

**REQUEST:** Amend City of Fort Lauderdale Unified Land Development Regulations (ULDR) By Creating Article XII., Section 47-36; Establishing a Transfer of Development Rights Program

Case Number	PLN-ULDR-20010001	
Applicant	City of Fort Lauderdale	
ULDR Sections	Section 47-36	
Notification Requirements	10-day legal ad	
Action Required	Recommend approval or denial to City Commission	
Authored By	Trisha Logan, Historic Preservation Planner	ER 

**BACKGROUND**

On July 10, 2018, the City Commission asked for recommendations regarding potential amendments to the City's historic preservation ordinance. Following this conference meeting staff outlined a three-phased approach to amending the historic preservation ordinance and identifying potential incentives to enhance historic preservation efforts.

As part of phase one, staff focused on key amendments to the Unified Land Development Regulations (ULDR) that streamline the historic application review and approval process, allowing staff to process certain applications administratively resulting in greater efficiencies and providing applicants with a greater level of clarity regarding individually designated properties or those within a designated historic district. The amendments were approved by the City Commission on September 12, 2019.

As part of phase two, staff developed several recommendations for historic preservation incentives. An initial incentive through an amendment to the ULDR to allow for parking reductions and exemptions for adaptive reuse projects for historic resources was approved by the City Commission on October 1, 2019. Two additional incentives including a waiver to promote and encourage preservation of historic resources as well as a tax exemption for commercial properties were approved by the City Commission on March 3, 2020.

The subject ULDR amendment proposes to implement a Transfer of Development Rights (TDR) Program which will offer an additional historic preservation incentive.

**PRIOR REVIEWS**

The amendments to implement a TDR Program were presented to the Historic Preservation Board (HPB) at the August 3, 2020, meeting.

The Board voted unanimously in support of the proposed amendments and in their motion stated they are "in general support of the TDR concept as an excellent vehicle to promote historic preservation in the City as well as to provide an economic incentive for property owners" but requested further clarification about how this process would work. More specifically, as part of their discussions the HPB asked about the possible impacts of a receiving site later becoming a sending site. The draft ordinance states that development rights that are sold and transferred from the sending site to the receiving site, shall remain on the receiving site in perpetuity. However, to further clarify that a receiving site may not later become a sending site, additional language was added to the proposed amendments. The August 3, 2020 HPB draft meeting minutes are provided as Exhibit 1.

AMENDMENTS SUMMARY

*Article XII. – Transfer of Development Rights, Section 47-36*

The proposed TDR Program will allow for transfer of excess development rights, either floor area or density, from a designated historic resource to a proposed new development site. A designated historic resource will act as the “sending site” and a proposed new development site will act as the “receiving site” to allow for additional height through the transfer of floor area and/or additional units (density). Authorization of this transfer will be completed through a Certificate of Transfer application.

Eligible sending areas include all locally designated historic landmarks, landmark sites, archaeological sites, and contributing properties in historic districts. A map showing eligible sending areas is provided as Exhibit 2. Eligible sending sites must first apply for a Certificate of Eligibility to calculate floor area or density available for transfer. As part of the application process, an Existing Conditions Report and Maintenance Plan must also be provided for the historic resource, and a restrictive covenant for the long-term maintenance of the historic resource will be recorded when a Certificate of Transfer is issued.

In the draft ordinance, receiving areas that are eligible to receive floor area are limited to specific Regional Activity Centers (RACs), specific zoning districts in the “Uptown Urban Village”, or specific business districts. Individual receiving sites may incorporate the transferred floor area into a receiving site as additional height in a new development. Developments utilizing TDRs must also meet all other applicable code requirements including neighborhood compatibility criteria, must be compatible with the underlying land use designation, and must be compliant with all other provisions of any officially adopted master plans.

Receiving sites that are eligible to receive density must be located in the City's designated “Unified Flex Zone” or in specific zoning districts in the “Uptown Urban Village” and would be eligible to transfer up to an additional ten dwelling units per acre and must maintain a minimum unit size of 400 square feet per dwelling unit. Maps showing eligible receiving areas are provided as Exhibit 3.

The proposed text amendment is provided as Exhibit 4.

PUBLIC PARTICIPATION

City staff sent a memorandum to the Council of Fort Lauderdale Civic Associations informing the community about the proposed amendments on January 17, 2020, and again on July 21, 2020, provided as Exhibit 5. Additional e-mail communications were also provided to interested parties.

COMPREHENSIVE PLAN CONSISTENCY:

The proposed amendments aligns with the City's Comprehensive Plan. Specific Goals, Objectives and Policies are addressed as follows:

- ELEMENT: Historic Preservation Element
- GOAL 1: Goal 1: To provide for the identification, recognition and evaluation of the historic resources of Fort Lauderdale and to enhance public awareness and involvement in various applicable aspects of historic preservation.
- OBJECTIVE: Objective 1.5: The City shall continue to enact, amend, or revise, as appropriate, regulatory measures that will further its historic preservation goals.
- POLICY: Policy 1.5.2: The Fort Lauderdale Code of Ordinances shall be amended to incorporate the findings and recommendations found within the Historic

Preservation Element and to be consistent with amendments to the Historic Preservation Element, when appropriate.

This item advances the Fast Forward Fort Lauderdale 2035 Vision Plan: We are Community.

PLANNING & ZONING BOARD REVIEW OPTIONS:

The Planning and Zoning Board, in its capacity as the Local Planning Agency, shall determine whether the proposed amendments are consistent with the City of Fort Lauderdale's Comprehensive Plan and recommend approval or denial of the proposed amendments to the City Commission.

EXHIBITS:

- Exhibit 1: August 3, 2020, Historic Preservation Board Minutes
- Exhibit 2: Map of Eligible Sending Areas
- Exhibit 3: Maps of Eligible Receiving Areas
- Exhibit 4: Proposed TDR Text Amendments
- Exhibit 5: January 17, 2020, and July 21, 2020, Memos to Council of Fort Lauderdale Civic Associations

<u>Board Members</u>	<u>Attendance</u>	Cumulative Attendance 6/2020 through 5/2021	
		<u>Present</u>	<u>Absent</u>
Jason Blank, Chair	P	2	0
Arthur Marcus, Vice Chair	P	2	0
Caldwell Cooper	A	0	2
Barbara Lynes	A	1	1
David Parker	P	2	0
Richard Rosa	P	2	0
Veronica Sazera	P	1	0
Tim Schiavone	P	2	0

City Staff

Shari Wallen, Assistant City Attorney  
 Trisha Logan, Historic Preservation Planner  
 Suellen Robertson, Administrative Supervisor  
 Yvonne Redding, Urban Planner III  
 Urban Design and Planning Manager  
 Jamie Opperlee, Recording Secretary, Prototype Inc.

Communication to the City Commission  
 None

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I. Call to Order/Pledge of Allegiance

The meeting of the Historic Preservation Board was called to order at 5:02 p.m.

II. Determination of Quorum/Approval of Minutes

Roll was called and it was determined a quorum was present.

Motion made by Mr. Marcus, seconded by Mr. Schiavone to approve the minutes of the Board's July 2020 meeting. In a voice vote, motion passed 6-0.

III. Public Sign-in/Swearing-In

All members of the public wishing to address the Board on any item were sworn in.

Board members disclosed communications and site visits for each agenda item.

IV. Agenda Items:

No cases

V. Communication to the City Commission

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None

VI. Good of the City

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- a. Review of Proposed Updates to the Unified Land Development Regulations (ULDR): Amend City of Fort Lauderdale Unified Land Development Regulations (ULDR) to Create Article XII. - Transfer of Development Rights (TDRs), Section 47-36; to Add Transfer of Development Rights Process and Criteria Intended to Encourage Preservation of Historic Resources.

Ms. Logan provided a background for this item stating that in 2018 the City Commission had requested recommendations for amendments to the Historic Preservation Ordinance. Staff proposed a three phased approach and as part of phase 2, staff had developed several incentives. Ms. Logan Provided a Power Point presentation describing the TDR incentive program.

Mr. Parker asked how a neighborhood was made aware of the use of TDRs and Ms. Logan stated the neighborhoods would be notified if a new development was proposed for the neighborhood. She noted that a new development receiving TDRs must still go through the development review committee process and must comply with all ULDR requirements, including neighborhood compatibility.

Mr. Schiavone stated he had spoken with Courtney Crush, land use attorney, about how this would work. He appreciated that this allowed the owner of a historic property to profit from the transfer of development rights. He felt this was a great idea in concept but felt it needed further discussions with stakeholders regarding how it would work including why a receiving area was needed and why there was an expiration.

Ms. Logan explained that the designated receiving areas were required by the Broward

County Land Use Plan to initiate this type of program. She said they had looked at all zoning districts to determine viable options for the program. Ms. Logan stated the Certificate of Eligibility issued to the historic resource expired after 18 months to ensure there were no zoning changes over that time. Once the Certificate of Transfer was issued, there was no expiration.

Mr. Schiavone asked what happened to the rights once transferred and Ms. Wallen said the rights were owned in perpetuity. She added that the Broward County Land Use Plan stipulated that the TDR receiving area must be considered suitable and preferred for growth and redevelopment by the municipality. It must also be in an area such as Regional Activity Centers designated in the Broward County Land Use Plan and/or identified redevelopment areas approved by Broward County. Currently, there was no recourse specified for the receiver of the rights if for some reason a plan fell through. The Certificate of Eligibility process was intended for the parties to determine what rights would be transferred and if it was financially feasible to do a project.

Mr. Marcus asked if there would be a workshop for the public and Ms. Logan said they had communicated with the Council of Fort Lauderdale Civic Associations but had not been asked to make a presentation. The program would be heard by the Planning and Zoning Board and then have two readings before the City Commission. Mr. Marcus wanted to know how property owners would be made aware of the program and Ms. Logan said they planned to send letters regarding the incentives that had been adopted to owners of historic landmarks.

Mr. Blank asked if any similar sized cities in Florida had implemented such a program. Ms. Logan stated the City of Miami, the City of Coral Gables and the City Miami Beach all had this in their ordinances. When she was a Historic Preservation Planner and TDR coordinator for the City of Miami, she had seen it utilized quite a bit. She noted that the prices of the TDRs were dictated by the market, not by the municipality.

Mr. Blank asked Ms. Logan about negative feedback she had heard and Ms. Logan stated she had heard that in the City of Coral Gables, the market-driven price of the transfer was too high to justify it. Mr. Blank asked about negative feedback from historic property owners because increased density and/or height had a negative impact on historic properties. Ms. Logan had not heard this, and noted that the draft ordinance included the caveat that the transferred height or density could not negatively affect a historic property.

Mr. Blank asked if any member of the public wished to speak and no one responded.

Mr. Schiavone said he was very much in favor of this could be, but felt there should be more input from stakeholders before endorsing it. Mr. Blank recommended making a statement that the Board supports a TDR program and they were encouraged by the draft but they were not taking a direct position on adoption of the draft.

Mr. Rosa asked how receivers would find out about rights available for transfer. Ms. Logan said the City would put information on the website and would maintain a list of properties that had applied for Certificates of Eligibility. Mr. Rosa asked if an owner could assign the rights to be sold by someone else and perhaps aggregated. Ms. Wallen said one must

be an owner or have an affidavit from the owner to engage in the transaction. There was a restrictive covenant on the sending property and a certificate of transfer on the receiving property.

Stephanie Wedgeworth, Sailboat Bend resident, said the Sailboat Bend Civic Association board and members would like to know more about this incentive and invited the City to make a presentation at their meeting.

Motion made by Mr. Marcus, seconded by Mr. Rosa:  
The Board is in general support of the TDR concept as an excellent vehicle to promote historic preservation in the City as well as to provide an economic incentive for property owners but the Board wants further clarification about how this process would work. In a voice vote, motion passed unanimously.

Adjournment

There being no further business to come before the Board, the meeting was adjourned at 6:00 p.m.

Attest:

Chairman:

\_\_\_\_\_  
ProtoType Inc. Recording Secretary

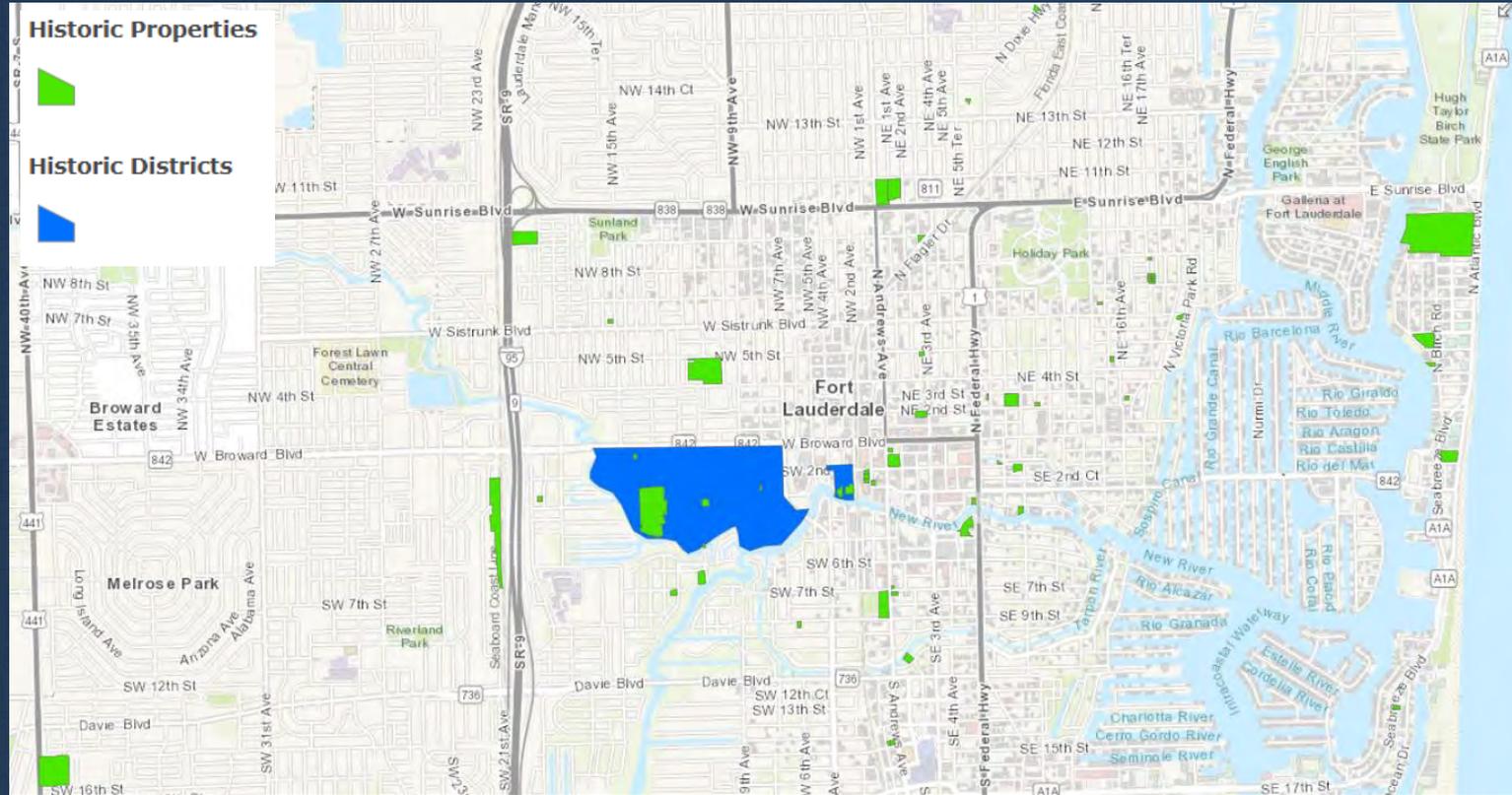
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Jason B. Blank, Chair

The City of Fort Lauderdale maintains a website for the Historic Preservation Board Meeting Agendas and Results:

<http://www.fortlauderdale.gov/departments/city-clerk-s-office/board-and-committee-agendas-and-minutes/historic-preservation-board>

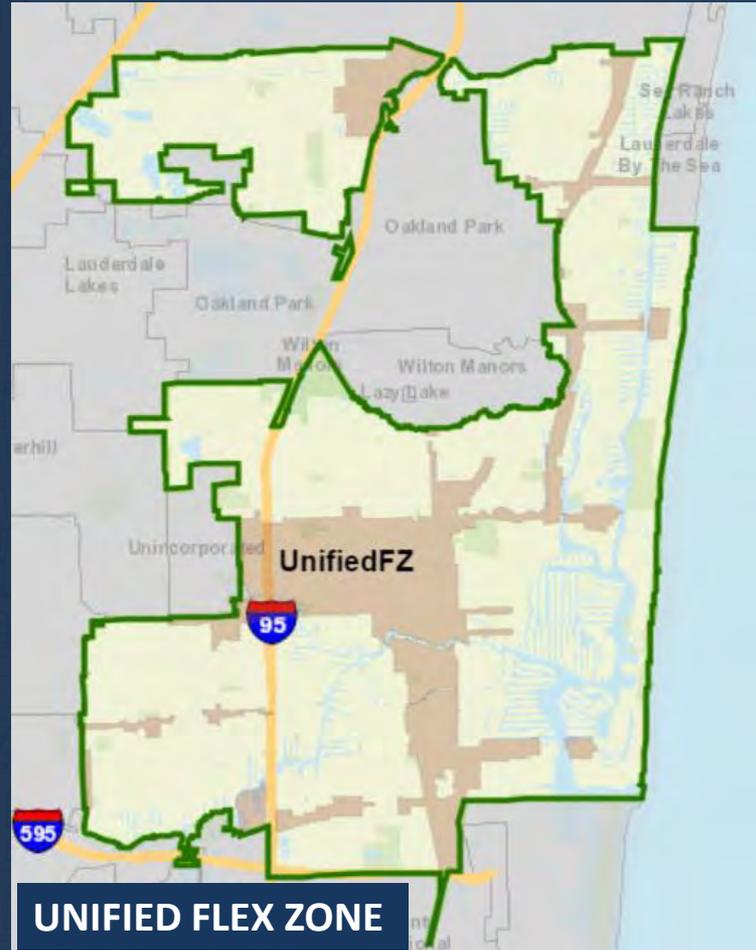
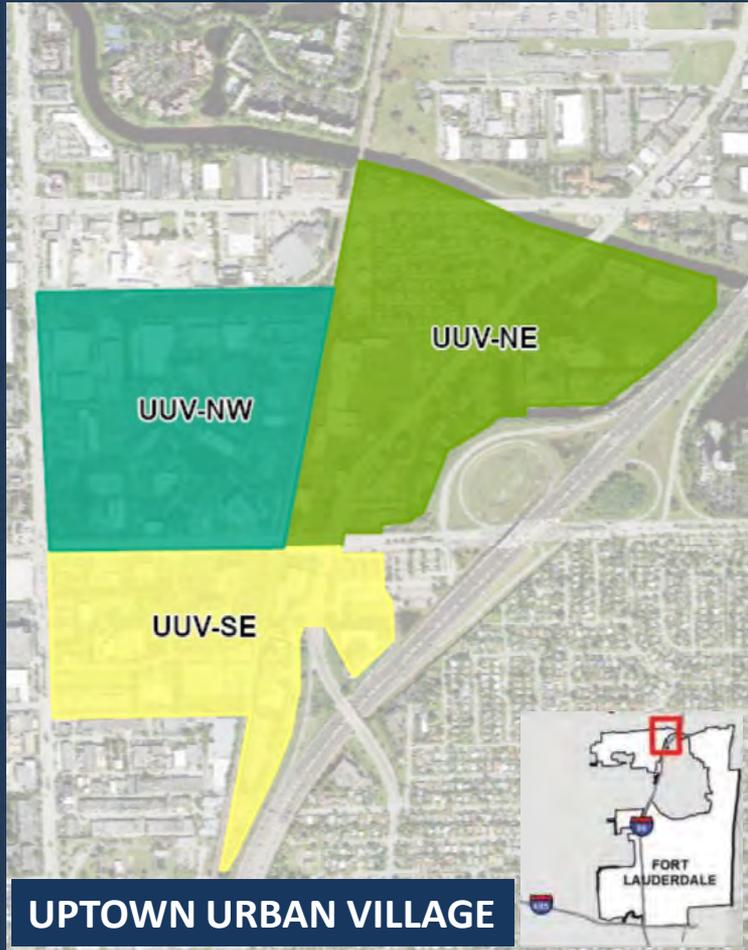
Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.

# ELIGIBLE SENDING AREAS



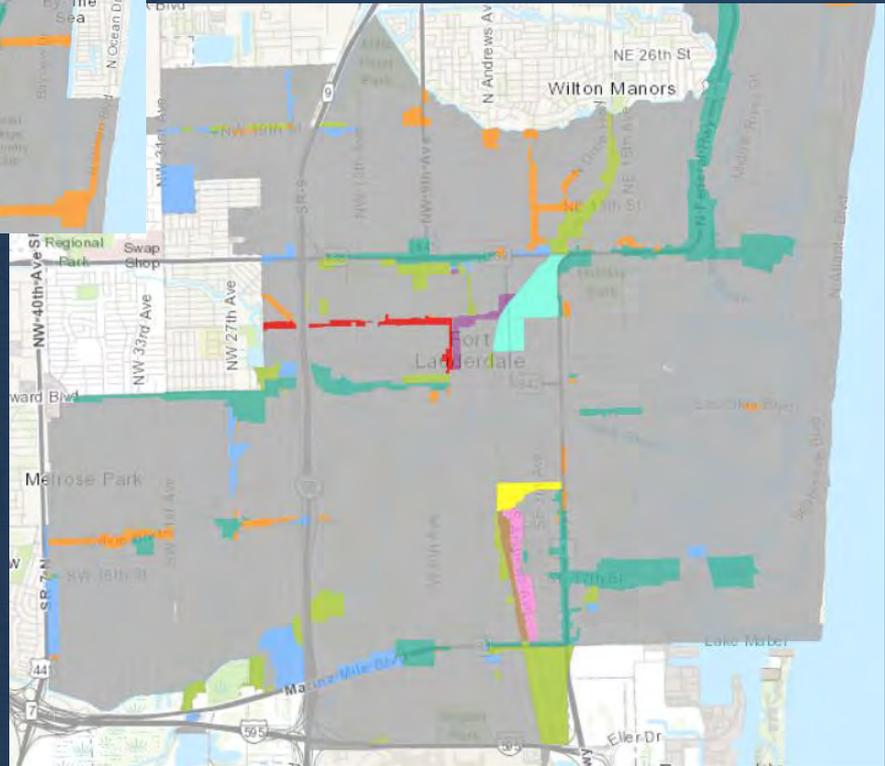
## TRANSFER OF DEVELOPMENT RIGHTS (TDR)

# DESIGNATED RECEIVING AREAS - DENSITY



## TRANSFER OF DEVELOPMENT RIGHTS (TDR)

# DESIGNATED RECEIVING AREAS – FLOOR AREA



## Zoning Districts - Land Use Planning

- RAC-RPO
- RAC-UV
- SRAC-SAW
- SRAC-SAe
- NWRAC-MUe
- NWRAC-MUw
- CB
- B-1
- B-2
- B-3
- Other

# TRANSFER OF DEVELOPMENT RIGHTS (TDR)

## DESIGNATED RECEIVING AREAS – FLOOR AREA



## TRANSFER OF DEVELOPMENT RIGHTS (TDR)

## Article XII - Transfer of Development Rights (TDR)

### 47-36.1 - Transfer of Development Rights (TDR)

#### A. Intent.

1. It is the intent of this section to further a public purpose of preserving and protecting locally designated historic landmarks, landmark sites, archeological sites and contributing properties in historic districts by creating a process that permits the sale and transfer of unused development to a Receiving site.
2. Designated Receiving areas identified in this Section are suitable and preferred for growth and redevelopment.
3. Transfer of Development Rights are a voluntary option and not a requirement.

#### B. Definitions. The following words when used in this Section shall have the following meanings below. Words not defined herein shall be interpreted in accordance with Section 47-24.11 of the ULDR, or in the Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), as amended, or shall be interpreted by their common and ordinary meaning:

1. Certificate of Eligibility. A document issued by the Department of Sustainable Development ("DSD") to the eligible historic landmark, landmark site, archaeological site, or contributing property located within a historic district (proposed Sending Site), stipulating the amount of area and/or density available for transfer.
2. Certificate of Transfer. A document issued by the DSD that authorizes the transfer of specified unused Development Rights from a locally designated historic landmark, landmark site, archeological site, or contributing property within a historic district (Sending Site) to a Receiving Site. The Certificate of Transfer formally designates a Sending Site and a Receiving Site.
3. Development Rights. Unused floor area or density of a locally designated historic landmark, landmark site, archeological site, or contributing property within a historic district that are calculated in accordance with this Section.
4. Existing Conditions Report. A report prepared by a registered architect or engineer that describes the current general condition of a locally designated historic landmark, landmark site, archeological site, or contributing property in a historic district that is applying for a Certificate of Transfer including but not limited to an architectural description; a summary of general observations; and a description of the condition for each architectural, structural, and mechanical element.
5. Gross Floor Area ("floor area"). Refer to the definition in Section 47-2.C of the ULDR.

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6. Maintenance plan. A written document prepared by a registered architect or engineer and submitted by all of the owners of a historic landmark, historic site, archeological site, or contributing property in a historic district for the Transfer of Development Rights program, that identifies any existing deficiencies in the building along with a remediation plan for the short term, and which further identifies a plan for the cyclical maintenance of the building for the long term.
7. Receiving Areas. City approved areas identified in Article XII that are authorized to receive Development Rights subject to the requirements in this Section.
8. Receiving Sites. A lot(s) of land as defined in Section 47-35.1 of the ULDR, located within a Receiving Area which have received Development Rights from a sending site through the purchase and Transfer of Development Rights in accordance with this Section.
9. Sending Areas. City approved areas identified in Article XII that are authorized to send Development Rights subject to the requirements in this Section.
10. Sending Sites. A building or lot(s) of land as defined in Section 47-35.1 of the ULDR, located within a Sending Area where its unused Development Rights have been transferred and sold in accordance with this Section.
11. Transfer of Development Rights ("TDR"). The sale and transfer of unused Development Rights by the owner(s) of a Sending Site to the owner(s) of a Receiving Site whereby the Development Rights of the Sending Site are extinguished and may be used or held by the Receiving Site.

C. Designated Sending Area(s).

The following properties are hereby designated as Sending Areas:

1. Lots or buildings designated as historic landmarks by the City.
2. Lots designated as historic landmark sites by the City.
3. Lots designated as archeological sites by the City.
4. Lots or buildings deemed by the HPB as contributing properties located within a historic district in accordance with Section 47-24.11.B. of the ULDR.

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D. Designated Receiving Area(s)

1. The lots of land located in any of the following zoning districts are hereby designated as Receiving Areas for the purposes stated herein, only if they meet all the requirements in this section:
  - a. For the purpose of a transfer of density (dwelling units), the following zoning districts are Receiving Areas:
    - i. Uptown Urban Village (UUV-NE, UUV-NW, and UUV-SE)
    - ii. Any lot of land located in a Unified Flex Zone.
  - b. For the purpose of a transfer of non-residential floor area, the following zoning districts are Receiving Areas:
    - i. RAC-UV
    - ii. RAC-RPO
    - iii. SRAC-SA(e)
    - iv. SRAC-SA(w)
    - v. NWRAC-Mue
    - vi. NWRAC-Muw
    - vii. UUV-NE
    - viii. UUV-NW
    - ix. UUV-SE
    - x. CB
    - xi. B-1
    - xii. B-2
    - xiii. B-3
2. Except as provided in Section 47-36.1 of the ULDR, the lot(s) of land must comply with the applicable Zoning District requirements of the ULDR. Section 47-36.1 shall prevail in the event of conflict with any other provision of the ULDR.
3. A Receiving Area may not be located on the barrier island, as referenced in Section 8-55.5 of the Code of Ordinances or within an adopted Adaptation Action Area (AAA) identified in the City's Community Investment Plan, as amended.
4. All Receiving Areas must comply with any applicable height requirements of the Federal Aviation Administration (FAA).
5. Properties that do not comply with the provisions in Section 47-36.1.D of the ULDR, are not located within a Receiving Area and are not authorized to receive Development Rights.

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E. Certificate of Eligibility.

1. Application for Certificate of Eligibility. An application for a Certificate of Eligibility must be submitted for a proposed Sending Site to the DSD, prior to the submission of an application for a Certificate of Transfer for the same property. The application must include the following information and the applicant must pay all the required fees at the applicant's own expense:
  - a. Name, address, telephone number of applicant or authorized representative for applicant; and
  - b. If the applicant is not the owner, a notarized letter from all the owners of the proposed Sending Site authorizing the applicant to apply for a Certificate of Eligibility on all of the owners' behalf; and
  - c. Proof of ownership (deed) of the property proposed as a Sending Site; and
  - d. Legal description of the property proposed as a Sending Site from Broward County Official Records; and
  - e. Existing Land Use Designation of the property proposed as a Sending Site; and
  - f. Existing Zoning of the property proposed as a Sending Site; and
  - g. Calculations of the Development Rights of the proposed Sending Site; and
  - h. Floor plans of the proposed Sending Site signed and sealed by an architect or engineer licensed to practice in the State of Florida, if applying to transfer non-designated floor area; and
  - i. A current signed and sealed property survey of the property proposed as a sending site (dated no later than 6 months prior to the date of submission of the Certificate of Eligibility application), which is signed and sealed by a licensed professional surveyor, authorized to engage in the practice of surveying and mapping in the State of Florida in accordance with Chapter 472, Florida Statutes, as amended; and
  - j. Resolution designating the property (proposed as a Sending Site) as either a historic landmark, landmark site, or archeological site, if applicable; and
  - k. A record that includes a finding by the HPB that the proposed Sending Site is a contributing property located within a historic district, if applicable; and

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- i. A narrative must be provided by the applicant explaining how the criteria in Section 47-36.1.E.4. of the ULDR are met.
2. Calculation of available Development Rights from Sending Site.
  - a. Development Rights. Unused Development Rights that may be transferred to a receiving property must be calculated as follows:
    - i. Floor area. Existing gross floor area of the Sending Site will be subtracted from the calculation of permitted gross floor area of the Sending Site per the ULDR incorporating setbacks, stepbacks, FAR, and all other requirements. The applicant shall submit calculations for the Development Rights along with signed and sealed floor plans to the DSD.
    - ii. Density. Unused density on a Sending Site may be transferred to a Receiving Site rounding down to the nearest whole number. Total available density is based upon the gross acreage of the entire site.
      - a) Available density for residential units will be the calculation of the maximum residential units permitted on the Sending Site subtracted by the number of existing residential units on the Sending site.
      - b) The conversion of existing hotel units to residential units for the purposes of the density TDR calculation shall be the difference between the number of permitted residential units divided by the number of permitted hotel units as specified in the ULDR per each zoning district for the Sending Site. This number will be multiplied by the difference between the number of permitted hotel units and the number of existing hotel units.
        1. For zoning districts in the Central Beach Regional Activity Center that do not have maximum density, the maximum density shall be capped at 48 residential units per acre and 90 hotel units per acre.
  - b. Partially designated properties. If a sending site has been partially designated as a landmark, landmark site, or archaeological site, only the designated portion of the property may be included in the calculation of floor area or density that may be transferred to a Receiving Site.
3. Criteria for Certificate of Eligibility. An application for Certificate of Eligibility must meet the following criteria:

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- a. The applicant must provide a complete application with all required documentation as outlined in Section 47-36.1.E. of the ULDR; and
  - b. The proposed Sending Site must be located within a Sending Area in accordance with Section 47-36.1.C. of the ULDR; and
  - c. The Development Rights of the proposed sending site must be correctly calculated and meet the requirements of the most recently adopted ULDR and Comprehensive Plan.
4. Application Review Process.
- a. Determination of application completeness. The DSD shall determine within thirty (30) days of the application submittal whether the application is complete and shall notify the applicant of any missing documentation or additional information requested by the DSD in writing.
  - b. If an applicant fails to provide additional information as requested in writing by the DSD within thirty (30) days of the request, the application shall be deemed withdrawn.
  - c. The DSD shall review the application and determine whether the application meets the criteria as provided in Section 47-36.1.E.
  - d. If the DSD determines that the application meets the criteria for a Certificate of Eligibility as provided in Section 47-36.1.E., the Historic Preservation Planner shall approve the application and issue a Certificate of Eligibility.
  - e. If the DSD determines that the application does not meet the criteria as provided in this Section 47-36.1.E., the Historic Preservation Planner shall deny the application and issue a letter of denial to the applicant.
5. A Certificate of Eligibility will expire eighteen (18) months after issuance and may not be relied upon for determining Development Rights. An expired certificate of eligibility may not be included in an application for a Certificate of Transfer.
6. Appeal of an application for a Certificate of Eligibility. If an application for a Certificate of Eligibility is denied, the applicant may file an appeal in accordance with the following procedure:
- a. The applicant must file an appeal no later than thirty (30) days after the date of the letter of denial.

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- b. The applicant must include all of the following documents in its appeal:
- i. A letter addressed to the City Clerk and to the DSD requesting an appeal. The letter must include the case number, applicant's name, address, and phone number, property owner(s)'s name, address, and phone number, date of denial, and must specify the grounds for the appeal; and
  - ii. If the applicant is not the owner, a notarized letter from all of the owners of each property authorizing the applicant to appeal the application for a Certificate of Eligibility on all of the owners' behalf; and
  - iii. All documents and papers submitted to the city prior to the denial of the application, letter of denial, and the application. The applicant must provide these documents at their own expense.
- c. Other than the documents required in Section 47-36.1.E.7.b. of the ULDR, any other documents submitted by the applicant after the Zoning Administrator issued its denial, will not be made a part of the record on appeal.
- d. Upon receipt of an appeal, the Director of the DSD or his or her designee shall compile the record consisting of the documents and papers submitted by the applicant, the application, and schedule the appeal for a Planning and Zoning Board ("PZB") meeting within sixty (60) days.
- e. The Director of the DSD or his or her designee shall transmit the record to the PZB.
- f. The PZB will determine whether there was a departure from the essential requirements of law in the decision made regarding the application; or whether competent substantial evidence does not exist to support the decision.
- g. If the PZB determines that there was not a departure from the essential requirements of law or that competent substantial evidence exists to support the decision, then the decision will be upheld. If the PZB finds that there was a departure from the essential requirements of the law or that competent substantial evidence does not exist to support the decision, then the PZB will reject the decision of the Zoning Administrator denying the application and approve the application.
- h. An appeal from the decision of the PZB must be made to the Circuit Court within thirty (30) days after the rendition of the Planning and Zoning Board's decision.

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F. Development Rights Available for Transfer to Receiving Sites.

1. Floor Area.

Receiving Sites may incorporate additional floor area by increasing the height in accordance with Table 1 below:

**TABLE 1: RECEIVING AREAS THAT MAY RECEIVE ADDITIONAL SQUARE FOOTAGE OF NON-RESIDENTIAL FLOOR AREA**

	<u>RAC-UV</u> <u>RAC-RPO</u>	<u>SRAC-SAe;</u> <u>SRAC-SAw</u>	<u>NWRAC-</u> <u>Mue</u>	<u>NWRAC-</u> <u>Muw</u>	<u>UUV-NE</u> <u>UUV-NW</u> <u>UUV-SE</u>	<u>CB; B-1;</u> <u>B-2; B-3</u>
<b><u>Additional Height Allowable with TDR</u></b>	<u>3 Stories</u> <u>(Note A)</u>	<u>25 feet</u>	<u>25 feet</u>	<u>12 feet</u>	<u>45 feet</u>	<u>12 feet</u>

Note A: Three (3) stories is equal to 35 feet.

2. Maximum Height. Unless permitted by Section 47-36.1 of the ULDR, the Receiving Site may not utilize TDRs to exceed the maximum allowable height in Sections 47-6.20, 47-13.21, 47-13.30, 47-13.31, 47-37B.5, of the ULDR.

a. Downtown RAC and Uptown Urban Village. No structure may exceed a height limitation two and one-half times the height of the maximum height of the neighboring zoning district for a distance equal to mid-block of the development site or for a depth of two hundred (200) feet as measured from the zoning district boundary abutting the zoning district of the development, whichever is less.

3. Density.

a. Receiving Areas identified in Section 47-36.1.D. of the ULDR for the purpose of receiving density (dwelling units) are eligible to transfer up to an additional 10 dwelling units per acre.

b. Receiving Sites obtaining additional dwelling units through the TDR program must maintain a minimum unit size of 400 square feet per dwelling unit.

4. Comprehensive Plan. The floor area, density, and FAR of the Receiving Site shall not exceed that allowed by the City of Fort Lauderdale Comprehensive Plan for the applicable land use category.

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G. Certificate of Transfer.

1. An application for a Certificate of Transfer shall be made to the DSD. One application must be completed and executed by at least two applicants. At least one applicant must represent the owner(s) of the Sending Site and at least one applicant must represent the owner(s) of the Receiving Site. If the same entity or person(s) owns the proposed Sending Site and Receiving Site, then that entity or person(s) may be represented by one applicant.
2. The Certificate of Transfer shall serve as a document formally designating a Sending Site and a Receiving Site.
3. The application for a Certificate of Transfer must include all the following information and the applicants must pay for any fees required at their own expense:
  - a. Sending Site Information Required:
    - i. Name, address, telephone number of applicant and authorized representative(s) for applicant, if applicable; and
    - ii. If the applicant is not the owner, a notarized letter from all of the owners of the property proposed as a sending site authorizing the applicant to apply for a Certificate of Transfer on all of the owners' behalf; and
    - iii. Proof of ownership (deed) of the property proposed as a Sending Site; and
    - iv. Certificate of Eligibility issued by the City that is dated no later than 18 months prior to the date of submission of the application for a Certificate of Transfer; and
    - v. Existing Conditions Report; and
    - vi. Maintenance Plan; and
    - vii. Opinion of title and title report for the property proposed as a Sending Site; and
    - viii. A restrictive covenant signed by all the owners of the proposed Sending Site which includes all the restrictions required in Section 47-36.1.G. of the ULDR; and

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- ix. Affidavit signed by all owners of the property proposed as a Sending Site stating that the property does not have any residual Development Rights that jeopardize the preservation and protection of the historic or archeological features of the property. The affidavit must be notarized; and
  
- b. Receiving Site Information Required:
  - i. Name, address, telephone number of applicant or authorized representative for applicant; and
  - ii. If the applicant is not the owner, a notarized letter from all of the owners of the property proposed as a Receiving Site authorizing the applicant to apply for a Certificate of Transfer on all of the owners' behalf; and
  - iii. Proof of ownership (deed) of the property proposed as a Receiving Site; and
  - iv. A current signed and sealed property survey of the property proposed as a Receiving Site (dated no later than six months from the date of submission of the application for a Certificate of Transfer), which is signed and sealed by a licensed professional surveyor, authorized to engage in the practice of surveying and mapping in the State of Florida in accordance with Chapter 472, Florida Statutes, as amended; and
  - v. Provide a unity of title recorded in the Public Records of Broward County for the property proposed as a Receiving Site, if property is located on multiple lots; and
  - vi. Existing Land Use Designation of the property proposed as a Receiving Site; and
  - vii. Existing Zoning of the property proposed as a Receiving Site; and
  - viii. Opinion of title and title report for the property proposed as a Receiving Site; and
  
- c. Additional items to be included in application submittal:
  - i. Draft of a Certificate of Transfer; and
  - ii. Sales contract. Submission of a copy of the unexecuted sales contract for the TDR between the buyer and seller of the TDR. The sales contract is

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not effective until the date that a Certificate of Transfer has been approved by the City; and

iii. Letter of intent outlining intended use of TDRs at proposed Receiving Site; and

iv. A narrative explaining how the criteria in Section 47-36.1.G. of the ULDR are met.

H. The application for a Certificate of Transfer must meet all of the following criteria for approval:

1. The applicant has provided a complete application with all required documentation as outlined in Section 47-36.1.F of the ULDR; and

2. Sending Site criteria that must be met:

a. The property proposed as Sending Site must be located in a sending area identified Section 47-36.1.C. of the ULDR; and

b. No city liens or code violations must be on the property proposed as a Sending Site; and

c. The property proposed as a Sending Site must not have any residual Development Rights that jeopardize the preservation and protection of the historic or archeological features of the property; and

d. The Development Rights of the proposed Sending Site must be correctly calculated and meet the requirements of the most recently adopted ULDR and Comprehensive Plan; and

e. The restrictive covenant must include all of the following restrictions on the property proposed as a Sending Site:

i. The Sending Site will be maintained to a standard consistent with the City of Fort Lauderdale's standards for "Forty (40) year recertification"; and

ii. Long-term maintenance of the Sending Site as outlined in the maintenance plan will be binding on all existing owners and any subsequent owners; and

iii. The Development Rights sold and transferred by the Sending Site shall remain a restriction on the Development Rights of the existing owners and

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subsequent owners of the Sending Site in perpetuity even if any building(s) on the Sending Site are demolished; and

- f. The applicant must prove that the Transfer of Development Rights from the Sending Site to the Receiving Site will result in the accomplishment of a public purpose of preserving and protecting historic or archeological resources; and
- g. The existing conditions report and maintenance plan must sufficiently outline plans for continued preservation of the historic resource and meet the following requirements:
  - i. The existing conditions report must be prepared by a registered architect or engineer that describes the current general condition of a locally designated historic landmark, landmark site, archeological site, or contributing property located within a historic district and must include an architectural description; a summary of general observations; and a description of the condition for each architectural, structural, and mechanical element.
  - ii. The maintenance plan must be prepared by a registered architect or engineer of a historic landmark, historic site, archeological site, or contributing property in a historic district that identifies any existing deficiencies in the building along with a remediation plan for the short term, and which further identifies a plan for the cyclical maintenance of the building for the long term.

3. Receiving Site criteria that must be met:

- a. The property proposed as a Receiving Site must be in a Receiving Area identified in Section 47-36.1.D. of the ULDR and comply with the requirements in Section 47-36.1.D. of the ULDR; and
- b. No city liens or code violations must be on the property proposed as a receiving site; and
- c. The property proposed as a Receiving Site must be compatible with adjacent existing and planned land uses; and
- d. The property proposed as a Receiving Site must have public facilities and services (e.g. portable water, sanitary sewer, solid waste, transportation, etc.) that will be adequate, consistent with adopted level of service standards; and

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- e. The property proposed as a Receiving Site must meet the City and County storm evacuation standards; and
- f. The property proposed as a Receiving Site must not negatively impact environmental and historic resources.

I. *Review process - Certificate of Transfer.*

1. Determination of application completeness. The DSD shall determine within thirty (30) days of the application submittal whether the application is complete and shall notify the applicant of any missing documentation or additional information requested by the department in writing.
2. If an applicant fails to provide additional information as requested in writing by the DSD within thirty (30) days of the request, the application shall be deemed withdrawn.
3. An Application for a Certificate of Transfer shall be reviewed by the Development Review Committee ("DRC") subject to the criteria in Section 47-36.1 of the ULDR.
4. The DRC shall determine whether the application meets the standards and requirements of the ULDR. After the receipt of a complete application, the DRC shall conduct a meeting to consider the application and the applicant shall have an opportunity to be heard in accordance with the rules of procedure adopted by the DRC. The DRC shall forward its comments for inclusion in the DRC report. The DRC shall provide the applicant with a written report of the comments and recommendations to be discussed at the meeting regarding compliance with the standards and requirements of the ULDR.
5. If the DRC determines that the application for a Certificate of Transfer meets the standards and requirements of the ULDR, the application will be approved, and the Certificate of Transfer will be issued. The Certificate of Transfer will be signed by the Director of the DSD or his or her designee.
6. If the DRC determines that the application for a Certificate of Transfer does not meet the criteria in Section 47-36.1, the application shall be denied. The DSD will issue written notice of the denial to the applicant.

J. *Appeal of Application for Certificate of Transfer.*

1. An appeal may be filed by the applicant if the application for a Certificate of Transfer is denied in accordance with the following procedure:

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- a. The applicant must file an appeal no later than thirty (30) days after the date of the written notice of denial.
- b. The applicant must include all of the following documents in the appeal:
  - i. A letter addressed to the City Clerk and to the DSD requesting an appeal. The letter must include the case number, applicant's name, address, and phone number, property owner(s)'s name, address, and phone number, date of denial, and must specify the grounds for the appeal; and
  - ii. If the applicant is not the owner, a notarized letter from all of the owners of each property authorizing the applicant to appeal the application for a Certificate of Transfer on all of the owners' behalf; and
  - iii. All documents and papers submitted by the applicant to the DRC, transcripts, staff comments, letter of denial, the application, and recommendations from the City. The applicant must provide these documents at its own expense.
2. Other than the documents required in Section 47-36.1.I. 2.b. of the ULDR, any other documents submitted by the applicant after the DRC issued its denial, will not be made a part of the record on appeal.
3. Upon receipt of an appeal, the Director of the DSD or his or her designee shall compile the record consisting of the documents, papers, transcripts, minutes, the application, and any documents submitted by the applicant that were considered by the DRC, and schedule the appeal for a PZB meeting within sixty (60) days.
4. The Director of the DSD or his or her designee shall transmit the record to the PZB.
5. The PZB must determine whether there was a departure from the essential requirements of law in the proceedings appealed; or whether competent substantial evidence does not exist to support the decision.
6. If the PZB determines that there was not a departure from the essential requirements of law or that competent substantial evidence exists to support the decision, then the decision will be upheld. If the PZB finds that there was a departure from the essential requirements of the law or that competent substantial evidence does not exist to support the decision, then the PZB will reject the decision of the DRC denying the application and approve the application.

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7. An appeal from the decision of the PZB must be made to the Circuit Court within thirty (30) days after the rendition of the PZB's decision.

K. *Issuance of Certificate of Transfer.*

1. *Issuance.* The DSD will issue a Certificate of Transfer for the Development Rights after final DRC approval of the application for a certificate of transfer.

2. *Certificate of Transfer.* The Certificate of Transfer will officially designate a Sending Site and a Receiving Site. The Certificate of Transfer will also delineate the number of dwelling units (if applicable) transferred to the Receiving Site and the amount of square footage (if applicable) transferred to the Receiving Site.

3. After an application has been approved, the DSD shall notify the applicant to pick-up the documents to be recorded in the public records of Broward County.

4. The Development Rights listed in the Certificate of Transfer will prevail in the event of a conflict between the Development Rights listed in a fully executed sales contract and the Development Rights in the Certificate of Transfer.

L. *Recording of Certificate of Transfer.* The Certificate of Transfer must run with the land of the Receiving Site and must be recorded in the Public Records of Broward County at the expense of the owner(s) of the Receiving Site within 30 days of its approval by the City. A certified copy of the recorded Certificate of Transfer must be furnished by the applicant to the DSD within 30 days of the date that it is recorded in the Public Records.

M. *Effective Date of TDR.* The Development Rights are deemed transferred to the Receiving Site on the date that a fully executed Certificate of Transfer is recorded in the Public Records of Broward County.

N. *Recording of restrictive covenant.* The restrictive covenant must run with the land of the Sending Site and must be recorded in the Public Records of Broward County at the owner(s) of the sending site's expense within 30 days after the Certificate of Transfer is approved by the City. A certified copy of the recorded restrictive covenant must be furnished by the applicant to the DSD within 30 days of the date that it is recorded in the Public Records.

O. *Restrictive Covenant.* The restrictions contained in the restrictive covenant shall bind all existing and future owners of the Sending Site.

P. *Development Rights Sold and Transferred to a Sending Site.* The Development Rights that are sold and transferred by the Sending Site to the Receiving Site, shall remain on the Receiving Site in perpetuity, subject to the City's Unified Land Development Regulations,

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City's Comprehensive Plan, and the Broward County Land Use Plan. Once development rights are transferred to a Receiving Site, the Receiving Site may not transfer its development rights to any other property.

Q. Future Development of Sending Site. In addition to the requirements herein, future development of the Sending Site will be governed by the restrictive covenant, zoning regulations, City Comprehensive Plan, and Broward County Land Use Plan in effect at the time of the development.

R. Development Permits and Certificates of Transfer

1. Applications for development permits for Sending Sites and Receiving Sites must include an opinion of title and title report of the property that is the subject of the development permit application. The opinion of title and title report must be paid for at the applicant's expense. The title report must include a copy of the recorded restrictive covenant and recorded Certificate of Transfer. The opinion of title and title report must not be older than six (6) months on the date that the application for a development permit is submitted.
2. All proposed developments utilizing TDRs must comply with all the requirements for development permits in accordance with Section 47-24 of the ULDR.
3. Developments utilizing TDRs must also meet applicable neighborhood compatibility requirements, be compatible with adjacent existing and planned land uses and must be compliant with master plans adopted in the ULDR or meet the intent of the design guidelines included in drafted master plans developed by the Department.
4. The purchase of a TDR does not guarantee a use or a development permit. Uses and development permits are subject to all other applicable development regulations in the ULDR.

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## Trisha Logan

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**From:** Trisha Logan  
**Sent:** Tuesday, July 21, 2020 1:55 PM  
**To:** colleenlockwood1@icloud.com  
**Cc:** Anthony Fajardo; Christopher Cooper; Ella Parker; Karlanne Grant  
**Subject:** RE: Proposed Text Amendments for Transfer of Development Rights (TDR) Program

Good Afternoon, Colleen.

Following-up on the email below, the proposed text amendment for Transfer of Development Rights (TDR) Program was not heard at the February 3, 2020, Historic Preservation Board (HPB) meeting but is now scheduled to be presented for consideration to the HPB at its August 3, 2020, meeting. Moving forward the proposed text amendment will be presented to the Planning and Zoning Board (PZB) at a future meeting date that is yet to be determined and ultimately the item will be presented to the City Commission at two readings.

Closer to the date of the HPB meeting, the agenda, the staff memorandum outlining the proposed amendment, as well as all exhibits will be available on our website:

<https://www.fortlauderdale.gov/government/HPB>

Regards,

Trisha Logan, AICP | Historic Preservation Planner | Historic Preservation Board Liaison

City of Fort Lauderdale | Urban Design and Planning Division

700 NW 19<sup>th</sup> Avenue | Fort Lauderdale FL 33311

P: (954) 828-7101 E: [tlogan@fortlauderdale.gov](mailto:tlogan@fortlauderdale.gov)



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**From:** Trisha Logan <TLogan@fortlauderdale.gov>  
**Sent:** Friday, January 17, 2020 9:42 AM  
**To:** colleenlockwood1@icloud.com  
**Cc:** Anthony Fajardo <AFajardo@fortlauderdale.gov>; Christopher Cooper <CCooper@fortlauderdale.gov>; Ella Parker <EParker@fortlauderdale.gov>; Karlanne Grant <KGrant@fortlauderdale.gov>  
**Subject:** Proposed Text Amendments for Transfer of Development Rights (TDR) Program

Good Morning, Ms. Lockwood.

This memo intends to provide an update to the Council of Fort Lauderdale Civic Associations regarding current code amendments undertaken by the Department of Sustainable Development. The City welcomes any comments or suggestions you may have.

Proposed Text Amendments

Amend Unified Land Development Regulations (ULDR) Article XII., Section 47-36 to add Transfer of Development Rights (TDRs) to establish a program to encourage the preservation of historic resources and their protection by creating a process whereby the otherwise unusable development and density rights for a historic resource may be converted into an asset that may be sold to a receiving site.

## Background

On July 10, 2018, the City Commission asked for recommendations regarding potential amendments to the City's historic preservation ordinance. Following this conference meeting staff outlined a three-phased approach to amending the historic preservation ordinance and identifying potential incentives to enhance historic preservation efforts.

Amendments to the Unified Land Development Regulations (ULDR) included in phase one of this effort were approved on second reading at the September 12, 2019, City Commission meeting. These amendments have a substantial positive impact on the overall historic preservation program by focusing on key administrative changes that streamline the review and approval process allowing staff to process certain applications administratively resulting in greater efficiencies and providing applicants with a greater level of clarity regarding individually designated properties or those within a designated historic district.

As part of phase two, staff has developed several recommendations for historic preservation incentives. As an initial option for historic preservation incentives, parking reductions and exemptions for adaptive reuse projects of historic resources were approved on second reading at the September 17, 2019, City Commission Meeting. Two additional incentives including a waiver to promote and encourage preservation of historic resources as well as a tax exemption for commercial properties were approved by the Planning and Zoning Board (PZB) at the January 15, 2020, meeting and are scheduled for first reading at the February 18, 2020, City Commission Regular Meeting.

An additional incentive to implement a Transfer of Development Rights (TDR) Program is now being proposed.

## Amendment Summary

### ***Section 47-36. – Transfer of Development Rights***

Proposed for implementation is a TDR Program that would allow for transfer of excess development rights, either square footage or density, from a designated historic resource to a proposed new development site. A designated historic resource would act as the "sending site" and a proposed new development site would act as the "receiving site" to allow for additional height through the transfer of square footage and/or additional units.

In the draft ordinance, receiving sites that are eligible to receive square footage of non-residential floor area are limited to specific Regional Activity Centers (RACs) or specific zoning districts in Uptown Urban Village that allow for a request of additional height as part of the existing zoning district requirements. Receiving sites that are eligible to receive density must be located in the Unified Flex Zone or in specific zoning districts in Uptown Urban Village and would be eligible to transfer up to an additional ten dwelling units per acre.

## Next Steps

Proposals will be presented for consideration to the HPB at its February 3, 2020, meeting and to the PZB at its February 19, 2020, meeting. Ultimately the item will be presented to the City Commission at two readings.

Regards,

Trisha Logan, AICP | Urban Planner III | Historic Preservation Board Liaison

City of Fort Lauderdale | Urban Design and Planning Division

700 NW 19<sup>th</sup> Avenue | Fort Lauderdale FL 33311

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**CITY OF FORT LAUDERDALE**  
**PLANNING AND ZONING BOARD ACTING AS THE LOCAL PLANNING AGENCY**  
**(LPA)**  
**NOTICE OF PUBLIC HEARING**  
**AMENDMENTS TO THE UNIFIED LAND DEVELOPMENT REGULATIONS (ULDR)**

NOTICE IS HEREBY GIVEN that the Planning and Zoning Board acting as the Local Planning Agency (LPA) of the City of Fort Lauderdale, as well as the Planning and Zoning Board, shall hold a public hearing on WEDNESDAY, OCTOBER 21, 2020 at 6:00 PM or as soon thereafter through communication media technology accessible on the City's website ([www.fortlauderdale.gov/fltv](http://www.fortlauderdale.gov/fltv)), for the purpose of amending the City of Fort Lauderdale Unified Land Development Regulations (ULDR), as follows:

Case PLN-ULDR-20010001 is an amendment to create Article XII. - Transfer of Development Rights, Section 47-36 of the ULDR to establish a Transfer of Development Rights program to encourage the preservation of historic resources by creating a process whereby development rights for historic resources may be sold to receiving sites.

Specifically:

AMENDING CITY OF FORT LAUDERDALE UNIFIED LAND DEVELOPMENT REGULATIONS (ULDR) BY CREATING ARTICLE XII., SECTION 47-36 TO ESTABLISH TRANSFER OF DEVELOPMENT RIGHTS (TDR).

All interested persons may appear at said meeting and be heard with respect to the proposed amendments. Information on this amendment may be obtained from the Department of Sustainable Development, Urban Design & Planning division, 700 N.W. 19 Avenue, Fort Lauderdale, Florida, during normal business hours.

Jeff Modarelli, City Clerk  
City of Fort Lauderdale

If any person decides to appeal any decision made with respect to any matter considered at this public meeting or hearing, he/she will need a record of the proceedings, and for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities requesting accommodations in order to attend or participate in the meeting should contact the City Clerk at least 48 hours prior to the meeting at 954-828-5002, and arrangements will be made to provide services for you. A turnkey video system is also available for use during this meeting.

Publish on **October 11, 2020** as a legal classified ad.

Please provide proof to [nmartin@fortlauderdale.gov](mailto:nmartin@fortlauderdale.gov)

And Affidavit of Publication to: City of Ft. Lauderdale  
100 N. Andrews Ave.  
Fort Lauderdale, FL 33301

cc: City Clerk  
Finance AIP  
Planner  
Case File