



REQUEST: Amend City of Fort Lauderdale Unified Land Development Regulations (ULDR) to Create Article XII., Transfer of Development Rights (TDR) Section 47-36, to Establish a Program to Encourage the Preservation of Historic Resources by Creating a Process Whereby Development and Density Rights for Historic Resources May be Sold to a Receiving Site.

Case Number	PLN-ULDR-20010001	
Applicant	City of Fort Lauderdale	
ULDR Sections	Section 47-36	
Notification Requirements	10-day legal ad; deferred to date certain from October 21, 2020	
Action Required	Recommend approval or denial to City Commission	
Authored By	Trisha Logan, Historic Preservation Planner	ER [Signature]

AMENDMENTS SUMMARY

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 1**. 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.

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 2**.

The proposed text amendment is provided as **Exhibit 3**.

PRIOR REVIEWS

The amendments were presented to the Historic Preservation Board (HPB) at the August 3, 2020, meeting and received unanimous support. Based on discussion at the meeting, staff incorporated additional language in the ordinance to further clarify that a receiving site may not later become a sending site.

The August 3, 2020 HPB draft meeting minutes are provided as **Exhibit 4**.



At its October 21, 2020, the Planning and Zoning Board (PZB) reviewed the proposed Transfer of Development Rights (TDR) Ordinance and voted to defer the item until the November 18, 2020, PZB Meeting. The deferral was requested to allow for board members to have additional time to review the ordinance and for staff to address the following:

1. To provide education about available incentives during the designation process, including how a property owner can apply for and qualify for TDRs; and
2. To adjust the ordinance to allow for a historic designation to be revocable if TDRs are not approved; and
3. Reach out to additional cities to get feedback on what is and isn't working for their TDR programs.

Multiple questions were asked and answered during the conversation, with several that focused on how TDRs were approved and implemented into projects, and if they would require PZB approval. The staff report from this meeting is provided as **Exhibit 5**, the draft PZB meeting minutes are provided as **Exhibit 6**, and the PowerPoint presentation is provided as **Exhibit 7**.

PROGRAM INCENTIVES AND EDUCATION

When contacted about the possibility of historic designation of a property, information is provided concerning the existing incentives that are offered to designated historic resources in the City of Fort Lauderdale. The following materials are currently available to provide those that are currently designated as a historic resource or are interested in applying for historic designation with information concerning incentives:

- Handout Describing Incentives that is located on the [Historic Preservation Website](#) with Historic Designation materials (Provided as **Exhibit 8**)
- [YouTube Video on Incentives](#) posted on the History Fort Lauderdale YouTube page.

If adopted by the City Commission, the TDR program will be added to the information presented on the YouTube Video on Incentives, Handout Describing Incentives, and Historic Preservation Website, to give both existing and potential historic resources information on the TDR program as well as their eligibility.

REVOCATION OF HISTORIC DESIGNATION

As part of the motion to defer the item to consider the TDR Ordinance, the PZB provided direction to staff to research the option of revising the ordinance to allow for a historic designation to be revocable if TDRs are not approved. After review of other TDR programs, the option to revoke a historic designation was not found. Additionally, based on the goals within the Broward County Land Use Plan, the purpose of establishing a TDR program is to further a public purpose which includes the protection of historic resources. An option to revoke designation at a later date would not support this goal. Staff is also concerned that property owners may designate their properties for the sole purpose of selling their TDRs for a profit rather than to reinvest in and protect the historic resource.

Another option to consider is to allow for properties to qualify as an eligible historic resource and apply for a Certificate of Eligibility if the structure meets one of the following criteria:

- Identified as a potential individual historic landmark, landmark site, or archaeological site in the most recent applicable architectural resource survey; or
- The building, site, object, or structure has been identified as "contributing" in the most recent applicable architectural resource survey; or
- A building, site, object, or structure that has been identified by the State Historic Preservation Officer as "eligible" for listing in the National Register of Historic Places in accordance with Section 267.031, Florida Statutes, as amended; or
- A building, site, object, or structure that is already listed in the National Register of Historic



Places.

If a structure meets one of the criteria outlined above, the property owner may apply for and receive a Certificate of Eligibility; however, prior to applying for a Certificate of Transfer the property would need to be locally designated as a historic landmark, landmark site, archaeological site, or a contributing property within a historic district.

ADDITIONAL RESEARCH / ANALYSIS

In the preparation of the proposed TDR Ordinance, which commenced in 2018, research was conducted utilizing resources on best practices for TDR programs provided through a Planning Advisory Service (PAS) Inquiry from the American Planning Association. Resources include the following publications:

- Nelson, FAICP, Arthur C.; Pruetz, FAICP, Rick; and Witten, Jonathan. *The TDR Handbook: Designing and Implementing Successful Transfer of Development Rights Programs*. Island Press. Washington, D.C. 2012.
- Pruetz, Rick; and Strandridge, Noah. "What Makes Transfer of Development Rights Work?: Success Factors From Research and Practice." *Journal of the American Planning Association*. December 1, 2009.
- PlaceEconomics. "Report II: Incentives, Tools, and Strategies Assessment." Miami-Dade County, Florida. 2018.

Additionally, the Broward County Land Use Plan was also used as a guiding document in the preparation of the proposed TDR Ordinance. This document provides strategies and a policy for implementation and adoption of a TDR Program for municipalities within Broward County including instructions on defining a "Sending Area" and "Receiving Area."

OUTREACH TO OTHER MUNICIPALITIES

Staff reached out to multiple cities to obtain feedback on their programs including the City of Savannah who advised that they do not have a TDR program. The City of West Palm Beach indicated that their program is effective and has motivated properties in their Downtown Masterplan area to designate properties and has an average of three transfers per year.

Additionally, staff held conference calls with staff from both the City of Sunny Isles and the City of Miami Beach. Both municipalities reported successful programs. The City of Sunny Isles primarily uses their TDR program to protect beach front access and open space throughout the City.

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, July 21, 2020, and on October 30, 2020, provided as **Exhibit 9**. Staff reached out the President of the Sailboat Bend Civic Association to offer a presentation by staff on the proposed amendments; however, the offer was declined. Staff followed up with an email concerning the status of the proposed amendments on October 30, 2020, provided as **Exhibit 10**. Additional e-mail communications were also provided to interested parties.



COMPREHENSIVE PLAN CONSISTENCY:

The proposed amendment 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.

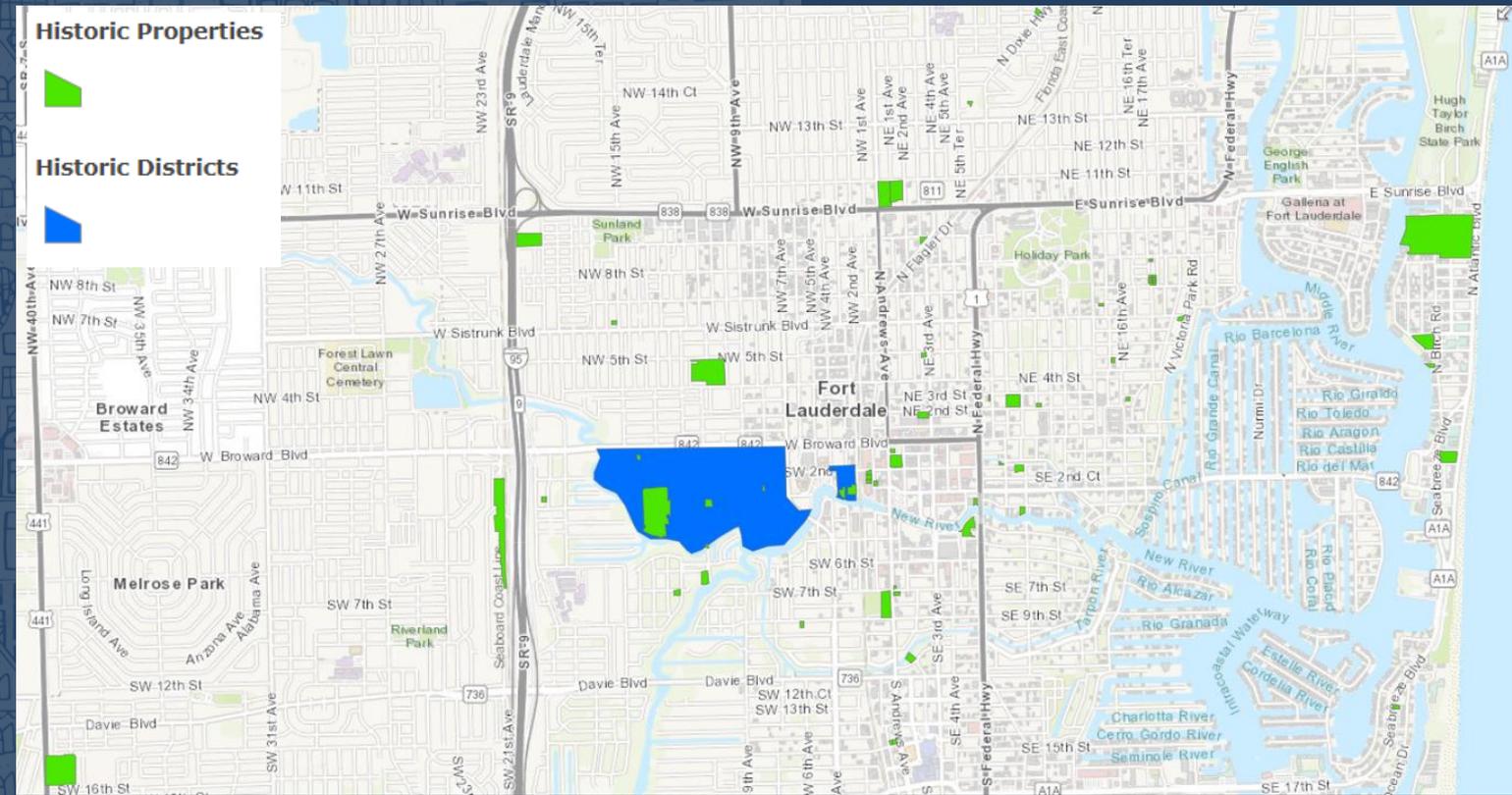
PLANNING & ZONING BOARD REVIEW OPTIONS:

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:

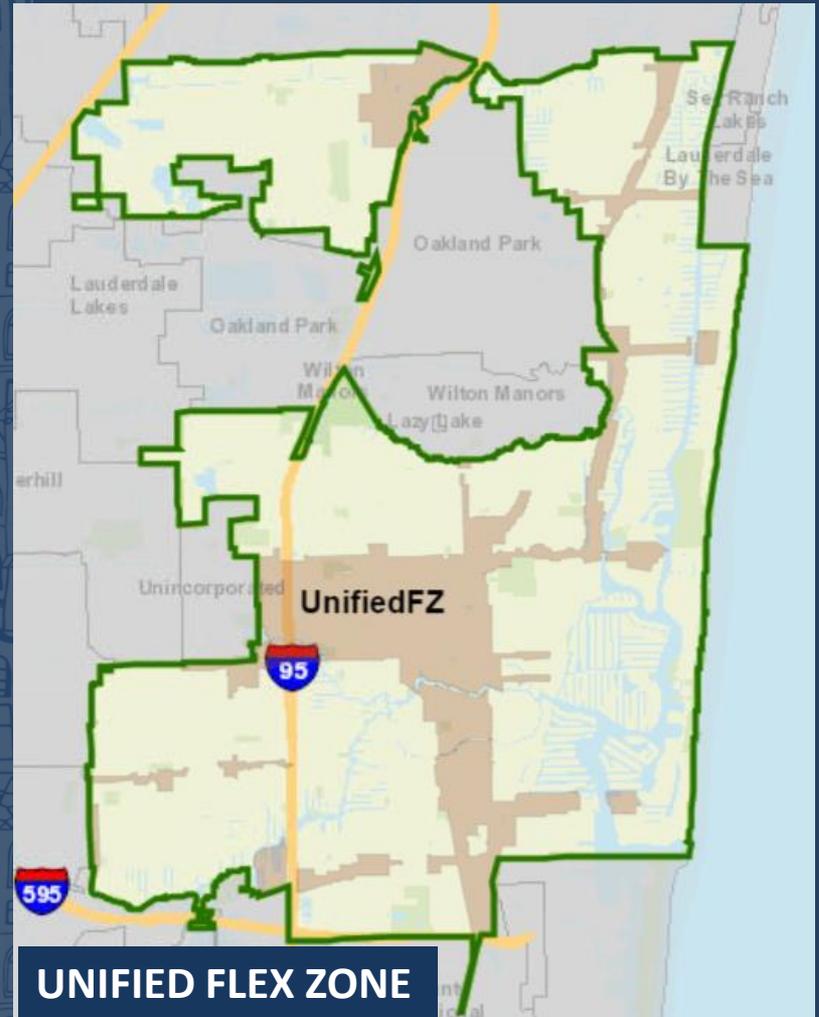
- Exhibit 1:** Map of Eligible Sending Areas
- Exhibit 2:** Maps of Eligible Receiving Areas
- Exhibit 3:** Proposed TDR Text Amendments
- Exhibit 4:** August 3, 2020, Historic Preservation Board Minutes
- Exhibit 5:** October 21, 2020, Planning and Zoning Board Staff Report
- Exhibit 6:** October 21, 2020, Planning and Zoning Board Minutes
- Exhibit 7:** Presentation to the PZB on October 21, 2020
- Exhibit 8:** Existing Historic Preservation Incentives
- Exhibit 9:** January 17, 2020, July 21, 2020, and October 30, 2020, Memos to Council of Fort Lauderdale Civic Associations
- Exhibit 10:** October 30, 2020, Memo to Sailboat Bend Civic Association President

ELIGIBLE SENDING AREAS



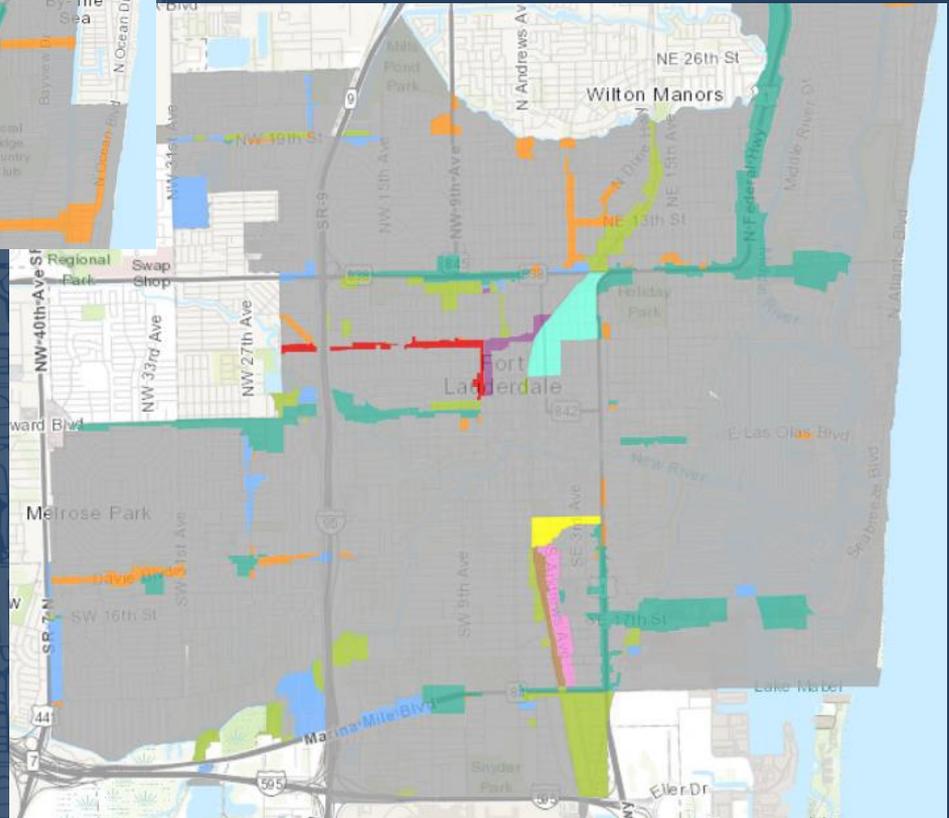
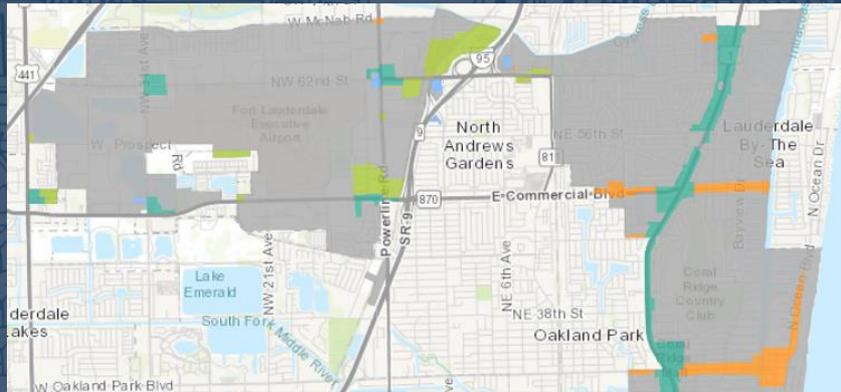
TRANSFER OF DEVELOPMENT RIGHTS (TDR)

DESIGNATED RECEIVING AREAS - DENSITY



TRANSFER OF DEVELOPMENT RIGHTS (TDR)

DESIGNATED RECEIVING AREAS – FLOOR AREA

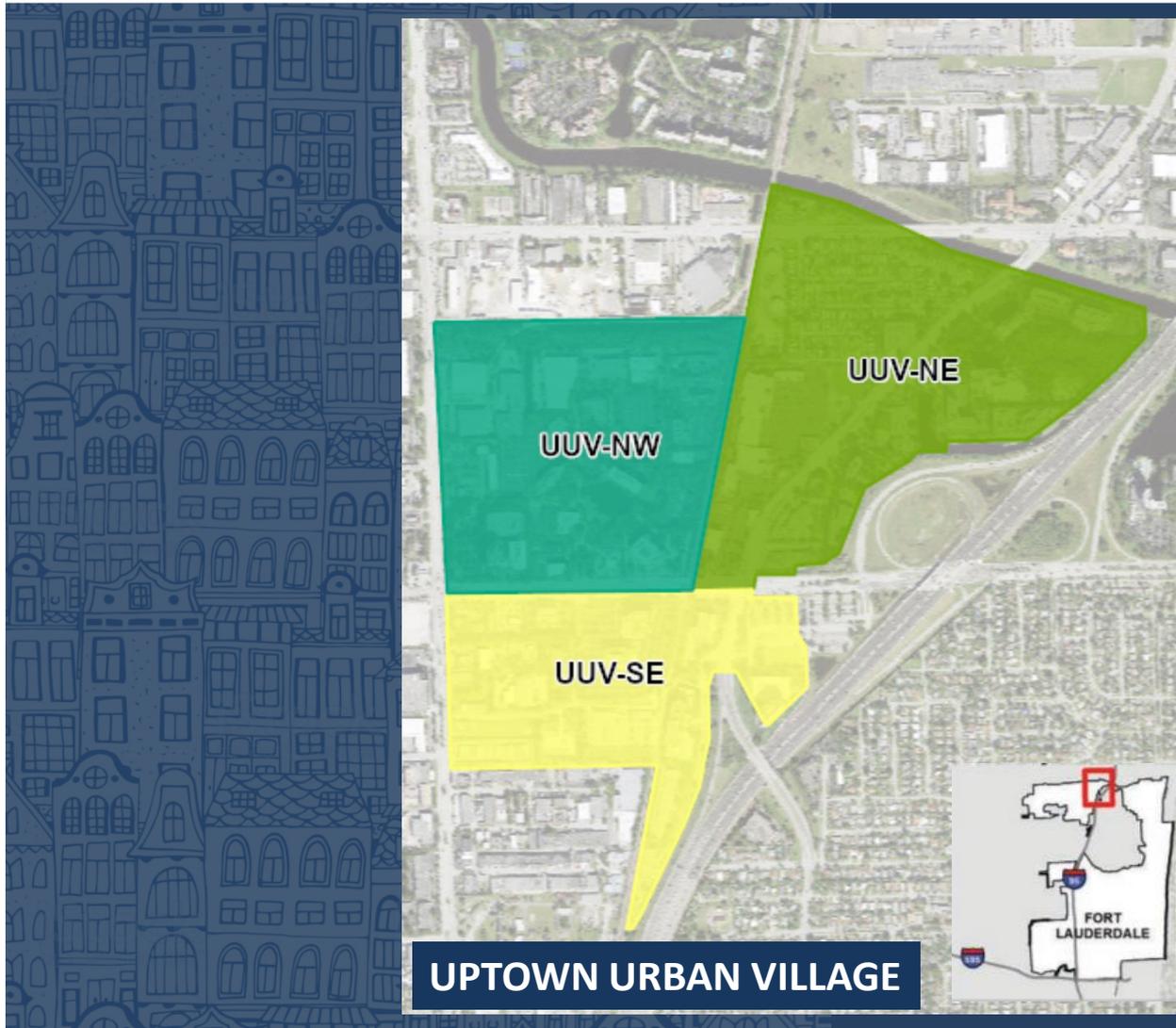


Zoning Districts - Land Use Planning

- 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.

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.

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.

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

- 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.
- 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.

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>
<u>Additional Height Allowable with TDR</u>	<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.

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
- 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 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 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
- 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:
 - 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.
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, 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.



CITY OF FORT LAUDERDALE

DRAFT
HISTORIC PRESERVATION BOARD
CITY OF FORT LAUDERDALE
Virtual Meeting
Visit: <https://www.fortlauderdale.gov/government/HPB>
Monday, August 3, 2020 - 5:00 P.M.

<u>Board Members</u>	<u>Attendance</u>	<u>Cumulative Attendance</u> 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 Opplerlee, Recording Secretary, Prototype Inc.

Communication to the City Commission

None

<u>Index</u>	<u>Owner/Applicant</u>	<u>Page</u>
	Communication to the City Commission	2
	Good of the City	
	Review of Proposed Updates to the Unified Land Development Regulations (ULDR)	2

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

Historic Preservation Board

August 3, 2020

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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

Historic Preservation Board

August 3, 2020

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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

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.



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 [Signature]

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



DRAFT
MEETING MINUTES
CITY OF FORT LAUDERDALE
PLANNING AND ZONING BOARD
WEDNESDAY, OCTOBER 21, 2020 – 6:00 P.M.

CITY OF FORT LAUDERDALE

Board Members	Attendance	Present	Absent
Catherine Maus, Chair	P	4	0
Mary Fertig, Vice Chair	P	4	0
John Barranco	P	4	0
Brad Cohen	P	4	0
Coleman Prewitt	P	4	0
William Rotella (arr. 6:09)	P	4	0
Jacquelyn Scott	P	4	0
Jay Shechtman	P	4	0
Michael Weymouth	A	3	1

It was noted that a quorum was present at the meeting.

Staff

- Shari Wallen, Assistant City Attorney
- Ella Parker, Urban Design and Planning Manager
- Jim Hetzel, Principal Urban Planner
- Karlanne Grant, Urban Design and Planning
- Trisha Logan, Historic Preservation Planner
- Yvonne Redding, Urban Design and Planning
- Adam Schnell, Urban Design and Planning
- Benjamin Restrepo, Transportation and Mobility
- Igor Vassiliev, Public Works
- Jerry Jean-Philippe, Moderator
- Brigitte Chiappetta, Recording Secretary, ProtoType, Inc.

Communications to City Commission

None.

I. CALL TO ORDER / PLEDGE OF ALLEGIANCE

Chair Maus called the meeting to order at 6:02 p.m. Roll was called and the Pledge of Allegiance was recited.

II. APPROVAL OF MINUTES / DETERMINATION OF QUORUM

Motion made by Mr. Prewitt, seconded by Ms. Scott, to approve. In a voice vote, the **motion** passed unanimously.

Mr. Barranco commented that three lakes shown on the Applicant's visuals are outfall lakes for Florida Power and Light (FPL), and asked if the utility has been involved in the Site Plan. Eric Metz, owner's representative for the Applicant, further clarified that these discussions have addressed FPL access through the property. The site has been designed so the utility will be able to access the canal, which is part of the overall plat. FPL has uninterrupted access to the canal for drainage. Mr. Metz concluded that there are also FPL high-tension lines that run north/south on the site, which will be substantially higher than crane operations.

Ms. Scott asked if the project would come back to the Board during further development of the site. Karlanne Grant, representing Urban Design and Planning, stated that this depends on what the Applicant proposes for the site: if the use requires Site Plan Level III or Conditional Use approval, it will come before the Board again, but if it meets the threshold for Site Plan Level II, it will instead go before the DRC and Staff. If the site involves waterway use, it will also come back to the Board.

There being no further questions from the Board at this time, Chair Maus opened the public hearing. As there were no individuals wishing to speak on the Items, the Chair closed the public hearing and brought the discussion back to the Board.

Motion made by Vice Chair Fertig, seconded by Ms. Scott, to approve the plat [Item 4] with Staff recommendations. In a roll call vote, the **motion** passed 8-0.

Motion made by Vice Chair Fertig, seconded by Mr. Cohen, to approve. In a roll call vote, the **motion** passed 8-0.

6. CASE:

PLN-ULDR-20010001

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

PROPERTY

City of Fort Lauderdale

OWNER/APPLICANT:

GENERAL LOCATION:

City-Wide

CASE PLANNER:

Trisha Logan

Trisha Logan, Historic Preservation Planner, provided an overview of the proposed Transfer of Development Rights (TDR) program. In 2018, the City Commission requested recommendations regarding potential changes to the City's Historic Preservation Ordinance. Staff outlined a tri-phased approach to the amendment process and identified potential incentives to enhance the program.

Phase 1 focused on key amendments to the ULDR to streamline the historic application, review, and approval process. Phase 2 resulted in the development of several recommendations to historic preservation incentives, many of which have been adopted,

including parking reductions, setback waivers, and tax exemptions for commercial properties.

The TDR program would provide for the transfer of excess development rights, either in square footage or density, from a designated historic resource to a proposed new development site. The resource would act as the sending site and the new development as the receiving site. This process would allow for additional height through the transfer of floor area or additional units. Any property that is a locally designated historic landmark or archaeological site may qualify as a sending site, as would any contributing property in a locally designated historic district. There is no assignment thus far of contributing or non-contributing status in any of the City's historic districts, although there is a proposal for assignment in the Sailboat Bend Historic District.

The first calculation is for assignment of available density for residential units, which is determined by the maximum residential units permitted on the sending site less the number of existing residential units on that site. Total available density is based on the gross acreage of the site and will be rounded down to the nearest whole number.

Conversion of existing hotel units to residential units for the purposes of TDR density calculation is determined by the difference between the number of permitted residential units divided by the number of permitted hotel units as specified in the ULDR for each of the zoning districts acting as sending sites. The number will be multiplied by the difference between the number of permitted hotel units and the number of existing hotel units. Because some zoning districts in the Central Beach Regional Activity Center (Central Beach RAC) do not have a maximum density, the maximum density would be calculated at 48 units per acre and 90 hotel units per acre.

In certain circumstances, some historic landmark sites have received only partial designation. In these cases, only the portion of the property that has been designated historic may be included in the calculation of transferable floor area or density.

The calculation for available floor area subtracts the existing gross floor area from the permitted gross floor area at the sending site. These calculations will be verified through the submittal of calculations by the applicant as well as the incorporation of existing signed and sealed floor plans, which will need to incorporate setbacks, stepbacks, floor area ratio (FAR), and all other ULDR requirements.

Receiving areas for density, which would be new development sites, would include specific zoning districts within the Uptown Urban Village, as well as any lot of land located in the unified flex zone. A maximum of 10 units per acre may be transferred, with a minimum unit count of 400 sq. ft. While any lot within the unified flex zone is eligible to receive a density transfer, a receiving area may not be located on the City's barrier island or another adopted adaptation/action area. All receiving areas must comply with applicable height requirements per the FAA.

There are 13 zoning districts that may receive a transfer of floor area. This would allow for the receipt of floor area to be incorporated into new development as additional height. In RACs, the allowance of additional height corresponds to a smaller percentage of the additional height permissible through an application for Conditional Use or specific performance standards.

Incorporation of development rights, whether they apply to density or floor area, into a receiving site is subject to DRC review. Additional height cannot be added by both a TDR and a Conditional Use permit.

The Certificate of Transfer is an application between the sending site and receiving site to transfer the excess development rights from the historic resource to new development. The application process requires a number of items from each property owner, including a restrictive covenant, existing conditions report, and maintenance plan, which must be recorded within 30 days of the approval of TDR.

Chair Maus asked if the TDR process comes to a public hearing at any point. Ms. Logan replied that this depends upon the development: the assignment of TDR itself would not come before the Planning and Zoning Board, but the new development to which TDR is applied might come before the Board for Site Plan review or another reason.

It is possible for a sending property to transfer units to a receiving property that would allow the receiving property to exceed the number of units permitted by Code. This would be part of the Site Plan review process. Attorney Wallen added that the Certificate of Transfer process includes a DRC meeting, which is open to the public. Chair Maus commented, however, that while DRC meetings allow the public to attend and speak to items, it is not televised or publicized to the same degree as a Board meeting.

Chair Maus asked if the transfer of rights to a receiving site is limited by that site's existing zoning. Ms. Logan replied that there is a limitation on what can be transferred: for example, 10 units per acre on top of the existing zoning in the aforementioned specified areas that may receive density. The transfer itself, however, may move more units than the receiving site's zoning permits by right.

Ms. Logan reviewed the City's receiving areas once again, noting that these include the unified flex zone, which has a number of requirements. The project receiving units cannot be located in an adaptation action area or an area that has limitations imposed by the FAA.

Chair Maus asked what part of the TDR process would trigger Site Plan Level III or Level IV review, which would bring a project before the Board. Attorney Wallen advised that TDR is a fully separate process. Any Site Plan review would come after the TDR process. The TDR Ordinance includes a provision that participants must comply with the regular ULDR provisions, which may include Site Plan review. Any Site Plan review requires a separate application. The Ordinance also states that purchase of TDR does not guarantee

a use or a development permit, both of which are subject to all other applicable development regulations.

Ms. Scott asked if the TDR process is intended to encourage historic preservation. Ms. Logan confirmed this. Attorney Wallen noted that the TDR Ordinance lists the designated sending areas: a property must be located within one of those areas in order to sell its development rights to a receiving site. The sending areas are as follows:

- Lots or buildings designated as historic landmarks by the City
- Lots designated as historic landmark sites by the City
- Lots designated as archaeological sites
- Lots or buildings deemed by the Historic Preservation Board (HPB) as contributing properties located within a historic district

Attorney Wallen continued that the idea is to permit the owners of historic or contributing properties to sell development rights that they are not using. The receiving site must meet the following criteria as well:

- Must be in a designated receiving area for the type of rights to be transferred: density receiving sites must be in the Uptown Urban Village or must be a lot or land within the unified flex zone, while non-residential floor area receiving sites include the RAC-UV, RAC-RPO, B-1, B-2, B-3, and other designated sites
- Receiving sites must meet additional criteria: they may not be located on the barrier island and may not exceed the height requirements imposed by the FAA

Ms. Parker addressed project type and Site Plan review, pointing out that the unified flex zone's underlying land uses are mostly Commercial and RAC. These include the Downtown, RAC-NW, Uptown area, and others so designated. In order to bring forward residential units on most of these sites, an applicant would be required to go through the mixed-use development process, which requires Site Plan Level III review by the Board.

Mr. Prewitt asked if there are any single-family zoning districts within the unified flex zone. He explained that he would not want TDR to affect the nature of these neighborhoods by increasing density. Ms. Parker reiterated that the unified flex zone consists of mostly commercial corridors and RACs. There are no residential neighborhoods within that area.

Chair Maus asked to see an expanded version of the unified flex zone map, asking if a TDR occurring within certain districts would trigger Site Plan Level III or IV review. Ms. Logan explained that the TDR itself would not trigger this level of review: the project itself must trigger review.

Chair Maus pointed out that the Ordinance states the TDR does not carry assumptions of approval or guarantees. Attorney Wallen confirmed that a project accepting TDR must go through the regular approval process. TDR itself is reviewed by the Department of Sustainable Development (DSD) and then by DRC. The Planning and Zoning Board is not involved in the TDR process unless there is an appeal following the denial of a Certificate of Transfer.

Mr. Shechtman asked if TDR applies to properties already designated as historic or only to properties that will be designated historic in the future. Ms. Logan clarified that TDR applies to both. Mr. Shechtman noted that portions of the historic Sailboat Bend neighborhood, for example, are located within a RAC. Ms. Logan noted that at the moment, that district does not differentiate between its contributing and non-contributing properties. The Ordinance only allows for contributing properties to participate in TDR.

Ms. Logan continued that each individual sending site would need to calculate what they are eligible to sell. This is the first step in the process and involves a Certificate of Eligibility. The applicant must submit a list of items depending upon whether they wish to transfer density, floor area, or both. The list is reviewed and the Certificate issued would show what can actually be transferred.

Mr. Shechtman noted that a number of receiving areas were recently designated in the City's Master Plan as "transition areas," and asked if TDR would allow receiving sites in these areas to exceed what that transition area would normally allow. Ms. Logan replied that there are several restrictions within Code regarding what height, for example, is allowable. The maximum allowable additional height within any receiving area is three stories, while some districts are capped at one to two stories.

Mr. Shechtman asked if an individual with transferable development rights would be permitted to break up the number of stories sold to a receiving site, or if all the transferable height must be transferred at once. Ms. Logan confirmed that multiple transfers would be permitted. Once a transfer has been made through the DRC process, it continues in perpetuity.

Ms. Scott requested more information regarding other cities that have or have tried a TDR program. Ms. Logan reviewed some of the examples, noting that Miami enacted their Ordinance in approximately 2010 but it is no longer effective. A study of incentives conducted by Miami-Dade County states that when the program first began, the TDRs made a substantial difference to major historic rehabilitation, but ultimately became a more cumbersome process to developers than other bonus programs available.

Ms. Scott asked if the HPB was involved in the development of the proposed TDR Ordinance. Ms. Logan confirmed this, stating that the HPB received a version of today's presentation in August 2020. They asked a number of specific questions about how the program would function, which could not be answered at the time because the program is expected to operate based on real estate demand.

Vice Chair Fertig asked what public outreach the City has conducted regarding TDR. Ms. Parker replied that for this type of Amendment, a memorandum is typically sent to the Council of Fort Lauderdale Civic Associations to inform them of the proposed amendments. This memorandum was sent twice to the Council. Additional emails were sent to parties that have expressed general interest in historic preservation incentives.

Vice Chair Fertig suggested it might be possible to hold a virtual forum to allow the community at large an opportunity to comment on the proposed TDR program.

Chair Maus commented that there may be a rush of activity toward historic property owners by developers within receiving sites who wish to expand height or density on their own properties. She asked if an agreement between sending and receiving properties is all that is required. Ms. Logan confirmed this, further clarifying that the intent is to protect historic resources from further development by permitting their owners to sell their excess development rights. The sending site owner must enter into a restrictive covenant to ensure the preservation of his/her property, as well as a maintenance agreement and plan for preservation.

Mr. Shechtman asked what incentive an owner would have to designate his/her property as historic if there is a chance there will be no transferable development rights to sell. Ms. Logan advised that a property must have been designated historic before an owner can qualify as a sending site. Mr. Shechtman observed that the purpose for creating a financial incentive is to allow property owners to take advantage of this incentive in exchange for designating the property as historic, which means they will need to know the incentive is available to them before they are willing to make the designation.

Attorney Wallen stated that before a Certificate of Transfer can be issued, the owner must apply for a Certificate of Eligibility, which calculates the development rights associated with that property. This process is required before any rights may be transferred to a receiving site. The Ordinance is intended to encourage owners to designate properties as historic and preserve them, but does not guarantee that transfer rights are available before the process.

Mr. Shechtman suggested that the City consider allowing an owner to designate a property as historic, with the designation contingent upon receipt of TDR. He also asked what might happen when the owner of a receiving site takes possession of transferred development rights and then has the right to construct more floors than s/he could under existing zoning. Attorney Wallen stated that there is no implied approval. The Ordinance is intended to provide the opportunity to use development rights, and may not be commingled with Site Plan approval, which has different criteria.

Mr. Rotella agreed with Mr. Shechtman that an owner should know the rights available to him/her before designating a property as historic. He requested clarification of what would happen if a receiving site is denied approval for a project that would have used transferred units or area. Attorney Wallen replied that the transfer rights would remain on the property in perpetuity. She reiterated that the Site Plan review process is entirely separate from TDR.

Chair Maus observed that the Board has highlighted a number of issues that would need to be addressed before the Ordinance can be approved. She felt it would be appropriate to move the Application to the next level in order to save time on this issue. Vice Chair

Fertig expressed concern, however, with advancing the Application until a number of the issues raised have been addressed, including discussions with communities that could be affected by TDR.

Ms. Scott stated that she felt an individual with a property to be designated as historic should be informed of the availability or unavailability of TDR incentives. While this could not serve as a guarantee, she suggested that the City could advise that owner to apply for TDR and inform him/her that s/he meets the criteria for that program. She concluded that she was in favor of a TDR program but needed more information.

Ms. Logan replied that the City can share information with an owner regarding the available incentives; however, until an application with full documentation has been submitted, the City could not certify how many transferable development rights are available.

There being no further questions from the Board at this time, Chair Maus opened the public hearing. As there were no individuals wishing to speak on the Item, the Chair closed the public hearing and brought the discussion back to the Board.

Motion made by Mr. Cohen to approve.

Attorney Wallen advised that the Board may move to recommend approval or denial. They may also recommend approval with suggestions.

Motion made by Mr. Shechtman to approve with the suggestion that the designation of the property becoming historic is revocable if the transferable development rights are not awarded. Attorney Wallen pointed out that a **motion** to approve had already been made by Mr. Cohen.

Mr. Prewitt **seconded** Mr. Cohen's **motion**. In a roll call vote, the **motion** failed 3-5 (Vice Chair Fertig, Mr. Cohen, Mr. Rotella, Ms. Scott, and Mr. Shechtman dissenting).

Motion made by Vice Chair Fertig, seconded by Ms. Scott, to defer for two months.

Chair Maus recalled that the Board had been advised in the past that they do not have the ability to defer an Item. Attorney Wallen pointed out that while the Board is able to defer an Item, Staff has answered all of the questions posed by the Board.

Vice Chair Fertig stated that she hoped the City could meet with individuals from civic organizations and neighborhoods that have or are considering historic designations to hear their feedback. She recalled Mr. Shechtman's question regarding owners who might want to consider taking advantage of TDR if there were greater incentives, and what those incentives could be. She concluded by recommending that Staff reach out to other cities with TDR policies and gather information regarding questions asked by the Board.

Mr. Shechtman commented that he did not feel deferral would accomplish anything, and was in favor of approving the Item with recommendation(s). Vice Chair Fertig did not feel it was likely the Board would arrive at a recommendation at tonight's meeting due to the number of outstanding issues.

Attorney Wallen noted that the Item was advertised when discussed at a recent HPB meeting at which few members of the public were in attendance. She recommended that if the Board proposes additional outreach from Staff, they suggest something other than a special meeting, as the Item has now appeared at two advertised public meetings with little public response.

Chair Maus stated that the intent of deferring the Item was to have questions raised at tonight's meeting answered. Vice Chair Fertig observed that the proposed Ordinance is needed in some areas of the City more than others, and suggested that Staff advertise a special meeting "specifically on point" to address this issue. Chair Maus did not agree, reiterating that the Item has already been advertised.

Ms. Scott advised once again that her intent was for Staff to come up with more concrete ways to give a property owner TDR rights. Chair Maus noted that the public record of the meeting will reflect the concerns discussed by the Board.

In a roll call vote, the **motion** to defer failed 4-4 (Mr. Barranco, Mr. Prewitt, Mr. Rotella, and Mr. Shechtman dissenting).

Motion made by Mr. Shechtman, seconded by Mr. Rotella, to approve with the recommendation to Commission that applicants have the right to have the historic designation of their property contingent upon receipt of the transferable development rights.

Attorney Wallen advised that Staff would need to evaluate this recommendation offline, as it involves different criteria than what has been seen in other cities' ordinances.

Vice Chair Fertig recalled that in September, the Board made a number of motions suggesting amendments to the Downtown Master Plan; however, when that Plan came before the City Commission, it passed in the form that was presented to the Board without including the recommendations they had made. She concluded that the same issue was likely to recur regarding this Item: there is nothing to ensure that the Ordinance would be further evaluated by Staff before it goes to the City Commission.

Ms. Scott stated that she would like to defer the Item so all Board members may do their own research and come up with a recommendation, at a subsequent meeting, that takes into consideration how TDR works in other cities before the Application is advanced to the City Commission.

In a roll call vote, the **motion** failed 2-6 (Chair Maus, Vice Chair Fertig, Mr. Barranco, Mr. Cohen, Mr. Prewitt, and Ms. Scott dissenting).

Motion made by Ms. Scott, seconded by Mr. Shechtman, to defer [the Item] for one month so that [the Board members] have the opportunity to discuss this further and make a decision to pass it on or to make recommendations to Staff to make changes that [the members] think would be appropriate to incentivize people and make them comfortable to designate their properties as historic.

Attorney Wallen requested clarification of what the Board is asking of Staff. Chair Maus replied that a number of questions were raised during the discussion, and when the Item comes back to the Board in a month, some of the questions might be answered.

Ms. Parker asked for clarification of which questions the Board wished to have answered. Ms. Scott suggested that Staff determine a way to make knowledge of TDR rights part of the educational process when an owner requests historic designation for his/her property. Mr. Shechtman agreed that Staff should look into either guaranteeing TDR rights for the owner of a historic property or making the historic designation revocable if it cannot be accompanied by TDR rights.

Vice Chair Fertig asked if a member of the Planning and Zoning Board may discuss this Item with the community as long as no other members of the Board are present. Attorney Wallen confirmed that this could be done. Vice Chair Fertig also stated that she would like Staff to contact other cities with TDR policies to find out what has made some programs successful.

In a roll call vote, the **motion** passed 8-0.

V. COMMUNICATION TO THE CITY COMMISSION

Vice Chair Fertig requested an update on the communication sent to the City Commission following the September 2020 meeting. Ms. Parker reported that the Public Works Director has indicated that they will coordinate a presentation for the Board at the November 2020 meeting, to be placed at the end of that Agenda.

VI. FOR THE GOOD OF THE CITY OF FORT LAUDERDALE

Motion made by Vice Chair Fertig to have a conversation about what the process is for [the Planning and Zoning Board], [as their] recommendations to amend things do not make it into the main body of the document and become something that is just a recommendation that is going to be considered after something has already passed.

Vice Chair Fertig clarified that this was not intended to be a communication to the City Commission but an item to be discussed at a future Board meeting. Chair Maus requested that Staff be provided with specific examples of this occurrence.

Ms. Scott **seconded** the **motion**. In a voice vote, the **motion** passed unanimously.

Vice Chair Fertig explained that she was concerned because the Board's unanimous recommendations to the City Commission regarding the Downtown Master Plan were not advanced to the City Commission when the Plan went before that body for approval. She recalled that Staff had noted they needed to vet the recommendations further before bringing them forward. She concluded that she would email examples of this concern to Ms. Parker's office prior to the next Board meeting, so it could then be disseminated to the full Board.

Mr. Shechtman complimented City Forester Mark Williams on the City's Adopt-a-Tree program promoted by the Tarpon River Civic Association. He characterized the program as having a transformative effect on the neighborhood's tree canopy.

There being no further business to come before the Board at this time, the meeting was adjourned at 8:54 p.m.

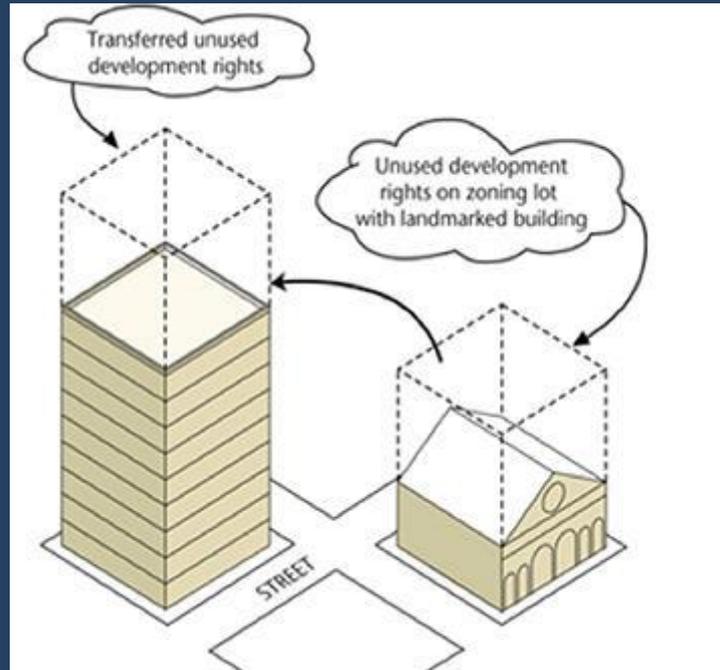
Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.

Chair

Prototype

[Minutes prepared by K. McGuire, ProtoType, Inc.]

TRANSFER OF DEVELOPMENT RIGHTS (TDR)



City of Fort Lauderdale
Department of Sustainable Development



CITY OF FORT LAUDERDALE

TDR PROCESS

PROPERTY IN
DESIGNATED
SENDING
AREA



CERTIFICATE
OF
ELIGIBILITY



PROPERTY IN
DESIGNATED
RECEIVING
AREA



CERTIFICATE
OF
TRANSFER

A Transfer of Development Rights (TDR) program allows for transfer of excess development rights, either square footage or density, from a designated historic resource to a proposed new development site.

TRANSFER OF DEVELOPMENT RIGHTS (TDR)

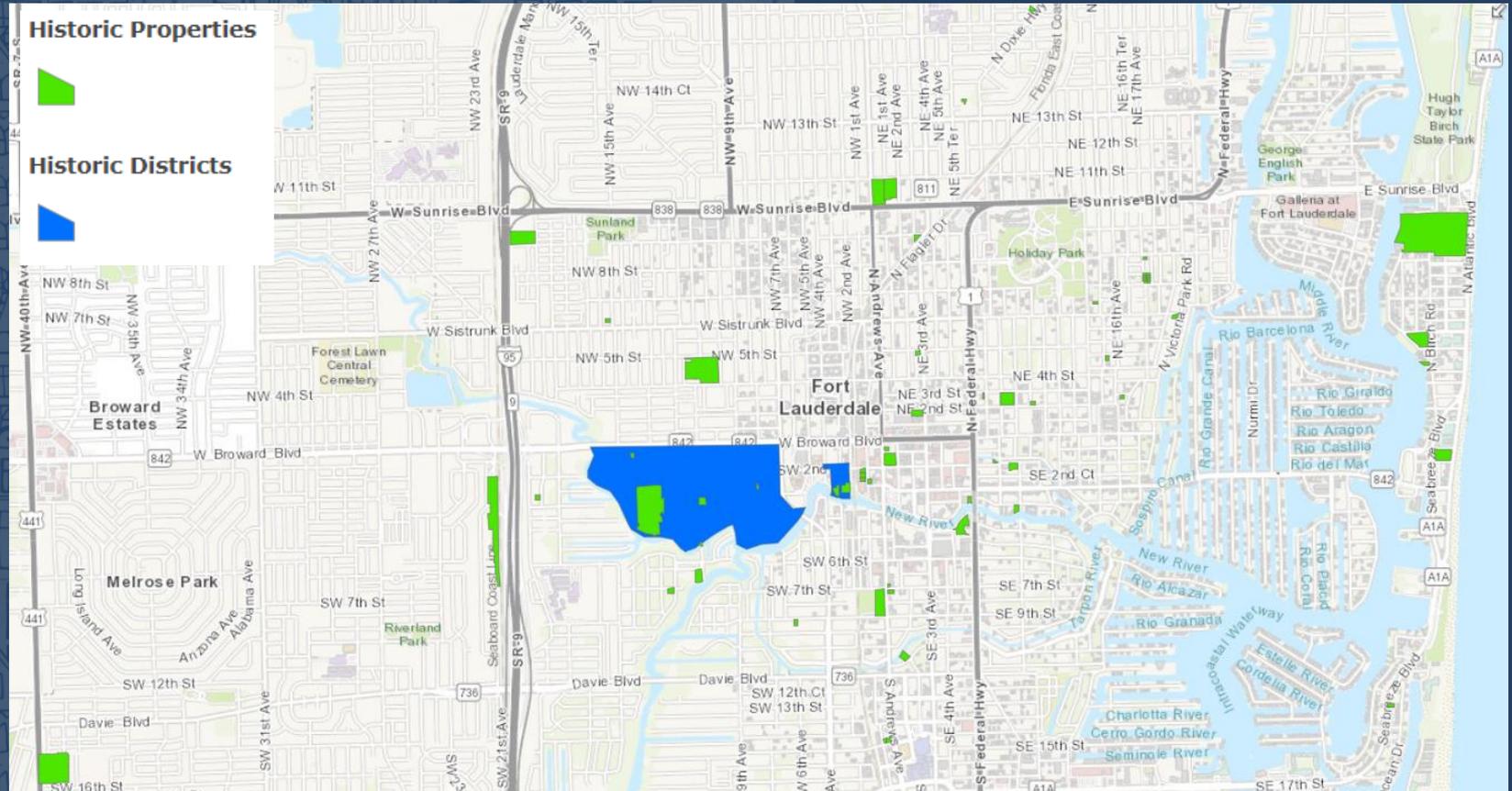
DESIGNATED SENDING AREAS

- Designated historic landmarks and landmark sites
- Designated archeological sites
- Contributing properties located within a historic district



TRANSFER OF DEVELOPMENT RIGHTS (TDR)

DESIGNATED SENDING AREAS



TRANSFER OF DEVELOPMENT RIGHTS (TDR)

CERTIFICATE OF ELIGIBILITY



1 Submission of Complete Application

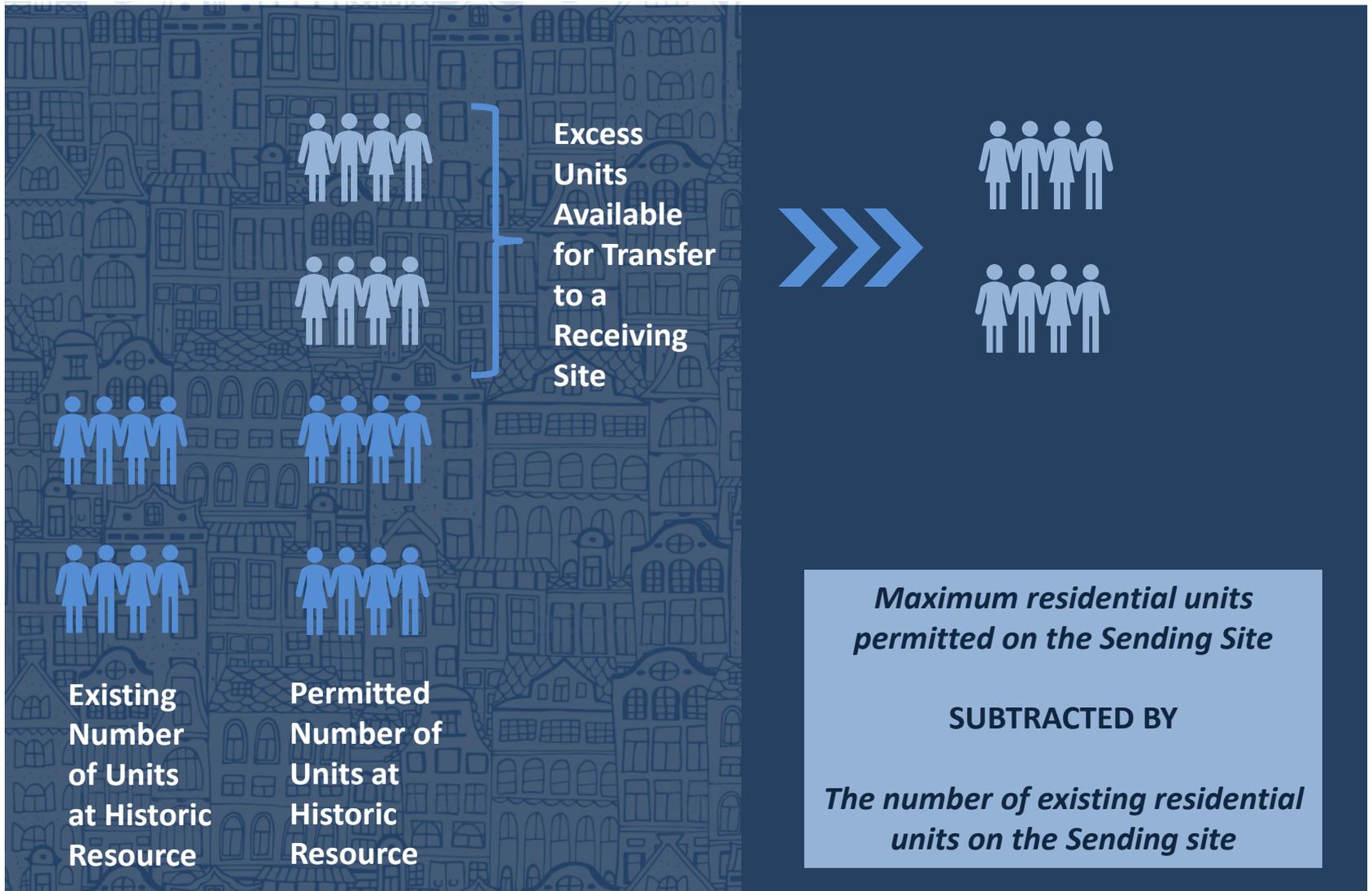
2 Calculation of Available Development Rights

- Floor Area: Existing gross floor area of the Sending Site will be subtracted from the calculation of permitted gross floor area.
- Density: Existing gross floor area of the Sending Site will be subtracted from the calculation of permitted gross floor area.

3 Issuance of Certificate of Eligibility

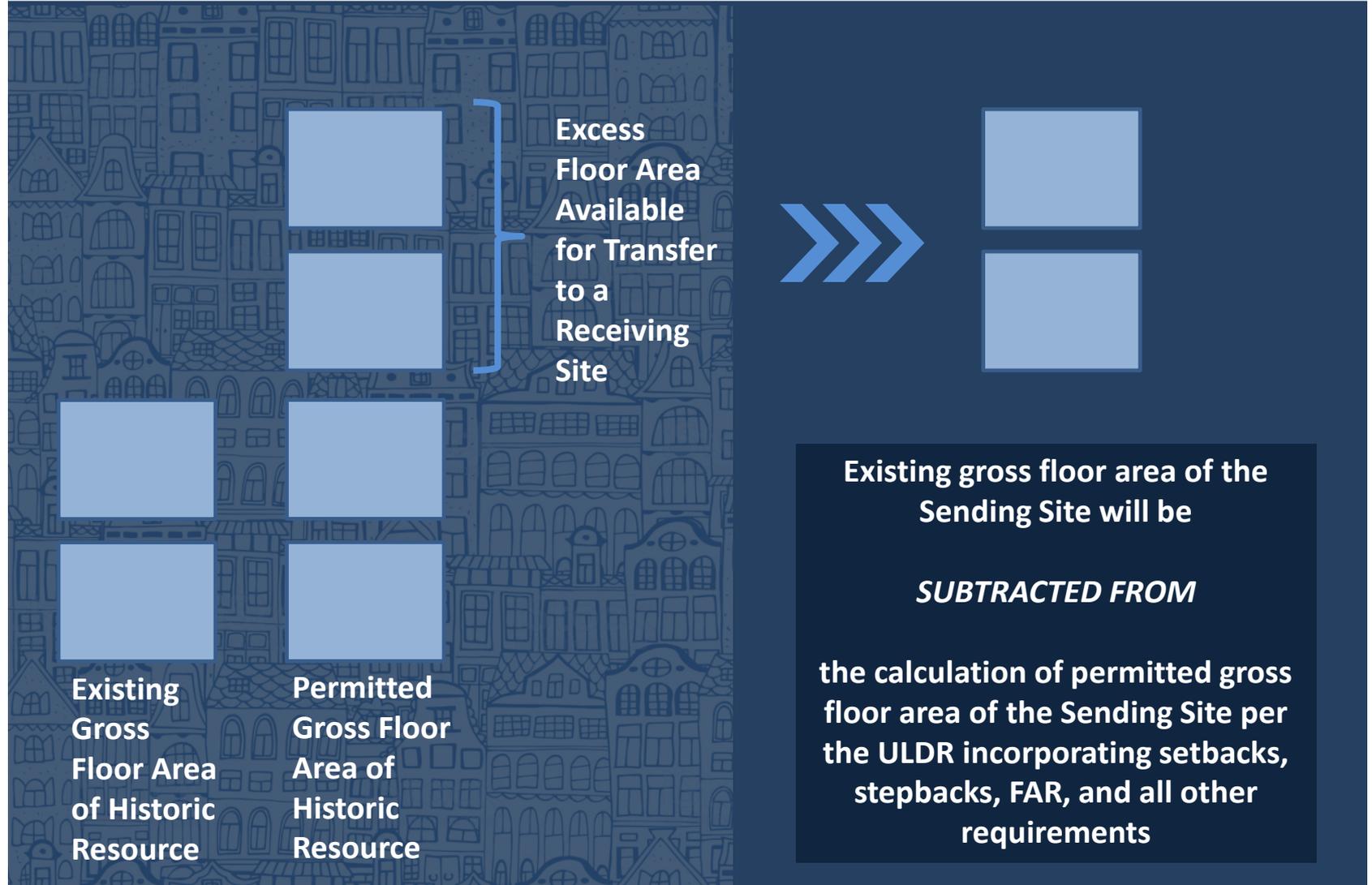
TRANSFER OF DEVELOPMENT RIGHTS (TDR)

CERTIFICATE OF ELIGIBILITY – CALCULATION OF AVAILABLE DENSITY



TRANSFER OF DEVELOPMENT RIGHTS (TDR)

CERTIFICATE OF ELIGIBILITY – CALCULATION OF AVAILABLE FLOOR AREA



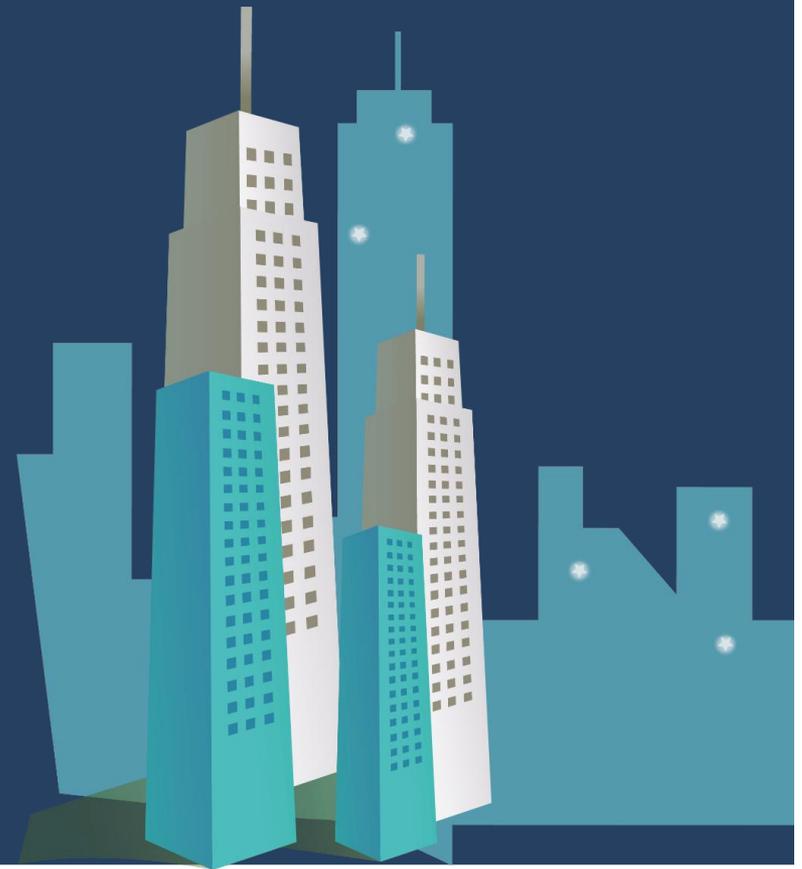
TRANSFER OF DEVELOPMENT RIGHTS (TDR)

DESIGNATED RECEIVING AREAS - DENSITY

For the purpose of a transfer of density (dwelling units), the following zoning districts are Receiving Areas:

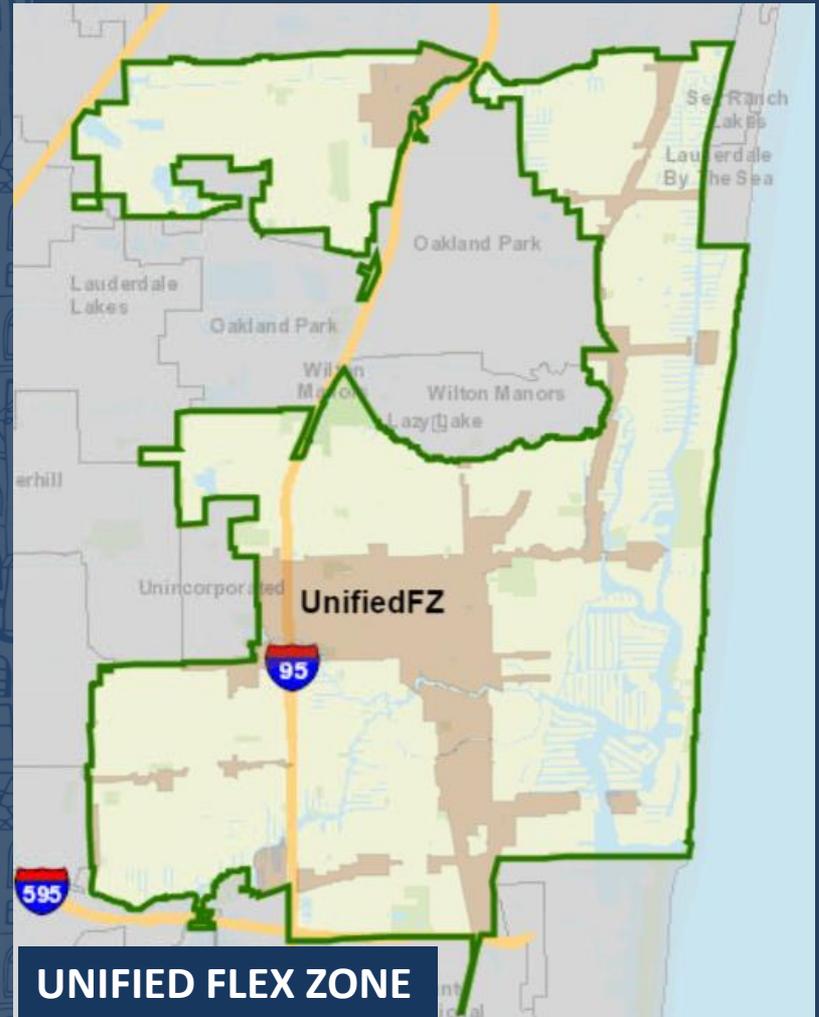
- Uptown Urban Village (UUV-NE, UUV-NW, and UUV-SE)
- Any lot of land located in a Unified Flex Zone.

Receiving sites are eligible to transfer up to an additional 10 dwelling units per acre and must maintain a minimum unit size of 400 square feet per dwelling unit



TRANSFER OF DEVELOPMENT RIGHTS (TDR)

DESIGNATED RECEIVING AREAS - DENSITY



TRANSFER OF DEVELOPMENT RIGHTS (TDR)

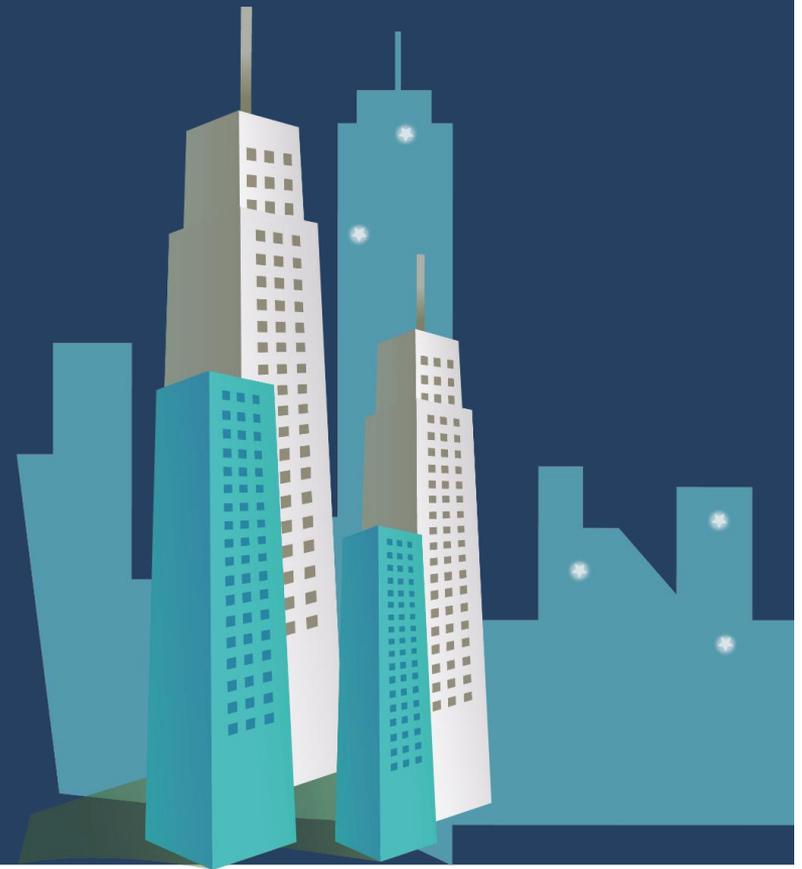
DESIGNATED RECEIVING AREAS

For the purpose of a transfer of non-residential floor area, the following zoning districts are Receiving Areas:

- RAC-UV
- RAC-RPO
- SRAC-SA(e); SRAC-SA(w)
- NWRAC-Mue
- NWRAC-Muw
- UUV-NE; UUV-NW; UUV-SE
- CB
- B-1; B-2; B-3

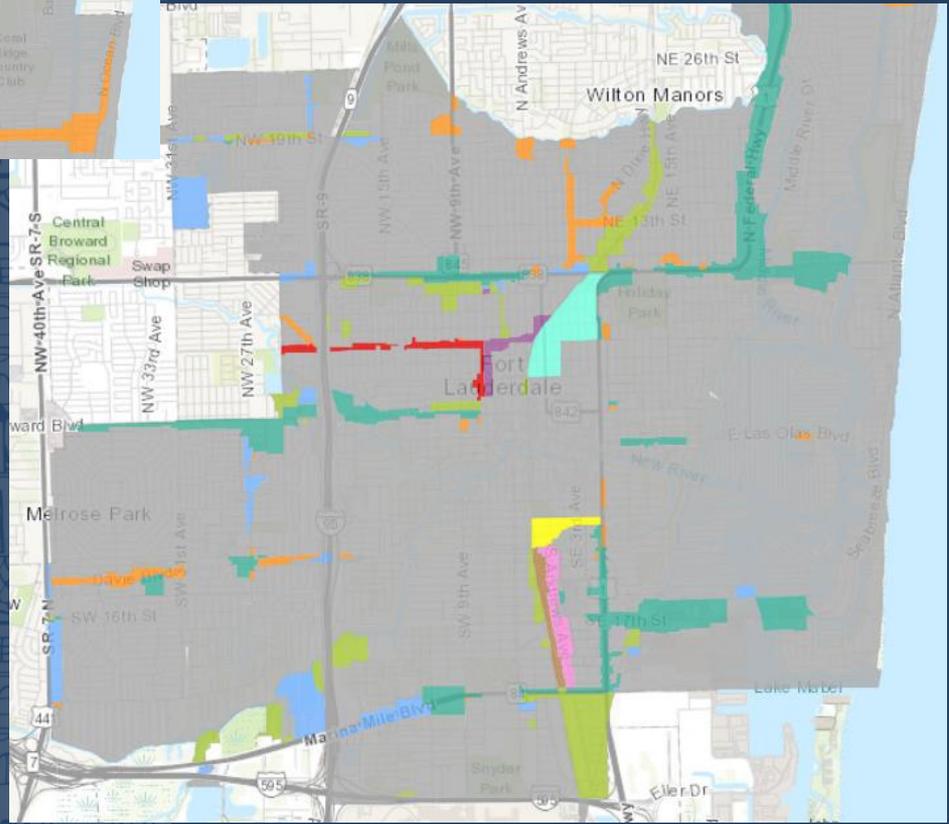
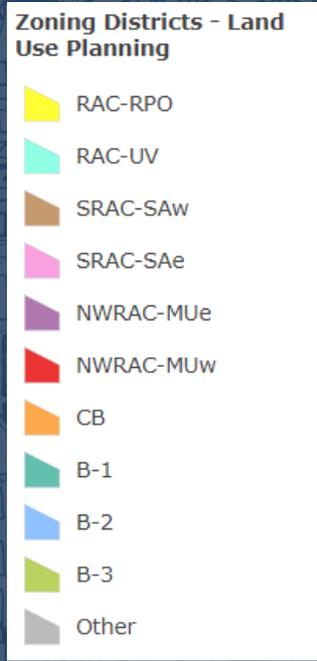
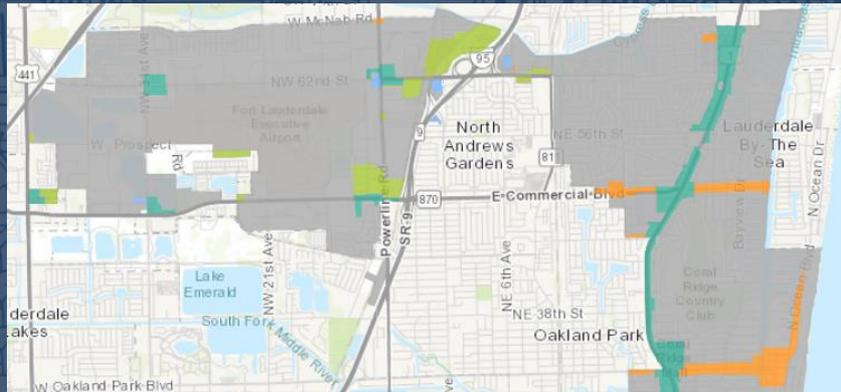
	<u>RAC-UV</u> <u>RAC-RPO</u>	<u>SRAC-SAe</u> ; <u>SRAC-SAw</u>	<u>NWRAC-</u> <u>Mue</u>	<u>NWRAC-</u> <u>Muw</u>	<u>UUV-NE</u> <u>UUV-NW</u> <u>UUV-SE</u>	<u>CB; B-1;</u> <u>B-2; B-3</u>
<u>Additional Height Allowable with TDR</u>	3 Stories (Note A)	25 feet	25 feet	12 feet	45 feet	12 feet

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



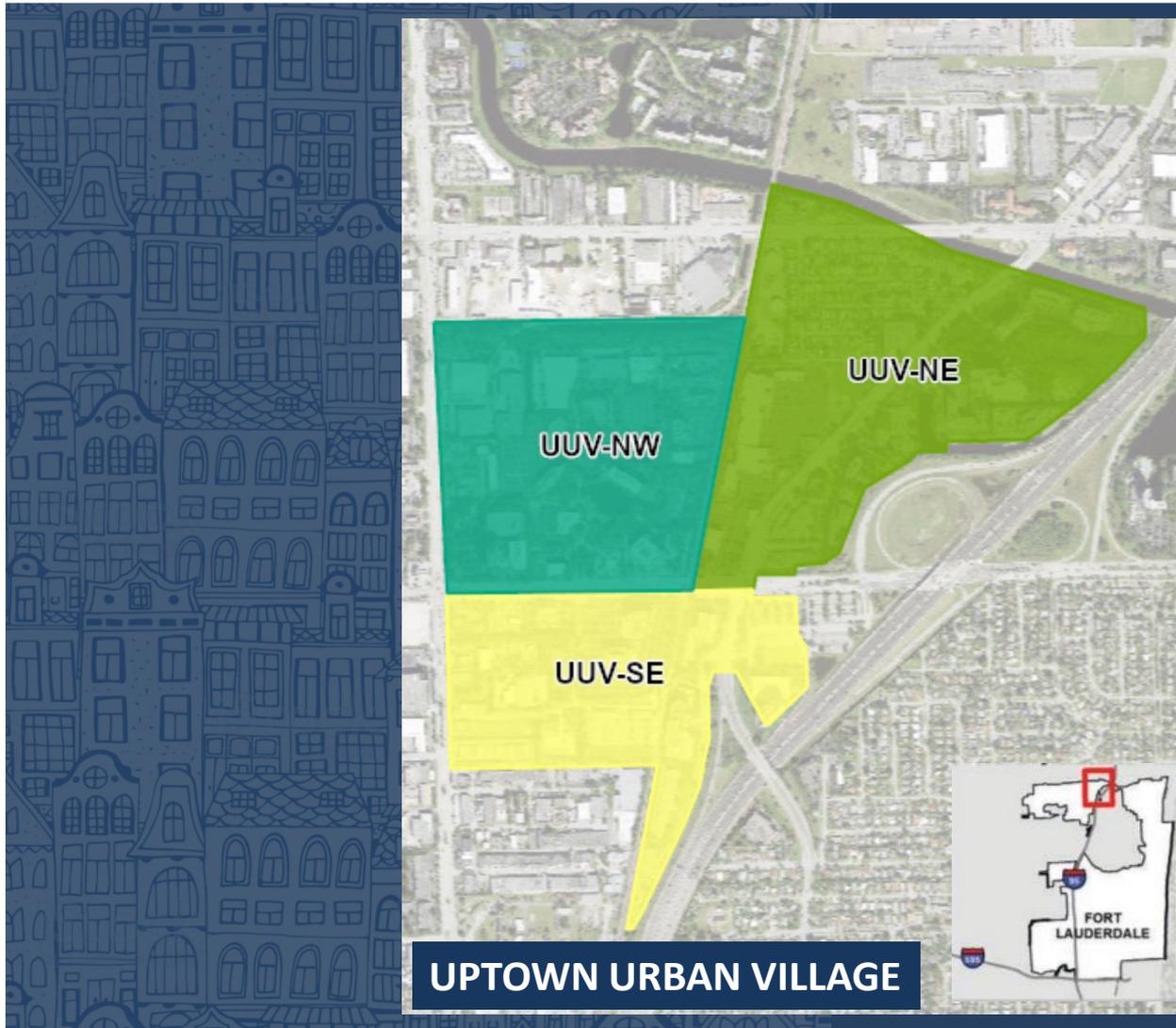
TRANSFER OF DEVELOPMENT RIGHTS (TDR)

DESIGNATED RECEIVING AREAS – FLOOR AREA



TRANSFER OF DEVELOPMENT RIGHTS (TDR)

DESIGNATED RECEIVING AREAS – FLOOR AREA



TRANSFER OF DEVELOPMENT RIGHTS (TDR)

DESIGNATED RECEIVING AREAS – MAXIMUM HEIGHTS

Zoning District	Maximum Height	Additional Height Allowable with TDR	Maximum Height with Conditional Use
RAC-UV	6 Stories (55 Feet)	3 Stories (35 Feet)	12 Stories (150 Feet)
RAC-RPO	6 Stories (55 Feet)	3 Stories (35 Feet)	12 Stories (150 Feet)
NWRAC-MUe	65 Feet	25 Feet	110-120 Feet
NWRAC-MUw	45 Feet	12 Feet	65 Feet
SRAC-SAe	110 Feet	25 Feet	150 Feet
SRAC-SAw	110 Feet	25 Feet	150 Feet
UUV	75 Feet	45 Feet	150 Feet

TRANSFER OF DEVELOPMENT RIGHTS (TDR)

CERTIFICATE OF TRANSFER

PROPERTY IN
DESIGNATED
SENDING
AREA

CERTIFICATE
OF
ELIGIBILITY

PROPERTY IN
DESIGNATED
RECEIVING
AREA

CERTIFICATE
OF
TRANSFER

1 Submission of Complete Application

Documents from both the sending site and the receiving site are required including a restrictive covenant, existing conditions report, and maintenance plan for the historic resource.

2 Completeness Review

3 Issuance of Certificate of Transfer

Certificates of Transfer and Restrictive Covenants must be recorded within (30) days of approval.

TRANSFER OF DEVELOPMENT RIGHTS (TDR)

EXAMPLES OF OTHER TDR PROGRAMS

City	Does it Work?	Why or Why Not?
Coral Gables	Yes	It has been successfully used in the past, for example to increase the floor-to-area ratio for the Alhambra Towers development, but as the condo market in South Florida declines, there is less and less demand.
City of Miami	Did work, now not effective	When this program was first established the amount paid to acquire TDRs was sufficiently high to make a substantial difference in the feasibility of major historic rehabilitation investment. Subsequent alternative programs providing development bonuses and increased density allowances have effectively ended the usability of the program.
Atlanta, Georgia	No	The city is hindered by the relatively high densities permitted by right under current zoning in Atlanta's Central Business District. The special permitting process is an added burden when allowances are already so high.

Excerpt from Miami-Dade County study, "Report II: Incentives, Tools, and Strategies Assessment." 2018.

TRANSFER OF DEVELOPMENT RIGHTS (TDR)



Existing Incentives for Historic Resources

Tax Exemptions

Ad Valorem Tax Exemption (10-year Tax Exemption)

The City of Fort Lauderdale's Unified Land Development Regulations (ULDR) provides for an Ad Valorem Tax Exemption under Section 47-24.11.E. for exemption for improvements to historic property (per F.S. § 196.1997). The city commission may authorize an ad valorem tax exemption of one hundred percent (100%) of the assessed value of all improvements to historic properties which result from the restoration, renovation, or rehabilitation of such properties.

The Ad Valorem Tax Exemption does not give property owners total exemption from all taxes. It is an exemption only on the amount that taxes would have increased due to the assessed value of the improvements made to a designated historic landmark. The exemption will only apply to those taxing authorities that agree to participate in the program (for example, the city portion or the county portion) and would not affect taxing authorities such as school districts or fire.

The applicant must apply before construction begins for the work performed to be counted towards the tax exemption. All applicants must complete a Pre-construction Application which consists of two (2) sections: Determination of Property Eligibility, and a Certificate of Appropriateness that includes a detailed description of all proposed improvements and photos of the existing conditions. Staff will review the application and present it before the Historic Preservation Board for approval. Applicants are also responsible for applying simultaneously with the Broward County Historic Preservation Program to take full advantage of this incentive. **The rehabilitation work must be done according to the Secretary of the Interior's Standards for Rehabilitation.**

City of Fort Lauderdale Tax Exemption for Historic Commercial Properties

The City of Fort Lauderdale's Unified Land Development Regulations (ULDR) provides a Tax Exemption under Section 47-24.11.F. for a fifty percent (50%) reduction in City property tax for designated historic resources that are used for commercial or non-profit purposes.

Broward County Tax Exemption for Historic Commercial Properties

The Broward County Code of Ordinances provides a Tax Exemption under Article VI, Section 31 1/2 -110 for a tax exemption of fifty percent of the assessed value of historic property used for commercial or certain nonprofit purposes.

To take advantage of either tax exemption for commercial properties, the property must comply with each and every provision of 196.1961 to be entitled to the ad valorem exemption and the tax exemption shall apply only to Broward County. Property must be used for commercial purposes or used by a not-for-profit organization under s. 501(c)(3). Property must be regularly open to the public (minimum of 40 hours per week, for 45 weeks per year, or an equivalent of 1,800 hours per year).



This reduction is applied by the Broward County Property Appraiser's (BCPA) Office on the annual tax bill for the property. An eligible property owner would need to complete an application with BCPA which would automatically renew each year.

Parking Reductions and Exemptions

The City of Fort Lauderdale's ULDR Section 47-20.3 – Parking Reductions and Exemptions, allows locally designated historic landmarks or contributing properties within a locally designated historic district to be eligible for the following parking reductions and exemptions:

- Properties utilized for adaptive reuse to provide one (1) off-street parking space per dwelling unit; and
- Exempt commercial structures utilized for adaptive reuse that are up to 2,500 gross square feet in area from off-street parking requirements. Requiring all commercial development greater than 2,500 gross square feet and utilized for adaptive reuse to provide sixty percent (60%) of the off-street parking space requirements in Section 47-20.2 of the ULDR; and
- Exemption of off-street parking requirements for commercial properties utilized for adaptive reuse and located within a Regional Activity Center ("RAC") Zoning Designation.

Waivers for Historic Preservation

The City of Fort Lauderdale's ULDR Section 47-24.11.G. allows for a historic preservation waiver that may be granted by the Historic Preservation Board (HPB) to promote and encourage the preservation and adaptive reuse of historic resources for the purpose of a reduction in setback requirements or distance separation requirements. As part of issuance of the waiver, the request must ensure that it will result in the preservation of a designated historic resource. The HPB does not have the authority to grant any waivers of density, Floor Area Ratio (FAR), or building height requirements.

Florida Building Code Historic Structures Exemptions

Under the Florida Building Code, Existing Building under Chapter 12 entitled Historic Buildings, it allows for certain exemptions or means to be taken into consideration to protect features and elements of historic buildings.

FEMA Historic Structure Exemptions

FEMA's National Flood Insurance Program (NFIP) gives relief to historic structures from the NFIP floodplain management requirements by providing an exemption from the NFIP elevation and flood proofing requirements. Further information is included within the Floodplain Management Bulletin: Historic Structures along with mitigation measures that can be implemented into historic structures and to provide protection to potential future flooding.



Benefits of Historic Preservation

- Recycling of community resources
- Restoration and rehabilitation of historic houses and commercial buildings, preserving the City's past
- Stabilization and improvement of property values in historic neighborhoods and older commercial areas
- Welcomes adaptive use and new construction in historic districts
- Creation of jobs for architects and skilled craftsmen in restoring historic buildings
- Stimulates economic revitalization and business opportunities in older commercial areas
- Protects resources through design guidelines and review
- Improves the local economy by promoting heritage tourism
- Provides financial assistance for eligible projects
- Stimulates additional tax revenues in revitalized neighborhoods and commercial areas
- Attracts other funding sources to popular community-based projects
- Provides a sense of place and focus for cultural activities
- Encourages investment in the historic core of communities
- Development community and civic pride
- Increases the choice of housing types available

For additional information contact:

Trisha Logan, Historic Preservation Planner, Historic Preservation Board Liaison
700 NW 19th Avenue, Fort Lauderdale, Florida 33311
P: 954-828-7101
E: tlogan@fortlauderdale.gov

Trisha Logan

From: Trisha Logan
Sent: Friday, October 30, 2020 12:07 PM
To: 'Colleen Lockwood'
Cc: Anthony Fajardo; Christopher Cooper; Ella Parker; Karlanne Grant
Subject: RE: [-EXTERNAL-] Re: Proposed Text Amendments for Transfer of Development Rights (TDR) Program

Good Afternoon, Colleen.

Following-up on the email below concerning the proposed Transfer of Development Rights (TDR) Ordinance, below is an update on its status. I am re-sending my previous email to you with the links below active.

At its October 21, 2020, the Planning and Zoning Board (PZB) reviewed the proposed Transfer of Development Rights (TDR) Ordinance and ultimately voted to defer the item until the November 18, 2020, PZB Meeting. The deferral was requested to allow for board members to have additional time to review the ordinance and for staff to address the following:

1. Reach out to additional cities to get feedback on what is and isn't working for their TDR programs.
2. To provide education about available incentives during the designation process including how a property owner can apply for and qualify for TDRs; and
3. To adjust the ordinance to allow for a historic designation to be revocable if TDRs are not approved; and

Multiple questions were asked and answered during the conversation with several that focused on how TDRs were approved and implemented into projects – and if they would require PZB approval (i.e. level of Site Plan review).

Materials from the October Planning and Zoning Board meeting are available [here](#) and once posted, the materials for the November meeting that will address the items listed above will be posted [here](#).

If you would like to discuss further, please let me know.
Regards,

Trisha Logan, AICP | Historic Preservation Planner | Historic Preservation Board Liaison
City of Fort Lauderdale | Urban Design and Planning Division
700 NW 19th Avenue | Fort Lauderdale FL 33311
P: (954) 828-7101 E: tlogan@fortlauderdale.gov



From: Trisha Logan <TLogan@fortlauderdale.gov>
Sent: Tuesday, July 21, 2020 3:07 PM
To: Colleen Lockwood <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: RE: [-EXTERNAL-] Re: Proposed Text Amendments for Transfer of Development Rights (TDR) Program

Good Afternoon, Colleen.

The Transfer of Development Rights (TDR) program is an entirely new section that is being proposed for implementation as a historic preservation incentive.

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 identification of potential incentives to enhance historic preservation efforts.

To date, several amendments related to this effort have been approved including key amendments to the Unified Land Development Regulations (ULDR) that streamline the historic application review and approval process, and several historic preservation incentives including an allowance for parking reductions and exemptions for adaptive reuse projects for historic resources, a waiver to promote and encourage preservation of historic resources, as well as a tax exemption for commercial properties.

Further information on all of these updates can be found on the Historic Preservation webpage: <https://www.fortlauderdale.gov/departments/sustainable-development/urban-design-and-planning/historic-preservation>

If you have any additional questions, please let me know.
Regards,

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

City of Fort Lauderdale | Urban Design and Planning Division

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From: Colleen Lockwood <colleenlockwood1@icloud.com>

Sent: Tuesday, July 21, 2020 2:36 PM

To: Trisha Logan <TLogan@fortlauderdale.gov>

Cc: Anthony Fajardo <AFajardo@fortlauderdale.gov>; Christopher Cooper <CCooper@fortlauderdale.gov>; Ella Parker <EParker@fortlauderdale.gov>; Karlanne Grant <KGrant@fortlauderdale.gov>

Subject: [-EXTERNAL-] Re: Proposed Text Amendments for Transfer of Development Rights (TDR) Program

Thank you Trisha.

For those of us without a lot of time to review the changes in detail, would it be possible for you to summarize in bullet point fashion the proposed text amendment **changes?**

In other words, what is different? Is all of this new? What prompted these changes?

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.

We will share the detail below and the summary above but we would benefit from a little bit more from you explaining why these changes are being made and what's new or different about them.

Many thanks, Colleen

On Jul 21, 2020, at 1:55 PM, Trisha Logan <TLogan@fortlauderdale.gov> wrote:

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,

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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.

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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,

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Trisha Logan

From: Trisha Logan
Sent: Friday, October 30, 2020 12:22 PM
To: R CLARKE
Cc: Christopher Cooper; Ella Parker
Subject: Proposed Transfer of Development Rights Program

Good Afternoon, Dr. Clarke.

Following-up on our last phone call concerning the proposed Transfer of Development Rights (TDR) Program, I would like to update you on its status.

At its October 21, 2020, the Planning and Zoning Board (PZB) reviewed the proposed Transfer of Development Rights (TDR) Ordinance and ultimately voted to defer the item until the November 18, 2020, PZB Meeting. The deferral was requested to allow for board members to have additional time to review the ordinance and for staff to address the following:

1. Reach out to additional cities to get feedback on what is and isn't working for their TDR programs.
2. To provide education about available incentives during the designation process including how a property owner can apply for and qualify for TDRs; and
3. To adjust the ordinance to allow for a historic designation to be revocable if TDRs are not approved; and

Multiple questions were asked and answered during the conversation with several that focused on how TDRs were approved and implemented into projects – and if they would require PZB approval (i.e. level of Site Plan review).

Materials from the October Planning and Zoning Board meeting are available [here](#) and once posted, the materials for the November meeting that will address the items listed above will be posted [here](#).

If you would like to discuss further, please let me know.
Regards,

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