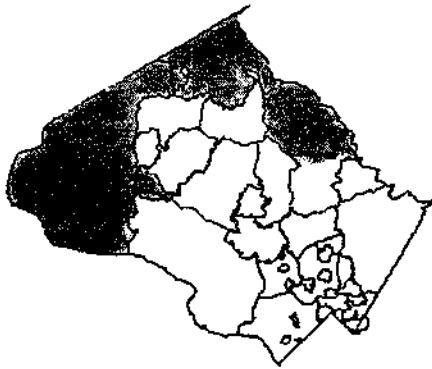




resist development pressure by allowing for the sale of the excess development rights instead of the land itself, thereby helping to preserve the farming activity and rural character.

"Receiving areas" are those areas to which development rights are transferred and in which density may be increased only through purchase of TDR's. A developer must purchase development rights from a farmland owner in the *Agricultural Reserve* area or from anyone already owning development rights (including TDR brokers). The additional units allowed in the receiving zone are transferred away from the *Agricultural Reserve*. The TDR program shifts them to receiving areas designated in Approved and Adopted Area Master Plans suitable for higher density.



SENDING AREAS

14. *How Are Development Rights Transferred?*

First, the farmland owner sells his rights or gives an option to a developer (or another individual interested in purchasing the development rights) who wants to develop land in a receiving area. The developer then files a preliminary plan of subdivision for the property with the Montgomery County Planning Board, using at least two-thirds of the possible development rights transferable to that property in accordance with a specific designation on an Approved and Adopted Area Master Plan. Once the preliminary plan is approved, the developer files a site plan. Following site plan approval, the developer prepares a record plat and submits it to the Montgomery County Planning Board along with proof of TDR ownership. A protective easement on the farmland in the sending area is prepared which limits the development potential of the property to the number of rights retained. This protective easement is conveyed to the County and filed among the land records prior to recordation of the plat for the receiving area.



15. *How Are Development Rights Valued?*

The Montgomery County government created the TDR market by determining the sending areas, the rate of transfer, and the receiving areas. However, the prices for TDR's are set in the private market, without government involvement; established between buyer and seller. The value of TDR's is related to the ratio between sending and receiving areas, and an excess of receiving areas is necessary in order for the system to work properly.

16. *Can TDR's Be Recaptured?*

No. Whenever TDR's are sold, they are legally created and permanently removed (or severed) from that particular property described in the easement. This insures that the land from which the development rights are sold can be used or sold only at its agricultural value. This can permit farmland to be bought at a relatively reasonable price, thereby helping new farmers establish a land base or current farmers to expand production capability.

17. *Must A Farmland Owner Sell All Of The Development Rights From The Farmland?*

No, the owner can sell as many or few development rights as he wishes. However, every dwelling on the farm or anticipated in the future by means of an approved subdivision plan will require one TDR to be retained. If the owner chooses, the development rights can be retained in the estate for future generations.

18. *Once Development Rights Are Sold, Is The Property's Development Potential Reduced Accordingly?*

The development potential of the land is set by the RDT Zone at one dwelling per 25 acres. The density may be further reduced if the "development TDR's" are sold that represent building to that potential.

19. *May The Farmland Owner Purchase Development Rights From Someone Else And Then Develop The Property At A Higher Density Than In The RDT Zone?*

No, the RDT Zone is not a receiving area.

20. *If A Farmland Owner Sells Land For Public Use, May The Development Rights Either Be Sold Or Retained?*

In almost all cases the property owner legally creates the TDR's before



the property is transferred. This allows the owner to sell the land but hold the TDR's separately for as long as he or she wishes before selling them. There have been very few exceptions to this practice.

21. *What Is The Long-Term Development Potential Once The Development Rights Are Sold?*

The Zoning Ordinance, in Section 59-C-9.3, lists a number of uses that are either Permitted (P) or may be obtained through the Special Exception Application Process (SE) and the property owner may pursue these uses whether or not farming is continued.

22. *How Are Properties Of Less Than 25 Acres Affected?*

All lots smaller than 25 acres, recorded or approved for recordation prior to the enactment of the Sectional Map Amendment, are considered exempt from the development standards of the zone and are regulated by prior zoning and they are still accorded 1 TDR for each 5 acres. However, construction of a dwelling on a 10-acre lot or larger, recorded prior to the enactment of the Sectional Map Amendment, will reduce the total available TDR's by one. Any further development beyond a single home site must be in accordance with the regulations of the RDT Zone.

23. *What Happens To Properties In The Agricultural Reserve Which Do Not Conform To The Provisions Of The RDT Zone?*

Prior to the enactment of the Rural Density Transfer Zone and Rural Cluster Zone, buildable lots were created in accordance with the regulations of the prior Rural Zone. Rather than making these lots unbuildable by the new zones, the old lot is "grandfathered" and can continue indefinitely, governed by the laws under which it was originally established. Thus, the law allows any lot recorded, approved for recordation, or created by deed before January 6, 1981 (enactment date of Sectional Map Amendment), to be exempt from the provisions of the Rural Density Transfer Zone if it was less than 25 acres, and from the provisions of the Rural Cluster Zone if it was less than five acres. No further subdivision of these lots is allowed. However, the final exemption, allowed in both zones, is the creation of one lot only for the child, or spouse of child, of a property owner having title to the property on or before January 6, 1981 (date of Sectional Map Amendment).