

## ***Neighborhoods Form Based Code (N-FBC): Transfer of Development Rights Multipliers***

Information – January 14, 2021

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### **Purpose**

Staff has proposed an amendment to the N-FBC to reinstate the N-FBC Transfer of Development Rights (TDR) multipliers, available to the two Conservation Areas properties along the Columbia Pike corridor, which sunset on December 31, 2020. Attachment 1 includes the current N-FBC TDR multiplier references.

### **Background**

The Columbia Pike Neighborhoods Area Plan established the goal of preserving 100% of the 6,200 market rate affordable housing units (MARKS) existing at the time along Columbia Pike that were affordable to those earning 80% of the Area Median Income level and below. A significant supply of those units (~1,540) continues to be located in the N-FBC Conservation Areas, which are solely comprised of portions of the Barcroft and Fillmore Gardens apartment complexes (also referred to as “sending sites” for purposes of TDRs).

TDR is a tool that can help the County preserve the affordability of the units within these two Conservation Areas. TDR, for the purposes of affordable housing preservation, could allow a receiving site, undertaking a Columbia Pike Use Permit or a site plan process elsewhere in the County, to obtain additional density for their development from these Conservation Areas or “sending sites.” In exchange for the density, the sending site would convert the associated number of MARKs into committed affordable housing units (CAFs), through renovation and by income and rent restricting the units for 30 years.

To facilitate the transfer, the County Board adopted a multiplier which allows more density to be sent to a receiving site than is preserved at the sending site. Specifically, section 204.D of the N-FBC allows the density eligible for transfer to a receiving site on Columbia Pike to equal 3 times the specified number of committed affordable housing units preserved at the Conservation Area sending site. For example, for every one unit that is converted to a CAF at the sending site, three units can be sent to the receiving site for use in their Columbia Pike Use Permit application. The density at the receiving site does not need to be income or rent restricted, since the community benefit will be obtained from the preservation of affordability at the sending site. If the receiving site is located elsewhere in the County, then 2 times the specified number of committed affordable housing units preserved at the Conservation Area sending site could be transferred. These multipliers are intended to help offset the renovation costs and rent subsidies that will be incurred by the Conservation Area sending sites over a 30-year affordability term.

At the December 2013 County Board meeting, when the TDR tool was established within the N-FBC, the County Board approved a December 2015 sunset of the multipliers. That sunset period was subsequently extended by the County Board to December 31, 2020. The sunset periods

were originally put in-place to ensure the County monitor this tool, as there was an initial concern that the tool may be overutilized and more density than anticipated would be sent to receiving sites located elsewhere in the County. Although the tool has not been used to-date, staff recommends reinstating the multipliers to ensure their availability as a potential preservation tool can remain into the future. Staff recommends having the current multipliers apply to the Columbia Pike Conservation Area properties indefinitely.

**Analysis**

Since adoption of the N-FBC in 2013, TDR has not been used at Barcroft and Fillmore Gardens apartment communities. Through recent meetings with the Barcroft and Fillmore property owners, staff learned that TDR is not a likely tool for these property owners due to the affordability term and restrictions that would be placed on their units. In other words, they would not want to sell their density to another developer because they do not want the 30-year income and rent restrictions that would be placed upon their units due to the transfer.

However, staff would like to keep the multipliers as a TDR incentive should the properties change ownership in the future to a property owner that may want to take advantage of this TDR incentive.

**Anticipated Schedule:**

- January 14, 2021: Housing Commission Meeting (Information)
- January 19, 2021: Zoning Ordinance Committee (ZOCO) Meeting
- February 20, 2021: County Board Request to Advertise
- March 2021: Planning Commission
- March 11, 2021: Housing Commission Meeting (Action)
- March 20, 2020: County Board final consideration and action

**Attachment 1: N-FBC TDR Multiplier References**

**204.D. Transfer of Development Rights<sup>1</sup>**

The transfer of development rights is permitted in order to achieve historic preservation on, public open space and/or affordable housing within areas designated as CONSERVATION AREAS on the REGULATING PLAN, and for creation of NEIGHBORHOOD PARKS shown on the REGULATING PLAN. As part of a use permit approval for a DEVELOPMENT PROJECT, the County Board may certify the subject DEVELOPMENT PROJECT as a sending site for transfer of development rights in accordance with the following:

1. In considering the approval of transfer of development rights from a DEVELOPMENT PROJECT in exchange for the dedication of a PUBLIC SPACE within a CONSERVATION AREA or a NEIGHBORHOOD PARK shown on the REGULATING PLAN, subject to such conditions as the County Board may approve, the County Board shall determine that the PUBLIC SPACE will meet the standards consistent with Section 506. The amount of density eligible for transfer shall be equal to the square footage of the dedicated PUBLIC SPACE within a CONSERVATION AREA or a NEIGHBORHOOD PARK. As part of the certification of density or approval of transfer of development rights, the County Board may require assurances that the PUBLIC SPACE will be preserved.

2. In considering the approval of transfer of development rights from a CONSERVATION AREA, the County Board shall determine that a specified number of units within the CONSERVATION AREA will be renovated consistent with Part 7 Conservation Area Standards and preserved as committed AFFORDABLE HOUSING UNITS as set forth in Section 902. The amount number of density eligible for transfer shall be equal to 3 times the specified number of committed AFFORDABLE HOUSING UNITS when a Columbia Pike Neighborhoods FBC DEVELOPMENT PROJECT has been identified as the Receiving Site, or 2 times the specified number of committed AFFORDABLE HOUSING UNITS when a Site Plan proposal for a site elsewhere in the County has been identified as the Receiving Site; provided, however, that the aforementioned multipliers shall sunset on December 31, 2020 for density that has not been certified.<sup>4</sup>

3. Development rights from a sending site may be certified at the time of approval of a Receiving Site. Density may be transferred to either 1) an area designated as a BONUS AREA on the REGULATING PLAN in accordance with Section 204.A above; or 2) to another site within the County in accordance with §15.6.7.B of the Zoning Ordinance.

*N-FBC-1: Columbia Pike Neighborhoods Form Based Code Amendment adopted on December 14, 2013*

*N-FBC-4: Columbia Pike Neighborhoods Form Based Code Amendment adopted on November 14, 2015*