

ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of March 20, 2021

DATE: February 24, 2021

SUBJECT: N-FBC-11 amendment to the Arlington County Zoning Ordinance Article 11.2 "CPN-FBC" Columbia Pike Neighborhoods Form Based Code District (Appendix B), section 204.D, Transfer of Development Rights (TDR), to reinstate the TDR multipliers, available to the two Conservation Area properties along the Columbia Pike corridor, which sunset on December 31, 2020.

C. M. RECOMMENDATION:

Adopt the attached ordinance to amend, reenact, and re-codify the Arlington County Zoning Ordinance Article 11.2 "CPN-FBC" Columbia Pike Neighborhoods Form Based Code District (Appendix B), section 204.D, Transfer of Development Rights (TDR), to reinstate the TDR multipliers, available to the two Conservation Area properties along the Columbia Pike corridor, which sunset on December 31, 2020.

ISSUES: This is a proposed amendment to the Neighborhoods Form Based Code (N-FBC) to reinstate the TDR multipliers, available to the two Conservation Area properties along the Columbia Pike corridor, which sunset on December 31, 2020. Some members of the community have expressed concern regarding the staff recommendation to reinstate the multipliers without attaching another sunset period, which staff has addressed in the Public Engagement section of this report.

SUMMARY: The 2012 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 Garden apartment complexes (also referred to as "sending sites" for purposes of TDRs).

County Manager:

County Attorney:

Staff: Melissa Danowski, CPHD – Housing Division
Matt Mattauszek, CPHD – Planning Division

As a tool, TDR can help the County achieve its goal of preserving the affordability of existing units within these two Conservation Areas. TDRs can be utilized for purposes of affordable housing preservation when a sending site agrees to transfer density to a receiving site, defined as a development site undertaking a Columbia Pike Use Permit or a site plan process elsewhere in the County. In such instances, the receiving site would obtain additional density for its proposed development from these Conservation Areas or “sending sites.” The receiving site owner would pay the sending site owner (at a mutually agreeable purchase price) for the associated density. In exchange, the sending site property owner would be required to convert the associated number of MARKs into committed affordable housing units (CAFs). The conversion of the CAFs would entail renovation and commitment to lease the units to households earning up to [60% of Area Median Income \(AMI\)](#) for 30 years.

The 2012 Neighborhoods Area Plan anticipated that in order for the TDR tool to be most effective, additional density beyond a one-to-one ratio, preferably through a multiplier, would be needed. In order to facilitate density transfers along Columbia Pike, and to help offset the renovation costs and rent subsidies over a 30-year affordability term, the County Board adopted the TDR multipliers in December 2013 which allow more density to be sent to a receiving site than is preserved at the sending site: three (3) times the specified number of committed affordable housing units preserved at the sending site can be sent to a receiving site on Columbia Pike; and two (2) times can be sent to a receiving site elsewhere within the County.

Although the TDR 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. It is further recommended that the multipliers apply to the Columbia Pike Conservation Area properties indefinitely and without any further sunset clauses. Staff will continue to revisit the multipliers and propose timely adjustments in the future, if necessary.

BACKGROUND: The County Board adopted the Columbia Pike Neighborhoods Area Plan (NAP) in July 2012. Since that time, staff has prepared several planning and zoning implementation tools, including the Neighborhoods Form Based Code (N-FBC), which the County Board adopted in November 2013. The NAP identified the TDR tool as an incentive to aid in the preservation of the Barcroft and Fillmore Garden Conservation Areas, which were identified as sending sites along Columbia Pike and represent significant portions of each garden apartment campus. These garden apartment properties have historical importance, are designated as Essential resources in the County’s Historic Resources Inventory (HRI), and contain significant amounts of affordable housing, open spaces, and mature trees. Combined across both properties, staff estimates that approximately 1,540 units would be eligible to use the TDR tool. If utilized, TDR could help facilitate preservation for those sites, allowing the Affordable Housing Investment Fund (AHIF) to be targeted to other projects.

The TDR tool, outlined in section 204.D of the Neighborhoods Form Based Code (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 either of the two Columbia Pike Conservation Area sending sites. For example, for every single unit that is converted to a

CAF at the sending site, three units can be sent to the receiving site for use in their N-FBC proposal as a way to earn bonus height. Once the minimum affordable housing requirements are met, the density associated with the bonus height at the N-FBC 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 two 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 also approved a December 2015 sunset for the multipliers. That sunset period was subsequently extended by the County Board to December 31, 2020. The sunset periods were originally established 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. There was also concern the multipliers may be more generous to the benefit of receiving sites than needed to renovate and preserve affordability at the sending sites. However, the TDR tool has not been used to-date.

DISCUSSION: Through recent meetings with representatives of Barcroft and Fillmore Garden Apartments, staff learned that these property owners are not likely to utilize the TDR tool due to the affordability term and restrictions that would be placed on their units. In other words, they expressed their unwillingness to sell their density to another developer if such a transaction would place 30-year income and rent restrictions on their existing units.

As currently structured, the TDR multipliers have not caused any unintended consequences or resulted in any impediments to redevelopment activity along Columbia Pike. Staff therefore recommends reinstating the multipliers to ensure they can remain a viable preservation tool should the Conservation Areas change ownership in the future to a property owner that may want to take advantage of this TDR incentive.

PUBLIC ENGAGEMENT: Staff used engagement tools primarily from the *Communicate and Consult* levels of engagement. Public meeting notices were distributed via email listserv which included the Form Based Code Advisory Working Group (FBC AWG) members, presidents of all Columbia Pike Civic Associations, and the Zoning Committee of the Planning Commission (ZOCO) GovDelivery listserv. Agenda and meeting materials were also posted on the respective webpages for each group. Public notices were also given in accordance with Code of Virginia § 15.2-2204, with notices for the Planning Commission and County Board public hearings for this Zoning Ordinance amendment to be placed in the Washington Times during the two preceding weeks before each meeting.

Staff received the following feedback from the following Commissions and Advisory Groups.

FBC AWG: Staff met with the FBC AWG on December 17, 2020. Members of the FBC AWG asked clarifying questions about the TDR process, where the receiving sites were located on

Columbia Pike, as well as the affordability that would be obtained at the receiving sites due to the transfer. Staff clarified the affordability would be obtained at the sending sites (Barcroft and Fillmore Garden apartments) and the receiving site units, obtained from the TDR, would most likely be market rate units. However, if the receiving site was on Columbia Pike, the development would still need to provide the “base” N-FBC minimum affordability requirement of 20% to 35% of the net new units as on-site committed affordable units. There was general support for reinstating the TDR multipliers, however a couple members did question why we would reinstate the multipliers if the sending site property owners have indicated they are not currently interested in the tool.

Housing Commission (Information): Staff met with the Housing Commission at the January 14, 2021 meeting to inform them of this proposed amendment. There was initial general support. A member of the Commission did ask if staff would explore adjustments to the multipliers. Staff responded that the multiplier itself is not necessarily the reason the Conservation Area property owners are not interested in TDR, but that income and rent restricting the units for 30-years was the main disincentive for their use of the tool. Staff elaborated that reinstating the multipliers is to help ensure this incentive is in place for a future property owner, rather than being an incentive for the current owners.

ZOCO: Staff met with the ZOCO on January 19, 2021. Some members of the group asked clarifying questions similar to those of the Housing Commission regarding whether staff had considered adjusting the multipliers. They also asked if staff would continue to study and monitor TDR on Columbia Pike and also elsewhere in the County. Staff responded that TDR would continue to be a potential tool available to Columbia Pike sites as well as other sites throughout the County (though the multipliers associated with this proposed amendment only apply to the Conservation Area sites).

Pikes Presidents’ Group (PPG): Staff met with the PPG on February 6, 2021. At this meeting, some PPG members expressed concerns that if the multipliers were to be reintroduced to the N-FBC, they should only continue with another 5-year sunset clause. This was predicated on the expectation that Columbia Pike may see significant market changes over the course of this time, including impacts associated with Amazon’s headquarters in nearby Pentagon City. Staff responded that during this five-year period it will still be possible to revisit the multipliers and propose timely adjustments for County Board consideration, as necessary. In other words, a sunset period does not affect the ability for the County Board to approve amendments to the multipliers, when appropriate. Staff instead recommends revisiting the multipliers when there’s a change in County policy or the Columbia Pike development trends that would warrant an amendment.

Planning Commission: The Planning Commission voted X-X-X in X of the amendment at the March 8, 2021 meeting.

Housing Commission (Action): Staff met with the Housing Commission again at the March 11, 2021 meeting for final consideration and recommendation. The Commission voted X-X-X in X of the amendment.

CONCLUSION: The proposed amendments conform to the vision for the Columbia Pike corridor as expressed in the 2012 Neighborhoods Area Plan. Therefore, staff recommends that the County Board adopt the attached ordinance to amend, reenact, and recodify the Arlington County Zoning Ordinance, Article 11.2 CPN-FBC, Columbia Pike Neighborhoods Form Based Code Districts (Appendix B) as shown in the attached ordinance and Attachment 1.

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ATTACHMENT 1

N-FBC-11: AN ORDINANCE TO AMEND, REENACT, AND RECODIFY THE ARLINGTON COUNTY ZONING ORDINANCE ARTICLE 11.2 CPN-FBC COLUMBIA PIKE NEIGHBORHOODS FORM BASED CODE DISTRICTS (APPENDIX B), SECTION 204.D, TRANSFER OF DEVELOPMENT RIGHTS (TDR), TO REINSTATE THE COLUMBIA PIKE TDR MULTIPLIERS AVAILABLE TO THE TWO CONSERVATION AREA PROPERTIES ALONG THE COLUMBIA PIKE CORRIDOR; AND IN ORDER TO FACILITATE THE CREATION OF A CONVENIENT, ATTRACTIVE AND HARMONIOUS COMMUNITY; TO ENCOURAGE ECONOMIC DEVELOPMENT; AND FOR OTHER REASONS REQUIRED BY THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE, AND GOOD ZONING PRACTICE.

The County Board of Arlington County hereby resolves to amend, reenact and recodify the Arlington County Zoning Ordinance Article 11.2 CPN-FBC Columbia Pike Neighborhoods Form Based Code Districts (Appendix B), section 204.D, Transfer of Development Rights (TDR), to reinstate the Columbia Pike TDR multipliers available to the two Conservation Area properties along the Columbia Pike Corridor; and in order to facilitate the creation of a convenient, attractive and harmonious community; to encourage economic development; and for other reasons required by the public necessity, convenience and general welfare, and good zoning practice.

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Proposed amendments are shown with **bold underline** to denote new text, and **~~bold strikethrough~~** to denote deleted text.

Where paragraphs are added or deleted, all subsequent paragraphs are renumbered accordingly and all references throughout this section are updated accordingly.

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1 **204.D. Transfer of Development Rights**

2 The transfer of development rights is permitted in order to achieve historic preservation on,
3 public open space and/or affordable housing within areas designated as CONSERVATION
4 AREAS on the REGULATING PLAN, and for the creation of NEIGHBORHOOD PARKS
5 shown on the REGULATING PLAN. As part of a use permit approval for a DEVELOPMENT
6 PROJECT, the County Board may certify the subject DEVELOPMENT PROJECT as a sending
7 site for transfer of development rights in accordance with the following:
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9 1. In considering the approval of transfer of development rights from a DEVELOPMENT
10 PROJECT in exchange for the dedication of a PUBLIC SPACE within a CONSERVATION
11 AREA or a NEIGHBORHOOD PARK shown on the REGULATING PLAN, subject to such
12 conditions as the County Board may approve, the County Board shall determine that the
13 PUBLIC SPACE will meet the standards consistent with Section 506. The amount of density
14 eligible for transfer shall be equal to the square footage of the dedicated PUBLIC SPACE within
15 a CONSERVATION AREA or a NEIGHBORHOOD PARK. As part of the certification of
16 density or approval of transfer of development rights, the County Board may require assurances
17 that the PUBLIC SPACE will be preserved.
18

19 2. In considering the approval of transfer of development rights from a CONSERVATION
20 AREA, the County Board shall determine that a specified number of units within the
21 CONSERVATION AREA will be renovated consistent with Part 7 Conservation Area Standards
22 and preserved as committed AFFORDABLE HOUSING UNITS as set forth in Section 902. The
23 ~~amount~~ number of ~~density~~ units eligible for transfer shall be equal to 3 times the specified
24 number of committed AFFORDABLE HOUSING UNITS when a Columbia Pike
25 Neighborhoods FBC DEVELOPMENT PROJECT has been identified as the Receiving Site, or 2
26 times the specified number of committed AFFORDABLE HOUSING UNITS when a Site Plan
27 proposal for a site elsewhere in the County has been identified as the Receiving Site; ~~provided,~~
28 ~~however, that the aforementioned multipliers shall sunset on December 31, 2020 for density~~
29 ~~that has not been certified.~~
30

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