



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Item #5a  
MCPB  
March 27, 2008

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**MEMORANDUM**

To: The Montgomery County Planning Board

Via: Karl Moritz, Chief, Research & Technology Center

From: Pamela Dunn, Research & Technology Center

Re: Transferable Development Rights Program – Receiving Area Capacity

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The following Receiving Area Capacity Update provides detailed information regarding receiving area capacity, diminished capacity, TDR utilization by receiving area, and potential TDR capacity in upcoming Master Plans. Several observations can be made from this analysis:

- Revised diminished capacity figures restore capacity from preliminary plans that were either denied or did not advance to the Planning Board after ten or more years from date of application.
- The RDT could still transfer approximately 5,000 TDRs.
- TDR receiving areas have a current capacity to accommodate approximately 5,250 TDRs.
- TDR utilization by receiving area ranges from 23% to 79%, the overall rate equals 58%.
- Given a 58% utilization rate, approximately 3,400 additional receiving area TDRs are needed.
- If proposed TDR use in Clarksburg is factored in, the number of additional receiving area TDRs needed falls to approximately 2,960 TDRs.
- Over the life of the TDR program, new development has used, or “extinguished,” an annual average of 250-300 TDRs per year. Demand for TDRs in the near future is likely to be below average due to general economic conditions.
- The potential for additional TDR receiving area capacity from the Twinbrook, White Flint, Germantown and Gaithersburg (West) plans equals approximately 3,300 TDRs. This additional capacity, if it is realized, is sufficient to support the TDR program for the remainder of its life.

## Transferable Development Rights – Receiving Area Capacity Update

To address specific concerns which were raised over the past month regarding receiving area capacity and to further inform the Planning Board, the following work has been conducted:

1. Staff completed a thorough review of the receiving area capacity calculations presented in the *2005 TDR Status Report*, upon which the *2007 TDR Tracking Report* figures were based. Some recalculation was needed to reflect the latest conditions, specifically recalculation of diminished capacity, which is capacity foregone when development in a receiving area occurred without the use of TDRs or with less than the available amount of TDRs. Refining diminished capacity figures also results in some adjustment of overall receiving area capacity.
2. Staff completed an updated evaluation of proposed TDR use in Clarksburg and estimated the number of TDRs that Clarksburg development will likely record on a subdivision plat in the near future. A TDR is not “extinguished” until it is recorded.
3. Staff estimated the projected TDR receiving area creation for the next few Master Plans: Twinbrook, White Flint, Germantown, and Gaithersburg (West).

Before laying out the analysis on receiving area data, a little history regarding TDR reporting may prove useful. In 1997, a thorough analysis of all TDR receiving areas was completed. This analysis listed every preliminary plan proposed for every TDR receiving area. Within the planning areas, smaller sub-areas that were zoned to receive TDRs were defined; these are the actual receiving areas which are grouped and named by the planning area in which they exist. The receiving areas were measured, in acres, and mapped. In 2005 a TDR Status Report was written as an update to the 1997 Report. There may have been a 2002 update as well, but the basis for the 2005 TDR Status Report is the 1997 report.

The purpose of the *2005 TDR Status Report* was to provide an estimate of the state of the TDR program. During work on the Shady Grove Sector Plan, the County Council directed Planning staff to conduct as thorough an update of the TDR program as possible within a constrained time period so that the Council would have that information when it discussed the need for TDR receiving areas in the Shady Grove plan. In compiling data for the analysis, deficiencies in the data were noted and suggestions made in the conclusion of the report to improve the tracking and recording of TDRs.

In response, the Planning Board proposed, and the County Council agreed to devote staff resources to a much more in-depth tracking study of TDRs. That project ran for all of 2007, resulting in the *2007 TDR Tracking Report*. The focus of the 2007 TDR tracking study was the verification and recordation of every TDR created through easement and those terminated through use on a subdivision plat. A section of the report summarizes receiving area data; in particular, the amount of TDR capacity remaining in the designated receiving areas. The calculation of remaining receiving area capacity is based on total TDR capacity minus TDR capacity used through development platting TDRs (TDRs recorded or sent), and TDR capacity lost through development occurring without the use of TDRs or using less than the available amount of TDRs (diminished capacity).

Information on capacity contained in the *2007 TDR Tracking Report* was obtained from the *2005 TDR Status Report*. With respect to total capacity, the Tracking Report updated the 2005 data with additional capacity in two receiving areas that had been modified between 2005 and 2007.

With respect to the measurement of “TDRs sent/recorded”, the *2007 TDR Tracking Report* used the number of TDRs recorded on a subdivision plat. This differs significantly from the *2005 TDR Status Report* where the number of approved TDRs was used as a measure of “TDRs sent/recorded”. In completing the TDR tracking analysis it became clear that the number of TDRs approved for use and the number of TDRs platted can vary considerably.

The 2005 and 2007 TDR tracking reports updated but did not comprehensively re-examine the findings of the 1997 TDR tracking study with respect to one issue: diminished capacity.

To ensure that decision-makers have the most complete TDR program information possible, staff recalculated diminished capacity for each plan in every receiving area. As a consequence, remaining capacity in each receiving area has been revised. Below is an updated table reflecting these changes.

Transferable Development Rights: Summary Receiving Area Data				
Planning Area	TDR Capacity	TDRs Recorded	Diminished Capacity	Remaining Capacity
Aspen Hill	122	18	62	42
Bethesda	288	57	99	132
Clarksburg	2,153	241	109	1,803
Damascus/Goshen	830	405	106	319
Darnestown	361	197	115	49
Fairland	1,877	978	875	24
Friendship Heights	102	0	0	102
Gaithersburg/Shady Grove	1,568	282	466	820
Germantown	3,093	1,033	1,072	988
Kensington/Wheaton	67	37	14	16
North Bethesda	3,84	108	145	131
Olney/Rock Creek	2,894	1,717	762	413
Potomac	925	429	316	180
Silver Spring	21	7	0	14
Travilah	1,303	606	474	223
<b>New Totals</b>	<b>15,986</b>	<b>6,115</b>	<b>4,615</b>	<b>5,256</b>
<b>Previous Totals</b>	<b>15,986</b>	<b>6,148</b>	<b>5,213</b>	<b>4,625</b>

Three of four TDR measures changed as a result of recalculating diminished capacity. Overall, diminished capacity fell by 598 TDRs, which means that TDR receiving area capacity is greater than previously reported by 598. In some planning/receiving areas, diminished capacity increased as more plans developed either without TDRs or without using as many TDRs as available for that site. In other cases though, diminished capacity fell. This was the result of removing preliminary plans that were denied or never advanced to the Planning Board for approval (after 10 or more years from the application date). In the *2005 TDR Status Report* – the measure of “TDRs recorded” was defined as the number of approved TDRs. Yet, in some cases it appears that *proposed* TDRs were used instead. By making sure that in all cases TDRs are not counted as “used” until they are platted, and by removing plans that did not proceed to record plat – capacity was restored in several receiving areas.

The number of TDRs recorded also decreased. The main reason for this decline is the removal of a preliminary plan in Clarksburg, with 91 recorded TDRs. This plan is being developed in stages therefore diminished capacity could not be determined at this time. For consistency, only complete preliminary plans were included in the receiving area analysis. The TDRs recorded did not decrease by the entire 91 TDRs removed due to 58 additional TDRs that have been recorded since August 2007.

And third, remaining capacity increased from the total stated in the *2007 TDR Tracking Report*. Remaining capacity is the capacity left after removing the TDRs that have been recorded and the TDRs lost to diminished capacity. Due to the decrease in both recorded TDRs and diminished capacity, remaining receiving area capacity increased by more than 600 TDRs.

There are approximately 5,000 TDRs that may potentially transfer to a receiving area. Receiving area capacity is now estimated to equal 5,256 TDRs. To the unfamiliar, the program would appear to be in balance. Yet, experience has shown that the relationship of sending area to receiving area TDRs is not one to one. As part of the receiving area capacity analysis, utilization rates for each planning/receiving area were calculated. These rates range from 23% in Aspen Hill to 79% in Damascus/Goshen. The overall utilization rate is approximately 58%. Previous studies have indicated that TDR utilization rates vary from 40 to 60 percent. This closer look at utilization rates suggests that for planning purposes we should use the upper edge of that range. Given a utilization rate of almost 60%, receiving area capacity would need to increase by approximately 3,400 TDRs in addition to the current estimated capacity.

One caveat to this is Clarksburg. There are three preliminary plans in Clarksburg that propose to use almost 1,300 TDRs. At a utilization rate of 65%, a conservative estimate, as the actual rate for Clarksburg is 69%, an additional 842 TDRs will most likely be recorded on a subdivision plat within the next few years. This would reduce the number of TDRs remaining to be recorded to approximately 4,177 TDRs. Receiving area capacity would also fall by 842 TDRs plus an additional 169 TDRs associated with diminished capacity. The number of TDRs needed to satisfy the “Clarksburg adjusted” supply of 4,177 TDRs is approximately 7,200 TDRs. The “Clarksburg adjusted” TDR capacity would equal 4,245 TDRs. By factoring in TDR use in Clarksburg, an additional 2,957 receiving area TDRs would be needed to accommodate the transfer of all potential TDRs.

Receiving Area Capacity: Proposed TDR Use in Clarksburg		
	Without Proposed TDRs	With Proposed TDRs
Total Number of TDRs Severed	9,630	9,630
Minus TDRs Recorded on a Subdivision Plat	6,115	6,957
Equals TDRs Remaining to be Sent/Recorded	3,515	2,673
TDRs Remaining to be Sent/Recorded	3,515	2,673
Plus TDRs Remaining to Severed	1,504	1,504
Equals Total TDR Sending Supply	5,019	4,177
Total TDR Sending Supply Adjusted for 58% Utilization	8,653	7,202
Minus Total TDR Receiving Area Capacity	5,256	4,245
Equals Estimated TDR Receiving Area Deficit	3,397	2,957

Given the need for an additional 2,957 receiving area TDRs, the question is whether the next four Master Plans under preparation can provide this additional capacity. The Twinbrook Plan has been approved by the Planning Board and has been submitted to the County Council. This plan provides the potential for an additional 462 residential receiving area TDRs, and an additional 53 TDRs that could be applied to residential or commercial development. In Germantown and White Flint, preliminary plans for land use and zoning are underway.

In White Flint, because the Plan recommendations for density and zoning are not finalized, the exact number of receiving TDRs has not been determined. The staff, however, estimates that the TDR receiving capacity will be greater than the number recommended in the Twinbrook Plan. Making a conservative estimate for White Flint by allocating to it the same number of TDRs planned for Twinbrook, at least another 515 receiving area TDRs may be created. This additional receiving capacity may be recommended for residential or commercial use in the Plan.

The current plan for Germantown proposes approximately 1,500 additional dwelling units with TDR receiving potential. Estimates for the Gaithersburg (West) plan are very rudimentary as the planning process with respect to land use has barely begun. Gaithersburg (West) may add as many as 3,000 additional residential dwelling units with TDR receiving potential. If half the additional residential density planned for Germantown and Gaithersburg use TDRs, then receiving area capacity could increase by approximately 2,250 TDRs. Additional TDRs may be absorbed in these two plans if, in addition to residential TDR use, commercial TDR use is recommended.

In total then, almost 3,300 receiving area TDRs could be added to receiving area capacity within the next year. This level of capacity could easily accommodate extinguishing all remaining, potential TDRs. Even if assumptions on TDR use in Clarksburg do not materialize, increasing residential receiving area capacity by almost 3,300 TDRs would still extinguish almost all remaining, potential TDRs. The total number of remaining TDRs is the sum of “floating” TDRs, those that have been severed but not platted, plus an *estimate* of the number of excess TDRs remaining to be severed. It is not unreasonable to assume that some landowners may never choose to participate in the TDR program. If this is the case, the number of remaining TDRs will be between 3,500 and 5,000 TDRs, and will require fewer than 3,400 additional receiving area TDRs to satisfy all program participants.

Transferable Development Rights: Summary Receiving Area Data	
Available Receiving Area Capacity	11,371
Minus – TDRs recorded on a subdivision plat	6,115
Equals Remaining TDR Receiving Area Capacity	5,256
Receiving area capacity needed to plat 5,019 TDRs at a 58% use rate	8,653
Minus – current TDR Receiving Area Capacity	5,256
Equals a Receiving Area deficit of approximately	3,397
Clarksburg: estimate an additional 842 TDRs platted over the next few years	
Receiving area capacity needed to plat 4,177 TDRs at a 58% use rate	7,202
Minus – TDR Receiving Area Capacity	4,245
Equals a Receiving Area deficit of approximately	2,957
Estimated Receiving Area Deficit	2,957
Minus additional capacity planned for Twinbrook and White Flint	1,030
Minus potential capacity planned for Germantown and Gaithersburg (West)	2,250
Equals Remaining Receiving Area Capacity	323