

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2006 Legislative Session

Bill No. _____ CB-5-2006
 Chapter No. _____
 Proposed and Presented by Council Members Dernoga, Bland, Dean, Harrington & Dean
 Introduced by _____
 Co-Sponsors _____
 Date of Introduction _____

ZONING BILL

1 AN ORDINANCE concerning

2 Transfer of Development Rights

3 For the purpose of establishing a Transfer of Development Rights program in Prince George's
 4 County.

5 BY adding:

6 Sections 27-1901, 27-1902, 27-1903, 27-1904, 27-1910, 27-1911,
 7 27-1912, 27-1913, 27-1914, 27-1920, 27-1921, 27-1922, 27-1923,
 8 27-1924, 27-1925, 27-1926, 27-1940, 27-1941, 27-1942, 27-1943,
 9 The Zoning Ordinance of Prince George's County, Maryland,
 10 being also

11 SUBTITLE 27. ZONING.

12 The Prince George's County Code
 13 (2003 Edition, 2005 Supplement).

14 BY repealing and reenacting with amendments:

15 Sections 27-317, 27-425, 27-426, 27-427, 27-428, and
 16 27-441,

17 The Zoning Ordinance of Prince George's County, Maryland,
 18 being also

19 SUBTITLE 27. ZONING.

20 The Prince George's County Code

(2003 Edition, 2005 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, sitting as the District Council for that part of the Maryland-Washington Regional District in Prince George's County, Maryland, that Sections 27-1901, 27-1902, 27-1903, 27-1904, 27-1910, 27-1911, 27-1912, 27-1913, 27-1914, 27-1920, 27-1921, 27-1922, 27-1923, 27-1924, 27-1925, 27-1926, 27-1940, 27-1941, 27-1942, 27-1943 of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same is hereby added:

SUBTITLE 27. ZONING.

PART 19. TRANSFER OF DEVELOPMENT RIGHTS.

DIVISION 1. GENERAL.

Sec. 27-1901. Introduction.

It is the policy of the County that landowners subject to development restrictions in the Sending Districts designated in this Part should be provided regulatory incentives to permanently restrict such lands from development and to preserve sensitive natural resources. Md. Code Art. 28, § 8-101(b)(3) and Art. 66B, § 11.01 authorizes the County to establish a program for the Transfer Of Development Rights to encourage the preservation of natural resources and to facilitate orderly growth and development in the State. While such regulations may be legally imposed where they further a legitimate public purpose and are reasonable, the Transfer Of Development Rights provides a vehicle to enable the private market to allocate economic benefits to landowners in the restricted areas, thereby avoiding potential legal disputes between the landowners and the County. This Part establishes procedures for transferring densities from properties located in designated Sending Districts to properties located within designated Receiving Districts. At the request of the landowners in the Sending Districts and the Receiving Districts, the County may increase densities in the Receiving Districts and reduce densities in the Sending Districts.

The TDR Program is based on the theory of carrying capacity. In other words, a finite amount of development is permitted in the areas within the Sending and Receiving Districts. Furthermore, it lets the market decide the price. A Transfer Of Development Rights does not increase the total amount of development possible over the Sending Districts. Similarly, the use of TDRs to obtain density increments in Receiving Districts does not exceed the development

1 potential recommended in adopted and approved master plans.

2 **Sec. 27-1902. Purposes.**

3 The regulations in this Part are established for the following purposes:

4 (a) Implement the policies of the Prince George's County General Plan and the Green
5 Infrastructure Plan relating to the Rural Tier;

6 (b) Implement the policies of the Prince George's County General Plan relating to the
7 Developed Tier, including, but not limited to encouraging revitalization and appropriate infill;

8 (c) Preserve and enhance ecologically fragile and aesthetically valuable environments
9 of the County, including streams, stream valleys, floodplains, wetlands, groundwater, steep
10 slopes, woodlands, scenic vistas, and scenic corridors;

11 (d) Retain agricultural land and augment other local programs certified in accordance
12 with the Code of Maryland Regulations for the preservation of agricultural land;

13 (e) Maintain rural character;

14 (f) Allow large-lot estate residences;

15 (g) Limit nonagricultural uses;

16 (h) Protect landowners' equity in their land;

17 (i) Maintain the integrity of the rural transportation system; and

18 (j) Support development of a type and density, which will have minimal adverse
19 effects upon natural features and surrounding properties.

20 **Sec. 27-1903. Applicability.**

21 (a) This Part 19 applies to:

22 (1) Applications for preliminary plans of subdivision, comprehensive design plans,
23 record plats, zoning map amendments, building permits, or site plans in Designated Sending
24 Districts in the Rural Tier and other such properties as specifically identified by the District
25 Council through an approved Ordinance, Bill or Resolution.

26 (2) Applications for preliminary plans of subdivision, comprehensive design plans,
27 record plats, zoning map amendments, building permits, or site plans in designated Receiving
28 Districts within the Developing or Developed Tiers, and other such properties as specifically
29 identified by the District Council through an approved Ordinance, Bill or Resolution.

30 (b) Exemptions.

31 (1) This Part does not apply to the creation of lots through the conveyance to a son or

1 daughter or lineal descendant or antecedent in accordance with Section 24-107(c)3 of the
 2 Subdivision Regulations.

3 (2) The following properties are exempt from the requirements of the TDR Program to
 4 the extent described as follows:

5 **A. Westphalia Sector Plan and SMA Study Area**

6 All properties located within the study area for the Westphalia Sector Plan
 7 and SMA initiated by the District Council on January 17, 2006 are exempt from the
 8 requirements of the TDR Program, including those associated with density increases that may be
 9 obtained in the future.

10 **B. Minimum Lot Size Requirement of 25 Acres**

11 a. All properties in existence as of January 1, 2006, located within the
 12 Rural Tier, classified in the O-S Zone and ranging in size from 5 to 25 acres shall be permitted to
 13 develop one single-family detached dwelling irrespective of the 25-acre minimum lot size
 14 requirement.

15 **C.** For any property that was the subject of a detailed site plan for a cluster
 16 subdivision as of December 31, 2005, and was downzoned to the O-S Zoned and incorporated
 17 into the Rural Tier as part of the Bowie Master Plan And Sectional Map Amendment (SMA)
 18 Area, the property may be developed with a maximum of 10 single-family detached dwellings on
 19 lots at the minimum size of 40,000 square feet, in accordance with the provisions of the
 20 Conservation Subdivision Regulations. For each existing or proposed dwelling unit, one TDR
 21 shall be subtracted from the total number that would otherwise be allocated.

22 **Sec. 27-1904. Definitions.**

23 (a) In this Section, the following words and phrases have the meanings indicated:

24 **(1) Conservation Subdivisions:** Subdivisions characterized by common open
 25 space and clustered compact lots to protect farmland and/or natural resources, subject to the
 26 density allowed under current zoning and Section 27-445.11 of this Subtitle.

27 **(2) Development Right:** The potential for the improvement of a parcel of real
 28 property, measured in dwelling units that exists because of the zoning classification of the parcel.
 29 A "development right" is not an entitlement to the construction of dwelling units. However, it is
 30 a concept that measures increments of development that may be transferred from a Sending
 31 District or constructed in a Receiving District.

1 **(3) Sending District:** An area of land from which development rights may be
2 severed and transferred to properties in Receiving Districts.

3 **(4) Receiving District:** An area of land designated to receive development
4 rights transferred from Sending Districts.

5 **(5) TDR Allocation Rate:** The number of TDR's per acre, expressed as
6 theoretical dwelling units per acre that may be allocated or assigned to properties in Sending
7 Districts, based upon existing zoning and the allocation calculation methods provided in this
8 Part.

9 **(6) TDR Allocation Letter:** A written assessment issued by the Planning
10 Director, indicating the TDR Allocation Rates and calculation methods as applied to specific
11 properties within designated Sending Districts.

12 **(7) TDR Certificate:** A certificate issued by the Planning Director to the
13 owner(s) of record, stating the quantity of development rights allocated or assigned to specific
14 property in a Sending District. The certificate shall also indicate the extent to which the TDRs
15 are applied to specific portions of each property.

16 **(8) TDR Conversion Ratio:** A ratio indicating for each development right
17 purchased and transferred from a Sending District, the number and specific type of additional
18 dwelling units that may be developed in a Receiving District. For instance, if the purchase and
19 transfer of one development right from a Sending District enables the purchaser to develop two
20 units in the Receiving District, then the conversion ratio is 1:2.

21 **(9) Transfer of Development Rights (TDR):** The conveyance of development
22 rights by deed, or other legal instrument authorized by local law from property in a Sending
23 District to property in a Receiving District and the recordation of that conveyance and
24 appropriate preservation easements among the land records of Prince George's County,
25 Maryland.

26 **(10) TDR Program:** The combined provisions of Part 19, Divisions 1-4. **Secs.**
27 **27-1905 to 27-1909. Reserved.**

28 **DIVISION 2. ADMINISTRATION.**

29 **Sec. 27-1910. Planning Director Authority and Responsibility.**

30 **(a) The Planning Director shall administer the daily activities of the County's Transferable**
31 **Development Rights regulations.**

(b) The Planning Department shall function as the central clearing house for all TDR-related activities, including allocation assessments, the issuance, replacement, sale, use and extinguishment of TDR Certificates in conjunction with ongoing development review activities.

(c) Any person(s) holding title to a TDR Certificate or property owner(s) may appeal a decision of the Planning Director pursuant to this Part to the Planning Board.

Sec. 27-1911. Allocation Assessment.

(a) Applicability. This section applies to any application by a property owner in a designated Sending District for an allocation of Transferable Development Rights.

(b) Applications.

(1) Applications, filing requirements and instructions shall be provided by the Planning Director and available to the public at the office of the Prince George's County Planning Board.

(2) The forms and instructions shall be prepared in accordance with the directives of the District Council and the requirements of this Subtitle.

(3) If two or more properties are included in one application, they must be adjoining. Separate applications are required for each property if they are not in common ownership and adjoining. In this Section, the word "adjoining" shall include those properties that are separated only by a public right-of-way, streambed or similar geographic feature. Each property shall be evaluated to ensure that it is a legal parcel of land, pursuant to Subtitle 24.

(4) Applications shall include the following:

A. Typed application form, except for the signature(s) of the owner(s);

B. Metes and bounds survey of the subject property outlined in red, signed and sealed by a registered engineer;

C. Delineations and calculations for each of the land area characteristics listed in Section 27-1921(d); and

D. Verifiable documentation of current ownership, by recorded deed.

(5) In addition to the requirements noted above, the applicant(s) must provide any other data or explanatory material that the Planning Director determines is needed to assess the development potential of the subject property.

(c) Evaluation Criteria. Each application shall be evaluated to determine the number of transferable development rights to be allocated to the property. The number of Transferable

1 Development Rights allocated to the property shall be based solely upon the sending area TDR
 2 Allocation Rates and calculation methods provided by this Part.

3 (d) TDR Allocation Letter. After evaluating the application for conformance with the
 4 TDR Allocation Rates, the Planning Director shall issue a TDR Allocation Letter to the owner(s)
 5 of record. The letter shall indicate the number of TDRs to be issued for the subject property
 6 upon the recording of a properly executed preservation easement. The letter shall include the
 7 calculations used to determine the allocation.

8 **Sec. 27-1912. Issuance of TDR Certificate.**

9 (a) A TDR Certificate shall be issued to the owner(s) of record in exchange for the
 10 following documentation:

11 (1) A typewritten letter signed by the owner(s) requesting the TDR Certificate;

12 (2) An easement prepared and recorded in accordance with Section 27-1923 for the
 13 perpetual preservation of the property; and

14 (3) A 60-year title search, including a 20-year search of liens and judgments to ensure
 15 a free and clear title and the ability of the owner(s) to place a preservation easement on the
 16 property.

17 (b) Once the documents have been reviewed and approved for legal sufficiency, the TDR
 18 Certificate shall be issued.

19 **Sec. 27-1913. Re-Issuance of TDR Certificate.**

20 (a) Replacement TDR Certificates shall be issued in the following situations:

21 (1) Loss or destruction of the original TDR Certificate; and

22 (2) Complete or partial sale, or other assignment of the Transferable Development
 23 Right(s).

24 (b) The owner(s) shall file a request with the Planning Director for the replacement TDR
 25 Certificate(s) within 30 days of any of the events described in subsection (a).

26 **Sec. 27-1914. Tracking System.**

27 (a) Database. A computer database shall be used to monitor all activities of the TDR
 28 Program, including allocation assessments and the issuance, replacement, sale, use and
 29 extinguishment of TDR Certificates. The database shall be current and have the capability to:

30 (1) Identify TDR allocations for properties located within designated Sending
 31 Districts;

1 (2) Record the progression of TDR Certificates in conjunction with appropriate
 2 phases of the development review process; and

3 (3) Document TDR sales and the extinguishment of TDR Certificates as applied to
 4 the approval of final plats of subdivision or site plans, when relevant.

5 (b) Reporting. Beginning no later than January 31, 2007, the Planning Director shall
 6 provide annual status reports on the progress of the previous year's TDR Program to the District
 7 Council. Status reports shall be made more often if requested in writing by the Chairman of the
 8 District Council.

9 **Secs. 27-1915 to 27-1919. Reserved.**

10 **DIVISION 3. SENDING DISTRICT**

11 **Sec. 27-1920. Defined.**

12 The Sending District includes all properties classified in the O-S or R-A Zone and located
 13 within the Rural Tier, as defined in the 2002 General Plan as amended, and other such properties
 14 as specifically identified by the District Council through an approved Ordinance, Bill or
 15 Resolution.

16 **Sec. 27-1921. TDR Allocation.**

17 (a) Transferable Development Rights shall not be allocated to property when more than
 18 seventy percent (70%) of the land area contains the discounted land area characteristics listed in
 19 subsection (d) below.

20 (b) The surveyed acreage of property to be placed under a preservation easement shall be
 21 multiplied by the TDR Allocation Rate listed in the following table, based upon either:

22 (1) The zoning district in effect for the property as of April 1, 2006; or

23 (2) As otherwise specified for the exemptions described in Section 27-1903(b)(2)

24 (B).

<u>Zoning District</u>	<u>TDR Allocation Rate per Net Acre</u>	<u>x Minimum Lot Size</u>	<u>= TDRs Allocated per Lot</u>
<u>O-S</u>	<u>0.4</u>	<u>x 5 Acres</u>	<u>= 2</u>
<u>R-A</u>	<u>0.5</u>	<u>x 2 Acres</u>	<u>= 1</u>
<u>R-E</u>	<u>1.0</u>	<u>x 1 Acre</u>	<u>= 1</u>
<u>R-R</u>	<u>2.0</u>	<u>X .5 Acre</u>	<u>= 1</u>

(c) A development right does not authorize or prohibit development on the sending site.

(d) For purposes of this Section, a "net acre" means the total surveyed area of a property, minus the following land area characteristics:

(1) One hundred percent (100%) of:

A. Utility, railroad or street rights-of-way ten (10) feet wide or greater;

B. The 100-year floodplain, based upon the best information available at the time the TDR allocation assessment is requested;

C. Land currently subject to similar preservation or conservation easements; or

D. Publicly owned land.

(2) Fifty percent (50%) of the land area:

A. Previously used as a fill operation, surface mining or sand and gravel wet processing facility; or

B. Located within the Resource Conservation Overlay Zone of the Chesapeake Bay Critical Area.

(e) Notwithstanding any provision herein to the contrary, the District Council may designate properties, changed to a less dense zoning district after January 1, 2006, to be assigned development rights equal to the allocation rate listed in the table in subsection (b) above based on the zoning classification prior to the Sectional Map Amendment.

(1) Properties Downzoned as Part Of The Bowie Master Plan And Sectional Map Amendment (SMA) Area. Because the following properties have been downzoned and placed in the Rural Tier to promote agricultural and environmental preservation, and, in order to

1 promote the policies of the TDR Program, the District Council does not want to divest the
 2 property of value; therefore, these properties shall be allocated TDR's in accordance with the
 3 table in subsection (b) above based on the zoning classification prior to the Sectional Map
 4 Amendment. For any property downzoned to the O-S Zone and placed in the Rural Tier, that had
 5 previously been placed in a comprehensive design zone, TDRs shall be allocated on the basis of
 6 the number of the maximum number of lots approved on the Basic Plan for such property.

7 **A. Colts Neck Cluster (Comprising approximately 45 acres located on the**
 8 **southwest side of Race Track Road, Tax Map 29, Grid F2).**

9 **B. Horsepen Branch (Comprising several combined properties, located on**
 10 **the southwest side of Race Track Road, adjacent to the Horse Pen Branch of the Patuxent**
 11 **River, Tax Maps 28 & 29).**

12 **C. Bowie Race Track (Consisting of property located on the northeast side**
 13 **of Race Track Road, extending to the Patuxent River, Tax Map 30, Grid B3).**

14 (f) Computation of TDR Allocation.

15 (1) The number of development rights allocated to a parcel in the Sending District
 16 shall be computed as follows:

$$\mathbf{DR = (NA \times AR) - D}$$

17
 18 Where.....

19 DR = Development Rights

20 NA = Net Acres

21 AR = Allocation Rate

22 D = Existing and Proposed Dwelling Units

23
 24 (2) When the number of computed development rights contains a fraction that is one-
 25 half (1/2) or more, the fraction shall be rounded up to the nearest whole number. If the fraction
 26 is less than one-half (1/2), the fraction shall be reduced to the nearest whole number.

27 **Sec. 27-1922. Uses.**

28 (a) Notwithstanding other provisions in this Subtitle to the contrary, properties classified
 29 in the O-S, R-A, R-E or R-R Zone shall only be developed with the following uses:

(1) The following uses are permitted subject to approval of a Detailed Site Plan to ensure the development of an appropriate rural/environmental setting whenever the land area covered by buildings and other structures exceeds 20,000 square feet:

A. Agritourism Activities

B. Alternative Crops Farming

C. Animal Production, excluding confined animal feeding operations

D. Church or Other Place of Worship

E. Dwellings, Single- Family Detached, subject to the following:

a. In the R-R or R-E Zone, in accordance with the Conservation

Subdivision Regulations

b. In the R-A Zone when not subject to TDR easements, in accordance with the Conservation Subdivision Regulations

c. In the R-A Zone when subject to TDR easements, in accordance with Section 27-1925

d. In the O-S Zone, in accordance with Section 27-1925

F. Environmental or Agricultural Interpretative/Educational Programs

G. Farmers' Market

H. Firewood Sales

I. General Agricultural and Accessory Uses, including (1) The harvesting of woodlands, subject to a logging permit issued by DER; and (2) The raising of farm animals, crop production and the use of farm machinery, (May include stables, barns and the use of semi-trailers. However, slaughterhouses, fertilizer works, bone yards and plants for the reduction of animal matter are prohibited).

J. Public Buildings and Uses

K. Public Utility Uses or Structures

L. Wayside/Produce Stands

(2) The following uses are permitted, subject to special exception approval:

A. Antique Shop

B. Campground

C. Equestrian Conservation Subdivision

D. Golf Course (minimum 18 holes) Conservation Subdivision

E. Landscape Contractor

F. Adaptive Use of an Historic Site

G. Kennels, subject to the following:

(i) Minimum Lot of 10 Acres; and

(ii) Maximum Lot Coverage of 10 percent

H. Surface Mining of Sand or Gravel

I. Rural Entertainment Park

(b) In addition, to the required findings of Section 27-317, to approve a special exception use in accordance with this Part, the District Council shall also find that the layout and design of the proposed use serves the purposes of this Part and preserves or enhances the rural character of the Sending District.

(c) Except where superseded herein or by subsequently enacted legislation, permitted uses are subject to the requirements, footnotes and conditions found in Section 27-441, Table of Uses, for the same uses found in that table.

Sec. 27-1923. Easements.

(a) A preservation easement shall be recorded in the Land Records of Prince George's County for the area to be preserved, prior to the issuance of the TDR Certificate. The easement shall run with the land, shall be in full force and effect in perpetuity, and shall describe and include the following:

(1) The location and size of the preservation area;

(2) Existing improvements in the preservation area;

(3) Restrictions on future use and development in accordance with this Part;

(4) Provisions for maintenance and ownership of the preservation area;

(5) Responsibility for the enforcement of the easement; and

(6) Provisions for succession in the event that one of the parties to the easement agreement should be dissolved.

(b) In addition to the owner(s) of the property, there shall be an additional party to the easement, either:

(1) A land conservation organization or other entity, such as the Prince George's Soil Conservation District, that is:

A. A not-for-profit, tax-exempt organization;

1 B. Established to promote the preservation and protection of natural, historic or
 2 agricultural resources; and

3 C. Party to a cooperative agreement with the Maryland Environmental Trust or
 4 the Maryland Agriculture Land Preservation Foundation, committing to follow the provisions in
 5 any easement held; or,

6 (2) A local government agency, upon the demonstration by the applicant that all
 7 reasonable efforts have been exhausted to obtain an agreement with a private non-profit
 8 organization.

9 **Sec. 27-1924. Prohibited Transfers.**

10 Development rights shall not be transferred to other properties located within the Rural
 11 Tier, except for those required in conjunction with equestrian conservation subdivisions, golf
 12 course conservation subdivisions or a Rural Entertainment Park.

13 **Sec. 27-1925. Subdivision and Development Options.**

14 (a) Instead of transferring development rights, property owners may subdivide and develop
 15 their property with single-family detached dwelling units in accordance with the following
 16 densities and lot size requirements. However, the following provisions for the R-A Zone shall
 17 only apply when the owners voluntarily participate in the TDR program:

<u>Zoning District</u>	<u>Maximum Density Per Acre</u>	<u>Minimum Lot Size</u>
O-S	0.04	25 Acres
R-A	0.125	8 Acres

(b) Properties developed within the Rural Tier shall not be eligible for the density increment provisions of Section 27-1941, except for those required in conjunction with equestrian conservation subdivisions, golf course conservation subdivisions and Rural Entertainment Park.

Sec. 27-1926. Rural Tier Special Exceptions.

(a) Rural Entertainment Park.

A Rural Entertainment Park is permitted in the O-S Zone in the Rural Tier by Special Exception subject to the requirements in this Section. A Rural Entertainment Park shall be developed under the strict control of a comprehensive site plan to ensure compatibility with surrounding properties and the general neighborhood. A Rural Entertainment Park is specifically designated as a TDR Receiving District within the Rural Tier.

(1) Purposes.

(A) To promote entertainment and recreational opportunities for families and the elderly in rural areas of the County, where recreation and entertainment facilities are limited;

(B) To encourage and allow rurally-oriented entertainment and recreational uses, indoor and outdoor, at a single rural location, where such uses had been established before zoning regulations were effective;

(C) To provide a unique opportunity to revive a significant historic connection to Black History and the African American Heritage of Prince George's County, including a Black History Museum, Amphitheatre, Restaurant and Senior Citizen Housing.

(D) To promote and encourage in the Rural Tier entertainment facilities where restaurants, clubs, and recording and film studios are integrated into a single, well-planned mixed-use development;

(E) To promote all forms of entertainment, live and recorded, at a rural site sufficient to accommodate all of them;

(F) To promote a wide variety of entertainment and recreational uses at one rural location, which will serve as a focal point for the wider rural community;

(G) To allow establishment of entertainment and recreational facilities at a single place in the Rural Tier, to satisfy the need for those uses in the Rural Tier.

(2) **Requirements.**

(A) The subject property shall be in the Rural Tier and be a Receiving Area.

(B) The property shall contain 70 or more acres.

(C) The property shall have at least 1,000 feet of frontage on a State highway of sufficient capacity to accommodate traffic generated by the proposed uses. Highway capacity and adequacy are to be determined at time of preliminary plan review and confirmed in Detailed Site Plan review.

(3) **Uses.**

(A) Within a Rural Entertainment Park, the following uses are permitted:

(i) Open-air amphitheaters (under 10,000 seats), with supporting concession areas and food courts;

(ii) Sheltered assembly areas;

(iii) Picnic areas;

(iv) Children's recreation areas;

(v) Ball fields;

(vi) Golf driving ranges;

(vii) Historic vistas or viewing areas;

(viii) Campgrounds;

(ix) Indoor or outdoor horseback riding arenas or trails;

(x) Riding stables, with or without paddocks;

(xi) Cultural or arts centers;

(xii) Restaurants (not fast-food, and with no more than 5,000 square feet gross floor area);

(xiii) Hotels or motels (200 rooms or fewer);

(xiv) Studios (music recording or filmmaking);

(xv) Clubs (under 10,000 square feet GFA) for music entertainment.

(B) To serve principal uses in the preceding paragraph, accessory uses are

permitted, including without limitation on-site water or sewer treatment plant facilities.

(4) **Covenants.**

Covenants ensuring the perpetual maintenance of all recreational areas or facilities not dedicated to a public agency shall be filed among the Land Records, running in favor of the Commission.

Secs. 27-1927 to 27-1939. Reserved.

DIVISION 4. RECEIVING DISTRICTS.

Sec. 27-1940. Defined.

Receiving Districts include:

(a) The zoning districts designated in Section 27-1941 that are located in the Developing Tier as designated in the General Plan as amended and other such properties as specifically identified by the District Council through an approved Ordinance, Bill or Resolution;

(b) The zoning districts designated in Section 27-1942 that are located in the Developed Tier as designated in the General Plan as amended and other such properties as specifically identified by the District Council through an approved Ordinance, Bill or Resolution; and.

(c) Specific properties located within the Rural Tier that obtain approved Special Exceptions for Equestrian Conservation Subdivision, Golf Course Conservation Subdivision or Wilmer's Park Renaissance.

Sec. 27-1941. Developed and Developing Tiers – Mandatory TDRs and Density Increments:

(a) The actual TDR Certificates required for the approved density increases shall be provided to the Planning Board for authentication and extinguishment prior to approval of the Final Plat. If a Subdivision application is not required prior to development, then the TDR Certificates shall be provided in conjunction with the last application required to achieve the density increase, prior to the application for building permits.

(b) Density increases obtained after April 1, 2006 shall require Transferred Development Rights at the rates specified for the applications listed in the following table.

(c) However, in the Developed Tier and upon a majority vote by the District Council, TDR requirements may be waived for properties within designated Receiving Districts when the property is being developed exclusively with single-family detached dwellings.

TDRs Required for Density Increases

<u>(A)</u> <u>Application Type</u>	<u>(B)</u> <u>Percent of TDRs Required for</u> <u>Density Increases</u>
<u>Zoning Map Amendment Petitions for Euclidean,</u> <u>Comprehensive Design and Mixed-Use Zones.</u> <u>Comprehensive Design or Specific Design Plans</u> <u>Conceptual or Detailed Site Plans</u> <u>Conventional or Conservation Design Preliminary Plans</u> <u>of Subdivision</u> <u>Final Plats</u>	<u>50%</u>
<u>Non-specified Special Exception Uses</u>	<u>50% of Approved Density in Excess</u> <u>of the Density Allowed by Existing</u> <u>Zoning</u>
<u>Hotel or Motel Special Exception Use</u>	<u>25% of Approved Density in Excess</u> <u>of the Density Allowed by Existing</u> <u>Zoning</u>
<u>All Applications Within Designated Transit District or</u> <u>Development District Overlay Zones</u>	<u>15%</u>

Sec. 27-1942. Schedule of TDR Conversion Ratios in the Developed and Developing Tiers.

The TDR Conversion Ratios for zoning districts and special exception uses designated in Sections 27-1941 and 27-1942 are as follows:

TDR Conversion Ratios for TDR Receiving Districts

<u>(A)</u> <u>Zoning District or Special Exception Use</u>	<u>(B)</u> <u>TDR Conversion Ratios</u> <u>(Each development right transferred,</u> <u>converts to the number and type of</u> <u>dwelling units awarded)</u>
<u>All Zones and Special Exception Uses,</u> <u>Unless Otherwise Specified</u>	<u>1:1 for Single-family Detached</u> <u>1:2 for Townhouses</u> <u>1:1.5 for Multifamily</u>
<u>Hotel or Motel as a Special Exception Use</u>	<u>1:1 per Guest Room</u>

Sec. 27-1943. Woodland Conservation and Off-Site Mitigation.

(a) Any applicant may satisfy requirements to provide off-site Woodland mitigation through the purchase of transferable development rights. An applicant shall receive Woodland Conservation credits in exchange for the number of development rights purchased as indicated in the following table:

TDR Conversion Ratios for Woodland Conservation Credits

<u>(A)</u> <u>Zoning District</u>	<u>(B)</u> <u>Conversion Ratios</u> <u>(TDRs to Acres of Woodland</u> <u>Conservation Credits)</u>
O-S Zone	1:5 for all development
R-A Zone	1:2 for all development
R-E Zone	1:1 for all development
R-R Zone	1:1/2 for all development

(c) However, the development rights purchased and used to satisfy off-site Woodland mitigation requirements shall not be used in conjunction with any development project to obtain additional density. Furthermore, prior to the Planning Board's approval of the applicant's off-site mitigation proposal in accordance with the Woodland Conservation Manual, the applicant shall surrender the actual TDR Certificates for authentication and extinguishment.

Secs. 27-1944 to 27-1949. Reserved.

SECTION 2. BE IT FURTHER ENACTED by the County Council of Prince George's County, Maryland, sitting as the District Council for that part of the Maryland-Washington Regional District in Prince George's County, Maryland, that Section 27-107.01 of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same is hereby repealed and reenacted with the following amendments:

SUBTITLE 27. ZONING.

PART 2. GENERAL.

DIVISION 1. DEFINITIONS.

Sec. 27-107.01. Definitions.

(a) Terms in the Zoning Ordinance are defined as follows:

* * * * *

(9.1) Agritourism Activities: A commercial enterprise that is located on a working farm, and related to the activities on that farm, intended to attract tourists and provide supplemental income for the farm owner. Agritourism uses include, but are not limited to: fishing, hunting, wildlife study, horseback riding, wine tasting, harvest festivals, barn dances, farm stays, roadside stands, farmer's markets, u-pick or pick-your-own operations, rent-a-tree operations, corn mazes, corporate retreats, farm stays, ranch stays, educational classes, and tours that primarily involve the study of agriculture or engaging in agricultural activities.

* * * * *

(12.2) Alternative Crops Farming: the use of land for agricultural operations that include any of the following:

(A) Ethnic and Specialty Produce: the production of specialty crops including alternative and specialty and ethnic vegetables, unique fruits, cut and potted flowers, annual bedding plants, and specialty herbs.

1 **(B) Food for Medicine (Nutraceuticals):** growing crops or raw materials that
 2 provide medicinal or health benefits, including the prevention and treatment of disease. A
 3 nutraceutical may be a naturally nutrient-rich or medicinally active food, such as garlic or
 4 soybeans, or it may be a specific component of a food, such as the omega-3 fish oil that can be
 5 derived from salmon and other cold-water fish.

6 **(C) Specialty Animals:** the raising of specialty animals including beefalo,
 7 rabbits, sheep and goats, ratites, deer, quail and camelids.

8 **(D) Vegetable farming or growing services.** Establishments that grow root and
 9 tuber crops (except peanuts) or edible plants, or that produce root and tuber or edible plant seeds,
 10 by growing the plants or seeds in open fields. Crops may include melons, sugar beets, potatoes,
 11 and leafy vegetables. These establishments may include farms, orchards, groves, greenhouses,
 12 and nurseries that are primarily engaged in growing crops, plants, vines, or trees and their seeds
 13 for the crops listed in this subsection.

14 **(E) Organic Farm:** An establishment that raises crops without using synthetic
 15 chemicals, and that is certified by the Maryland Department of Agriculture, Food Quality
 16 Assurance Division, Organic Certification Program.

17 **(F) Noncitrus Fruit and Tree Nut Farming:** Establishments that are primarily
 18 engaged in one or more of the following: (1) growing noncitrus fruits (e.g., apples, grapes,
 19 berries, peaches); (2) growing tree nuts (e.g., pecans, almonds, pistachios); or (3) growing a
 20 combination of fruit(s) and tree nut(s) with no one fruit (or family of fruit) or family of tree nuts
 21 accounting for one-half of the establishment's agriculture production.

22 **(G) Grape Vineyards:** Establishments that are primarily engaged in growing
 23 grapes.

24 **(14.2) Animal Production:** Establishments that raise or fatten animals for the sale
 25 of animals or animal products, including ranches, farms, and feedlots primarily engaged in
 26 keeping, grazing, breeding, or feeding animals. These animals are kept for the products they
 27 produce or for eventual sale. Animal Production includes the following uses:

28 **(A) Beef Cattle Ranching and Farming, including Feedlots:** Establishments
 29 that are primarily engaged in raising cattle (including cattle for dairy herd replacements), or
 30 feeding cattle for fattening.

(B) Dairy Cattle and Milk Production: establishments that are primarily engaged in milking dairy cattle.

(C) Hog and Pig Farming: Establishments that are primarily engaged in raising hogs and pigs. These establishments may include farming activities, such as breeding, farrowing, and the raising of weanling pigs, feeder pigs, or market size hogs.

(D) Poultry and Egg Production: establishments that are primarily engaged in breeding, hatching, and raising poultry for meat or egg production.

(E) Sheep and Goat Farming: establishments primarily engaged in raising sheep, lambs, and goats, or feeding lambs for fattening.

(F) Animal Aquaculture: establishments that are primarily engaged in the farm raising of finfish, shellfish, or any other kind of animal aquaculture. These establishments intervene in the rearing process to enhance production, such as holding in captivity, regular stocking, feeding, and protecting from predators, and includes catfish, goldfish, tropical fish, minnows and hatching fish of any kind.

(G) Apiculture: establishments that are primarily engaged in raising bees. These establishments may collect and gather honey; and/or sell queen bees, packages of bees, royal jelly, bees' wax, propolis, venom, and/or other bee products.

(H) Horses and Other Equine Production: establishments that are primarily engaged in raising or boarding horses, mules, donkeys, and other equines.

(I) This does not include Confined Animal Feeding Operations defined as, “the concentrated feeding or holding of animals or poultry in buildings, pens or lots where the surface has been prepared to support animals in wet weather or where the concentration of animals has destroyed the vegetative cover and the natural filtrative capacity of the soil for an area exceeding 10 percent of the net lot area.

* * * * *

SECTION 3. BE IT FURTHER ENACTED by the County Council of Prince George's County, Maryland, sitting as the District Council for that part of the Maryland-Washington Regional District in Prince George's County, Maryland, that Section 27-317 of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same is hereby repealed and reenacted with the following amendments:

SUBTITLE 27. ZONING.

PART 4. SPECIAL EXCEPTIONS.

DIVISION 1. ADMINISTRATIVE PROCEDURES.

SUBDIVISION 9. SPECIAL EXCEPTION APPROVAL.

Sec. 27-317. Required findings.

(a) A Special Exception may be approved if:

(1) The proposed use and site plan are in harmony with the purpose of this Subtitle;

(2) The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle;

(3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan;

(4) The proposed use will not adversely affect the health, safety, or welfare of residents or workers in the area;

(5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood; and

(6) The proposed site plan is in conformance with an approved Tree Conservation Plan.

(b) To approve a special exception use in the Rural Tier, in addition to the required findings of subsection (a) above, the District Council shall find that the layout and design of the proposed use serves the purposes of Part 19 and preserves or enhances the area's rural character.

SECTION 4. BE IT FURTHER ENACTED by the County Council of Prince George's County, Maryland, sitting as the District Council for that part of the Maryland-Washington Regional District in Prince George's County, Maryland, that Section 27-425 of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same is hereby repealed and reenacted with the following amendments:

SUBTITLE 27. ZONING.

PART 5. RESIDENTIAL ZONES.

DIVISION 2. SPECIFIC RESIDENTIAL ZONES.

Sec. 27-425. O-S Zone (Open Space).

* * * * *

(b) Uses.

(1) The uses allowed in the O-S Zone are as provided for in the Table of Uses (Division 3 of this Part), except as modified by Part 19, Section 27-1922.

(c) Regulations.

(1) Additional regulations concerning the location, size, and other provisions for all buildings and structures in the O-S Zone are as provided for in Divisions 1 and 5 of this Part, the Regulations Tables (Division 4 of this Part), General (Part 2), Off-Street Parking and Loading (Part 11), Signs (Part 12), [and] the Landscape Manual, and Transfer of Development Rights (Part 19).

SECTION 5. BE IT FURTHER ENACTED by the County Council of Prince George's County, Maryland, sitting as the District Council for that part of the Maryland-Washington Regional District in Prince George's County, Maryland, that Section 27-426 of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same is hereby repealed and reenacted with the following amendments:

SUBTITLE 27. ZONING.

PART 5. RESIDENTIAL ZONES.

DIVISION 2. SPECIFIC RESIDENTIAL ZONES.

Sec. 27-426. R-A Zone (Residential-Agricultural).

* * * * *

(b) Uses.

(1) The uses allowed in the R-A Zone are as provided for in the Table of Uses (Division 3 of this Part), except as modified by Part 19, Section 27-1922.

(c) Regulations.

(1) Additional regulations concerning the location, size, and other provisions for all buildings and structures in the R-A Zone are as provided for in Divisions 1 and 5 of this Part, the Regulations Tables (Division 4 of this Part), General (Part 2), Off-Street Parking and Loading (Part 11), Signs (Part 12), [and] the Landscape Manual, and Transfer of Development Rights (Part 19).

SECTION 6. BE IT FURTHER ENACTED by the County Council of Prince George's County, Maryland, sitting as the District Council for that part of the Maryland-Washington Regional District in Prince George's County, Maryland, that Section 27-427 of the Zoning

Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same is hereby repealed and reenacted with the following amendments:

SUBTITLE 27. ZONING.

PART 5. RESIDENTIAL ZONES.

DIVISION 2. SPECIFIC RESIDENTIAL ZONES.

Sec. 27-427. R-E Zone (Residential-Estate).

* * * * *

(b) Uses.

(1) The uses allowed in the R-E Zone are as provided for in the Table of Uses (Division 3 of this Part), except as modified by Part 19, Section 27-1922.

(c) Regulations.

(1) Additional regulations concerning the location, size, and other provisions for all buildings and structures in the R-E Zone are as provided for in Divisions 1 and 5 of this Part, the Regulations Tables (Division 4 of this Part), General (Part 2), Off-Street Parking and Loading (Part 11), Signs (Part 12), [and] the Landscape Manual, and Transfer of Development Rights (Part 19).

SECTION 7. BE IT FURTHER ENACTED by the County Council of Prince George's County, Maryland, sitting as the District Council for that part of the Maryland-Washington Regional District in Prince George's County, Maryland, that Section 27-428 of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same is hereby repealed and reenacted with the following amendments:

SUBTITLE 27. ZONING.

PART 5. RESIDENTIAL ZONES.

DIVISION 2. SPECIFIC RESIDENTIAL ZONES.

Sec. 27-428. R-R Zone (Rural Residential).

* * * * *

(b) Uses.

(1) The uses allowed in the R-R Zone are as provided for in the Table of Uses (Division 3 of this Part), except as modified by Part 19, Section 27-1922.

(c) Regulations.

(1) Additional regulations concerning the location, size, and other provisions for all buildings and structures in the R-R Zone are as provided for in Divisions 1 and 5 of this Part, the Regulations Tables (Division 4 of this Part), General (Part 2), Off-Street Parking and Loading (Part 11), Signs (Part 12), [and] the Landscape Manual, and Transfer of Development Rights (Part 19).

SECTION 8. BE IT FURTHER ENACTED by the County Council of Prince George's County, Maryland, sitting as the District Council for that part of the Maryland-Washington Regional District in Prince George's County, Maryland, that Section 27-441 of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same is hereby repealed and reenacted with the following amendments:

SUBTITLE 27. ZONING.

PART 5. RESIDENTIAL ZONES.

DIVISION 3. USES PERMITTED.

Sec. 27-441. Uses permitted.

* * * * *

(b) Properties located within the Rural Tier and classified in the O-S, R-A, R-E, or R-R zoning districts shall only be developed in accordance with the uses permitted in Section 27-1922, not by the following Table of Uses for Residential Zones contained in Section 27-441(c).

(c)[(b)] TABLE OF USES

* * * * *

SECTION 9. BE IT FURTHER ENACTED that if any sentence, clause, section, provision, or part of this Act is held illegal, invalid, unconstitutional, or unenforceable, such illegality, invalidity, unconstitutionality, or unenforceability shall not affect or impair any of the remaining sentences, clauses, sections, provisions, or parts of the Act. It is hereby declared to be the intent of the District Council that this Act would have been adopted as if such illegal, invalid, unconstitutional, or unenforceable sentence, clause, section, provision, or part had not been included.

SECTION 10. BE IT FURTHER ENACTED that the District Council finds the TDR Allocation Rates and TDR Conversion Ratios are critical elements in the success of the TDR Program. Accordingly, the TDR Allocation Rates and TDR Conversion Ratios are based upon a

market study that was used to prepare this ordinance, a public participation program that involved key stakeholders from the development community, real estate professionals, County residents, the judgment of professional staff, planning consultants and legal consultants. In recognition that these rates and ratios must be kept current with local real estate market conditions, the Council Chairman may request periodic updates to the TDR market study. The updates shall contain specific recommendations for adjusting the TDR Allocation Rates and TDR Conversion Ratios to: (1) Provide adequate economic incentives for property owners in designated Sending Districts to participate in the program; and (2) Provide adequate incentives for the continued use of TDRs in conjunction with development proposals in designated Receiving Districts.

* * * * *

SECTION 11. BE IT FURTHER ENACTED that this Ordinance shall take effect on the date of its adoption.

Adopted this ____ day of _____, 2006.

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

BY: _____
Thomas E. Dernoga
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.