These include individuals interested in expanding open space, building more affordable housing, preserving historic buildings, and developers looking to increase a project's profit through increasing the site density.

While we fully support the adoption of the Transfer of Development Rights policy, we urge the Board to use acquired density to support the establishment of new parks. In particular, the Commission would like the Board to ensure that density acquired from County park land will be used to establish new parks or recreation areas, rather than be used to achieve other community goals.

As always, the Park and Recreation Commission appreciates the opportunity to share our views with the Board. We look forward to the Board's adoption of the Transfer of Development Rights Policy Document.

Sincerely,

A handwritten signature in cursive script that reads "Neal Sigmon".

Neal Sigmon
Chairman