A Transfer of Development Rights Plan for Nelson County

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Spring; 2008
A Transfer of Development Rights Plan for Nelson County Virginia

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Executive Summary

Nelson County is a rural county that contains a vast amount of scenic open spaces, which contribute significantly to the local economy by attracting millions of tourists annually. Implementing a county-wide TDR program would allow Nelson County to protect these scenic open spaces by directing development to areas of the County that have the infrastructure needed to accommodate future development.

Transfer of Development of Development Rights programs (TDR) have been used by many jurisdictions across the nation in efforts to preserve valuable land-based community assets. TDR programs protect various elements by limiting development in the sending areas and directing growth to receiving areas that are better suited to handle future development. Land owners who deed restrict their property are compensated for this action by selling their development rights to developers who purchase these credits to build at increased densities in designated receiving areas.

This plan recommends that Nelson County implement a mandatory TDR program that limits development in the viewshed from the Afton Mountain overlook of the Blue Ridge Parkway. Development rights severed from sending area parcels, located in the Afton Mountain viewshed, should be directed to the recommended receiving area just south of Lovingston.
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Introduction

This plan has been created for the Nelson County Planning Department and fulfills the Studio II requirement needed to complete the Master of Urban and Regional Planning program at Virginia Commonwealth University. Nelson County requested a plan that focuses on preserving a variety of open spaces that are integral to the economic structure and rural character of the County. Transfer of Development Rights (TDR) programs have been implemented in other communities across the United States, in efforts to preserve valuable land-based community assets. This plan will provide Nelson County with recommendations needed to integrate a TDR program into the local planning process.

The first section of this plan provides an existing conditions analysis for Nelson County and contains information useful for determining various elements of a countywide TDR program. The existing conditions section of this plan provides information depicting the demographic, environmental and economic characteristics of Nelson County. This section also provides the location of municipal infrastructure and real estate data needed to determine the location of sending and receiving areas of the TDR program.

Secondly, this plan provides an introduction to the TDR planning concept. As the TDR concept is not currently utilized by any municipalities within the Commonwealth of Virginia, many people, including planners, may be unfamiliar with this planning concept. The second section of this plan provides background information and a basic overview of the mechanisms and processes involved with successful TDR programs.

The third section of this plan provides recommendations and implementation steps for a countywide Nelson County TDR program. This section identifies potential sending and receiving areas as well as changes to the current zoning ordinance that are needed to implement a successful TDR program. Lastly, this section provides suggestions for administering the TDR program and includes recommended implementation steps intended to guide local staff through the implementation phases.
Section I:

Existing Conditions
Location and Surrounding Influences

Nelson County is located in the central portion of the Commonwealth of Virginia and shares a border with six other counties. Albemarle and Buckingham Counties are found along the eastern boundary of Nelson County, while Appomattox County lies to the south. Amherst County lies to the southwestern, while Rockbridge and Augusta County border Nelson County to the northwest.

Natural features define the majority of the borders Nelson County shares with adjacent jurisdictions. Nelson County’s northwest border with Augusta and Rockbridge Counties is composed of the Blue Ridge Parkway, while the Piney River forms the southwest boundary with Amherst County. Along the southeastern border of Nelson County, the James River defines the boundary with Buckingham County.

With no incorporated towns in its jurisdiction, Charlottesville and Lynchburg are the closest urban areas to Nelson County. Both cities are approximately 30 miles from Nelson County, with Charlottesville to the northeast and Lynchburg to the south. Nelson County is also located roughly 100 miles west of Richmond and 150 southwest of the Washington D.C metropolitan area.
The Transportation Network

Only two miles of Interstate 64 traverse through the northernmost section of Nelson County, where it ascends Afton Mountain, thus the main thoroughfare serving Nelson County is US 29. Also known as the Thomas Nelson Highway, US 29 serves as the primary North-South corridor through the County and links it to the urban areas of Charlottesville via Albemarle County and Lynchburg through Amherst County. A small section of US 60 passes through the extreme southern portions of Nelson County, connecting it with Amherst County to the west and Buckingham County to the east.

Virginia State Roads 6, 56 and 151 serve as the other primary transportation corridors in Nelson County in addition to US 29. VA 151, the Rockfish Valley Highway, is another north-south corridor, connecting Piney River to US 250 in Albemarle County east of Afton. VA 6 runs diagonally across Nelson County and connects Afton to Rockfish and Schuyler. VA 56 serves as an east-west corridor, connecting Wingina to Montebello.
**Existing Zoning**

The majority of land in Nelson County is zoned for agricultural uses under the current county zoning ordinance and map. Land zoned for residential and commercial uses is confined to the unincorporated towns of Lovingston, Avon, Colleen, Nellysford, Piney River, Arrington and the resort at Wintergreen. The Nelson County Zoning Ordinance (2007) contains the following zoning districts, which are used as a guide for regulating development.

**C-1 Conservation District**

The Conservation District primarily consists of various open spaces and is intended to protect existing and future farming operations. The C-1 district also serves the dual purpose of protecting a variety of environmentally sensitive areas, including wildlife habitats, steep slopes and watersheds. While residential single family dwelling units are permitted by right within the C-1 district, development is kept at an extremely low density by requiring a minimum lot size of 20 acres per dwelling.

**A-1 Agricultural District**

The majority of parcels in Nelson County fall under the A-1 agricultural district. The A-1 agricultural district allows traditional farming and forestry uses as well low density residential development. Under the Nelson County Zoning ordinance, residents may construct a single family detached dwelling, two-family detached dwellings and boardinghouses, in addition to dwellings related to farming and forestry operations. The amount of residential dwellings permitted by right on a given property is dictated by the amount of acreage contained in the parcel. The zoning ordinance requires that subdivided parcels in the A-1 district have a minimum lot size of two acres per dwelling. Table 1 outlines the subdivision rights based on parcel acreage for property within the A-1 district.

<table>
<thead>
<tr>
<th>Number of Acres</th>
<th>Number of Lots Allowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-5</td>
<td>2</td>
</tr>
<tr>
<td>&gt;5-10</td>
<td>3</td>
</tr>
<tr>
<td>&gt;10-15</td>
<td>4</td>
</tr>
<tr>
<td>&gt;15-20</td>
<td>5</td>
</tr>
<tr>
<td>&gt;20-25</td>
<td>6</td>
</tr>
<tr>
<td>&gt;25-35</td>
<td>7</td>
</tr>
<tr>
<td>&gt;35-45</td>
<td>8</td>
</tr>
<tr>
<td>&gt;45-55</td>
<td>9</td>
</tr>
<tr>
<td>&gt;55-65</td>
<td>10</td>
</tr>
<tr>
<td>&gt;65-75</td>
<td>11</td>
</tr>
<tr>
<td>&gt;75 (&gt;Greater than)</td>
<td>A parcel of land larger than 75 acres has additional division rights, provided each additional lot created is 20 acres or more in size</td>
</tr>
</tbody>
</table>

**R-1 Residential District**

The R-1 district is one of two residential zoning categories within the Nelson County zoning ordinance. The R-1 district permits single family and two-family dwelling units. The minimum lot sizes within the R-1 district are dependent on the availability of water and sewer infrastructure. For lots with access to municipal water and sewer service, the minimum lot size is one acre; lots served by individual wells and septic systems require an increased minimum lot size of two acres per dwelling.
R-2 Residential District

The R-2 district allows for more intensive residential development than the R-1 district. In the R-2 district, multi-family residential units are permitted in addition to single and two-family detached dwelling units. Areas zoned as R-2 already contain moderate density development or are current open spaces that are targeted for future development where municipal water and sewer infrastructure exists.

Similar to the R-1 zoning district, densities permitted within the R-2 district are dependent on water and sewer service. For single family dwellings served by public water and sewer services, the minimum lot size is 10,000 square feet (approximately .23 acres), while lots served with public water infrastructure but not public sewage disposal must have a minimum lot size of 30,000 sqft (approximately .69 acres).

For multi-family dwelling units served by public water and sewer service, the following minimum lot sizes apply:
- Two units – 12,000 square feet (.28 acres)
- Three units – 15,000 square feet (.34 acres)
- Each additional unit above three – 1,500 square feet

For multi-family dwelling served by public water service but having individual sewage disposal services, the minimum lot sizes for a dwelling containing two units is one acre. For each additional unit above three an additional 10,000 square feet is added to the minimum lot size.

B-1 Business District:

The B-1 district is included in the Nelson County zoning ordinance to accommodate the general business needs of the County citizens. The B-1 district allows for a variety of commercial uses including drug stores, lodging facilities, gas stations, flea markets, funeral homes and office space. While no minimum setback is required for the frontage of B-1 buildings, the front of the building, including porches, must be located behind the street right-of-way. For B-1 property that abuts Conservation, Agriculture or Residential zoned property, the minimum side and rear yards adjoining these boundaries shall be 10 feet or more. Buildings zoned under the B-1 classification are also limited to 35 ft. from grade level.

B-2 Business District:

The B-2 district allows many of the same uses included in the B-1 district, but is zoned for commercial uses that will be less disruptive than B-1 uses. The B-2 district allows for less intrusive commercial uses such as banks, restaurants, boardinghouses and community buildings that will have less traffic, noise and light impacts than entities in the B-1 district. While the building height limitations and minimum side and rear yard sizes are the same as the B-1 district, the major difference between these zoning classifications is that buildings in the B-2 district must be set back a minimum of 50 feet from the right-of-way of any adjacent street or highway.
Topography and Location of Existing Buildings

The landscape of Nelson County is composed predominantly of mountainous terrain including steep slopes that make development difficult. The topography maps covering Nelson County show that the majority of lands in the northern portions of the County have a gradient greater than 25%. Flat land is located primarily along the County’s river valleys and in its southern and southeastern portions. The Tye, Piney, Rockfish, Rucker Run and James Rivers all run through or form jurisdictional borders of Nelson County.

The majority of existing buildings are scattered in low density clusters throughout the county, but primarily cluster along the primary arterial roads. Other than a cluster of existing building around Arrington, the majority of existing buildings are located north and west of US 29. The most dense cluster of existing buildings occur along the northwest border of Nelson County within the Wintergreen Resort while other significant building clusters are located at the unincorporated towns of Avon, Nellysford and the county seat of Lovingston. A less dense cluster of existing buildings can also be found along VA 56 and VA 151 in the Tye River Valley between Colleen and Tyro (Figure 3).
**Residential Building Permits**

Over the last five years (January 2003 thru December 2007) 883 residential building permits have been issued within Nelson County (Table 2). The number of building permits issued within Nelson County peaked in 2004, with 220 residential building permits issued, and have subsequently declined steadily. In 2007 Nelson County issued only 123 residential building permits, the lowest annual total for the time frame analyzed. Nelson County issues a blanket building permit for all new residential units within the county. This blanket permit allows for all facets of construction needed to complete a residential dwelling. The recent decline in new residential building permits could be a result of the nationwide sub-prime mortgage crisis which began in 2005 (Nelson County Building Inspections).

<table>
<thead>
<tr>
<th>Year</th>
<th># of Permits</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>168</td>
</tr>
<tr>
<td>2004</td>
<td>220</td>
</tr>
<tr>
<td>2005</td>
<td>216</td>
</tr>
<tr>
<td>2006</td>
<td>156</td>
</tr>
<tr>
<td>2007</td>
<td>123</td>
</tr>
<tr>
<td>Total</td>
<td>883</td>
</tr>
</tbody>
</table>

Source: Nelson County Department of Building Inspections

**Location of Water and Sewer Infrastructure:**

The map obtained from the Nelson County Comprehensive Plan shows the location of water and sewer infrastructure within Nelson County (Figure 4). Municipal water and sewer services are available to properties in a crescent shaped swath of land beginning in Lovingston, continuing south to Colleen that follows Route US 29. A large area of land, encompassing the Wintergreen Resort, in northwest Nelson County is also served by water and sewer municipal infrastructure as well as a small area in the vicinity of Schuyler.

A few other areas in Nelson County have either water or sewer service available to them but not both.

**Figure 4**

*Nelson County Comprehensive Plan Water and Sewer Service Areas*
**Federal and State Protected Areas:**

Nestled in the Blue Ridge Mountains, Nelson County possesses many environmentally pristine federally protected entities within its borders. Some 19,825 acres of the George Washington National Forest are located in the western portion of Nelson County, while the federal government also maintains land along the Blue Ridge Parkway. In addition to these federal lands, the Commonwealth of Virginia has dedicated the James River Wildlife Management Area as a state park along the southeastern border of Nelson County. These federally and state owned lands are protected from future development, while private land abutted by the George Washington National Forests is regulated by the Nelson County zoning ordinance.
Demographics:

Nelson County had an estimated total population of 15,172 as of July 1st 2007. This is an increase of 727 people from the decennial census (2000) when the population was 14,445. With over 471 square miles of land within the county borders and 15,172 residents, Nelson County has a population density of only 31 people per square mile.

Race:

The majority of the population in Nelson County is Caucasian. According to 2007 Weldon Cooper Center estimates, 73.3% of the Nelson County population is Caucasian (12,776 residents), while African-Americans comprised 13.9% of the total population (2,111 residents). Hispanics comprised only 2.7% of the population for Nelson County (413 residents).

| Table 3: 2006 Racial Demographics for Nelson County |
|-----------------|------------------|-----------------|
| Residents       | % of population  |
| White           | 12,776           | 84.3%           |
| Black           | 2,111            | 13.9%           |
| Other           | 285              | 1.9%            |
| Total           | 15,172           | 100%            |
| Hispanic        | 413              | 2.7%            |

Source: Weldon Cooper Center, www.coopercenter.org/demographics

Population by Age:

Figure 6 shows the 2006 estimated population by age for Nelson County. The majority of citizens in the County appear to be of the baby boom generation as the top five age groups, in terms of population, are between the ages 40 to 64. The 55-59 age bracket contains the largest segment of the population with 1,377 citizens. Not unexpectedly, the amount of residents in older age brackets decrease steadily as the population ages past 60. The over 85 age segment had the fewest residents with only 250 citizens. The median age for citizens within Nelson County is 44 years (Weldon Cooper Center 2007 Population Estimates).
A TDR Plan for Nelson County

The Local Economy

The local economy of Nelson County is predominantly based on service sector jobs provided by small businesses that are classified under the service sector. While the unemployment rate of 2.7% for Nelson County is lower than the Commonwealth average of 3%, residents of Nelson County have a much lower per capita personal income than the state average of $39,173. Economic data for Nelson County indicates that most employment consists of low-wage, low-skilled jobs that are associated with the tourism industry. The per capita income for the 7,786 workers in the Nelson County civilian workforce is $29,572 (Virginia Employment Commission).

Location of Employment:

Although Nelson County has a lower unemployment rate than the state average, most residents in Nelson County appear to have difficulty finding employment within the county. Based on 2000 census data, the majority of citizens in the Nelson County workforce commute to jobs in other jurisdictions, mainly to Albemarle County (1,543 workers). Some 3,896 workers out-commute to jobs in other localities while only 2,723 residents both live and work in Nelson County (Virginia Economic Development Partnership; Nelson County Community Profile).

Employment by Sector:

The majority of jobs within Nelson County are classified within the service, government and construction sectors. The service sector accounts for 39.8% (1,346) of jobs in Nelson County and is the largest employment sector. The government and construction sectors follow with 690 (20.4%) jobs and 387 jobs (11.4%), respectively.

Largest Employers in Nelson County:

The largest employers in Nelson County are consistent with data regarding employment by sector. Of the 10 largest employers in Nelson County, four employers provided jobs associated with the service sector, including two tourism related businesses at Wintergreen and two health care facilities. The federal and local government account for three other large employers as the Nelson County School Board, the Nelson County Local Government and the United States Post Office are three of the ten largest employers in Nelson County.

<table>
<thead>
<tr>
<th>Table 4: 10 Largest Employers in Nelson County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employer</td>
</tr>
<tr>
<td>Wintergreen Partners</td>
</tr>
<tr>
<td>Nelson County School Board</td>
</tr>
<tr>
<td>Nelson County local government</td>
</tr>
<tr>
<td>Wintergreen Property Owners Asc</td>
</tr>
<tr>
<td>California Sidecar Escapade</td>
</tr>
<tr>
<td>Blue Ridge Health Care Center</td>
</tr>
<tr>
<td>Courtland Health Care Center</td>
</tr>
<tr>
<td>Saunders Brothers Nursery</td>
</tr>
<tr>
<td>United States Postal Service</td>
</tr>
</tbody>
</table>

Source: VEC Quarterly Census of Employment & Wages, 2nd qtr 2007
Employer by Size of Establishment:

Most businesses in Nelson County employ fewer than nine employees. Out of 441 businesses in the County, only 55 of them employ 10 or more workers and 38 of these businesses employ between 10 and 19 employees (Table 5). Most businesses in Nelson County, 236 businesses or 54%, employ between one and four workers. An additional 99 businesses employ between five and nine workers. These data suggest that the local economy of Nelson County is extremely diversified, in terms of employers, and that residents are not entirely dependent on just a few extremely large companies for their livelihood.

### Table 5: Employers by Size of Establishment

<table>
<thead>
<tr>
<th># of employees</th>
<th>Firms</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zero</td>
<td>49</td>
</tr>
<tr>
<td>1-4</td>
<td>236</td>
</tr>
<tr>
<td>5-9</td>
<td>99</td>
</tr>
<tr>
<td>10-19</td>
<td>38</td>
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<tr>
<td>20-49</td>
<td>9</td>
</tr>
<tr>
<td>50-99</td>
<td>***</td>
</tr>
<tr>
<td>100-249</td>
<td>0</td>
</tr>
<tr>
<td>250-499</td>
<td>***</td>
</tr>
<tr>
<td>500-999</td>
<td>0</td>
</tr>
<tr>
<td>Over 1,000</td>
<td>0</td>
</tr>
</tbody>
</table>

*** Non-Disclosable Data

Source: VEC Quaterly Census of Employment 2nd qtr 2007

Tourism Impacts on the Local Economy:

Existing economic data suggest that the tourism industry provides a large segment of Nelson County with employment and contributes much needed tax revenue to the local government tax base. As 20.4% of all jobs within Nelson County are classified under the government sector, and rely inclusively on tax dollars, travel expenditures are a vital contribution to the Nelson County local tax base and economy. The Virginia Tourism Corporation provides data verifying the significant impact of the tourism industry on Nelson County.

Employment, Travel Expenditures and Tax Receipts:

The financial impacts that tourism has on the local government of Nelson County has increased in recent years. Tourism expenditures and local tax receipts from tourism related activities have steadily increased over the last four years. According to the Virginia Tourism Corporation, in 2006 domestic travelers spent $156,105,271 in Nelson County on a variety of tourism related activities including transportation, meals, lodging, shopping, admissions and entertainment. This is an increase of approximately $4.1 million since 2005. Local tax revenues from tourism collected by the local government totaled $4,766,149, an increase of $80,000 from 2005 (Table 6).

While the financial impacts continue to increase, data suggest that the impact travel has on employment is declining. The number of people employed in tourism related activities has declined in each of the previous years and payrolls for these businesses have also dropped. As of 2006, 1,666 people were employed in travel-related positions in Nelson County, accounting for a payroll of $28,463,607. Even though employment in travel-related sectors has been in a recent state of decline, tourists appear to be spending increased amounts of money in Nelson County as tourist...
expenditures and local tax receipts have increased steadily since 2003. This could infer that the number of tourists visiting Nelson County may be declining. While the number of tourists may be declining, they are spending increased amounts of money on higher end services such as bed and breakfast inns and wineries.

### Table 6: Travel Impacts on the Nelson County Local Economy

<table>
<thead>
<tr>
<th>Travel Impacts</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures</td>
<td>$137,883,545</td>
<td>$142,270,773</td>
<td>$151,981,184</td>
<td>$156,105,271</td>
</tr>
<tr>
<td>Payroll</td>
<td>$28,995,050</td>
<td>$28,631,224</td>
<td>$28,669,065</td>
<td>$28,463,607</td>
</tr>
<tr>
<td>Employment</td>
<td>1,807</td>
<td>1,736</td>
<td>1,722</td>
<td>1,666</td>
</tr>
<tr>
<td>Local Tax Receipts</td>
<td>$4,352,076</td>
<td>$4,486,612</td>
<td>$4,686,120</td>
<td>$4,766,149</td>
</tr>
</tbody>
</table>

Source: Virginia Tourism Corporation: viirginiascan.yesvirginia.org/localspending

The majority of tourism related economic activity within Nelson County is captured from visitors participating in outdoor recreation activities and from travelers along the Blue Ridge Parkway. The Blue Ridge Parkway begins at Afton Mountain and extends south for 469 miles until it terminates in the Smoky Mountains near Cherokee, North Carolina. In 2007, the Blue Ridge Parkway attracted 17.35 million visitors, which makes it the most visited attraction in the National Parks System (Daily Progress, February 2008). Over 6 million of these visitors crossed the Blue Ridge Parkway and Skyline Drive intersection at Afton each year in order to experience the spectacular mountain views along the iconic American road.

Traffic Volume data obtained from the Virginia Department of Transportation (VDOT) show that the Blue Ridge Parkway brings a significant amount of visitors into Nelson County. According to Annual Average Daily Traffic (AADT) data, a 10 mile segment of the Parkway, part of the northwest boundary of Nelson County, had an AADT of 1,200 vehicles in 2005. The AADT is calculated by dividing the total annual traffic estimate and dividing this figure by the number of days in a given year. While VDOT AADT figures do not take into account seasonal and daily fluctuations, approximately 1,200 vehicles traveled along the Nelson County segment of the Blue Ridge Parkway every day of the year in 2005 (VDOT, 2005).
**Blue Ridge Parkway View Areas:**

The scenic overviews along the Blue Ridge Parkway are a primary reason why millions of people travel this historic road each year. Nelson County has 39 parkway view areas, composed of 13 scenic overlooks and 26 roadside vistas along the Blue Ridge Parkway. Roadside vistas are parkway view areas along the Blue Ridge Parkway where the National Parks Service have cut trees in order to provide an unobstructed view from the parkway, while scenic overlooks are areas along the Blue Ridge Parkway that have a dedicated paved parking area (National Parks Service). The scenic overlooks are evenly distributed along the Parkway and provide views of the Rockfish Valley from the Afton Mountain Overlook, the Shenandoah Valley and multiple viewpoints of the Blue Ridge Mountain ridgeline.

![Blue Ridge Parkway View Areas](image)
Outdoor Recreation:

Nelson County terrain allows for a variety of outdoor recreational opportunities. These attract tourists to the county and contribute significantly to the local economy. Hiking, mountain biking, skiing and fishing are just a few of the many recreational activities that attract people to Nelson County.

Hikers continuously flock to Nelson County as the natural landscape provides for some of the Commonwealth’s best scenic hikes. Nelson County contains 25 miles of the Appalachian Trail, a 2,174 mile hiking trail stretching along the Appalachian Mountains from Georgia to Maine. In addition to the Appalachian Trail, Nelson County features shorter hikes that attract outdoor enthusiasts, including hikes to Crabtree Falls, White Rock Falls, The Priest and the Three Ridges (Nelson County Economic Development).

While the majority of tourist activity takes place during the Spring, Summer and Fall seasons, the Wintergreen Ski Resort draws many tourists to Nelson County during the winter months. The Wintergreen Ski Resort encompasses 11,000 acres in western Nelson County and includes resort style residential units to accommodate tourists visiting Wintergreen. In addition to skiing, the Wintergreen area offers hiking trails, two golf courses, horseback riding and other amenities that are putting the area under increased development pressure.

The Tye, Piney, Rockfish, Rucker Run and James Rivers all run through or form jurisdictional borders of Nelson County and provide aquatic recreation opportunities as well. These waterways, nestled within the Blue Ridge Mountains provide a scenic backdrop for fly fisherman, while the numerous boat launches in the County allow people to canoe various water routes.

Cyclists also find enjoyable rides both on and off the roads of Nelson County. Mountain Bikers use dedicated biking trails within the George Washington National Forest, while road cyclists utilize road circuits along the scenic rural roads of Nelson County and along the Blue Ridge Parkway (Nelson County Dept. of Economic Development).
Real Estate Market

Real estate data for Nelson County was obtained via personal correspondence with an agent from James Wood Real Estate. Since 2002, the real estate market has been driving development to areas in the northern portions of Nelson County. Some 75% of new construction within the County is being built north of Lovingston, primarily in the Afton and Nellysford areas along VA 151 and near Faber along the Albermarle County line. The average price of new residential dwellings constructed since 2002, is $308,000 for homes on parcels of three acres or more. The average price for new residential dwellings on less than three acres is $230,500. This data would indicate that new residential development is emerging in sprawling rural developments that cater to the upper middle class.

In addition to new construction, real estate data was also collected for undeveloped tracts of land. The average price per acre for undeveloped parcels larger than 40 acres is $6,000 per acre. The price per acre for large undeveloped tracts of land between 10 and 40 acres in size is $10,000 per acre.

Nelson County Comprehensive Plan

In October of 2002, Nelson County approved an updated version of the County Comprehensive Plan. The Comprehensive Plan has many goals that would be achieved through the implementation of a county wide TDR program. A TDR program would directly assist the County in attaining goals outlined in four of the eight key areas identified in the comprehensive plan. A TDR program is consistent with the goals directly related to portions of the comprehensive plan that deal with natural and scenic resources, recreation, development areas, and rural conservation.

The comprehensive plan serves as the overall guiding document directing the location and form of future development within Nelson County. Due to the contents and nature the comprehensive plan, much of the information in the comprehensive plan was used as a basis for determining various elements of this TDR program planning document.
Section II:

An Introduction to TDR
Introduction:

Transfer of Development Right (TDR) programs have been implemented in many locations across the United States in an effort to preserve valued, land-based community assets (Bredin, 1998; Pruetz, 1997). The basic mechanism behind TDR is that the development rights to parcels within areas protected from development or “sending areas” can be transferred to the “receiving areas” - areas in a community that are better suited and equipped to accommodate new development. The concept driving TDR is that the sending site owners are compensated for placing a deed restriction on their property that prohibits the land from being developed. The compensation comes from developers that can purchase these development rights or credits from sending area properties and apply them to land in the receiving areas. By purchasing development credits, a developer will be able to develop at higher densities than permitted under current zoning codes.

Community assets that can be preserved:

While almost any community asset can be preserved through TDR programs, the majority of TDR programs are implemented in order to preserve a variety of open spaces, including agricultural or environmentally sensitive lands. Scenic viewsheds, wildlife habitat, farmland, watersheds, wetlands, mountain top ridges, and untouched natural forest are just a few examples of community assets that have been permanently preserved through local TDR programs across the United States. While the most TDR programs have been aimed at preserving undeveloped open spaces, TDR can also be implemented to preserve developed areas, such as historic landmarks and districts.
Sending Areas:

The sending areas within a TDR program are the areas that the community wishes to preserve and protect from new development. The sending areas are located by identifying valued assets that the community wishes to maintain and preserve by restricting new development in or around the areas where the identified community assets are located. Ideally, this should be accomplished through community input meetings held at the beginning of the process to ensure community support for the assets the program seeks to preserve. Land owners with property within the sending area are then able to sever development rights on their property while maintaining ownership of the property and its current uses. Once a sending area land owner deed restricts his property (sever development rights), he is compensated for severing the property’s development rights by selling the development credits to developers or a TDR bank.

Receiving Areas:

Receiving areas are areas toward which a jurisdiction wishes to direct future development. In most instances, receiving areas are chosen based on the jurisdictions ability to accommodate future development based on the location of existing infrastructure. The location of schools, primary thoroughfares within the transportation network, civic buildings and water and sewer lines are important infrastructure elements that are considered in determining receiving areas within the county.

Mandatory versus Voluntary TDR programs:

Some communities have implemented mandatory TDR programs that place development restrictions on land within the sending areas regardless of consent from land owners. Other communities have instituted voluntary TDR programs where placing a deed restriction on land is at the discretion of sending area property owners. While the mechanisms and processes for transferring development rights and credits is essentially the same in both versions of TDR programs, the mandatory TDR program is much more effective in preserving land within sending areas. Mandatory TDR programs typically downzone (lower the by-right development density) all land within the sending areas in order to discourage future development therein. As a result of the downzoning, the only way sending area parcel owners can maximize the economic benefits from their property is to sell the associated development rights. This plan focuses on the mandatory TDR program as it is viewed as the best means to permanently protect land within the sending areas (Johnston and Madison, 1997).

Ensuring an active TDR market

An active TDR market, where development credits are both bought by developers and sold by sending area land owners, is a key factor in the success of TDR programs. Various elements, including the size of the sending and receiving areas, the transfer ratio and price of the development credits all factor into the ability of a TDR program to foster an active TDR market (McConnell V., Kopits E., and Walls M. 2006).
Sending and Receiving Area Size:

Determining the appropriate size of both the sending and receiving areas is critical to ensuring that development credits can be used. If the sending area(s) is too small or the incentives to sending area land owners are not enticing enough, development credits will not be readily available for developers to use and the amount of preserved acres will decrease accordingly. Conversely, if the sending areas are too big or the incentives for selling too enticing, the market could be flooded with development credits, leaving landowners in the sending zone with too few buyers (Levinson A., 1997).

Determining the appropriate size of the receiving areas, depends largely on forecasting the rate at which development credits will be used by developers. If strict development restrictions are placed on sending area properties, communities must ensure that the receiving areas have the acreage and infrastructure capability to accommodate the expected growth transferred to the receiving area.

Many of the more successful mandatory TDR programs, in terms of TDR transactions, have also down-zoned the receiving areas in addition to the sending areas. Rezoning the receiving areas fosters development credit transfers by forcing developers to purchase credits in order to build at higher densities needed to meet market demand. By lowering the base density in receiving areas, developers must purchase development credits to build at higher densities and therefore seek out development credits from sending area property owners.

The Transfer Ratio

Communities that have implemented a TDR program have used various transfer ratios to encourage transactions within the program. The transfer ratio refers to the number of development rights that can be used on receiving area parcels compared to the number of rights allowed within the sending area parcel. As an example, if the sending area normally permits one development right per 25 acres, but the TDR program allows the owner in the sending area to sell one development credit per five acres, the program has a 5:1 transfer ratio. The majority of communities that have a TDR program have a one-to-one transfer ratio, but other programs, such as in Indian River County, Florida, have a transfer ratio of 40:1 (Pruetz 1997 p.55). While a high transfer ratio will likely encourage sending area property owners to sell development rights, a program with a high transfer ratio will require that there are receiving areas capable of accommodating extremely dense development. As the correct transfer ratio is hard to determine up front, communities should continually reevaluate the TDR program to adjust the transfer ratio depending on development activity (Pruetz R., Maynard T., and Duerksen C. 2002).

Determining the Value of Development Credits:

The cost of a development credit is one vital element among many when determining the ability of a TDR program to generate transfers. Pruetz (1997, p. 150) has developed a formula to determine the price of a development credit. This formula requires a municipality implementing a TDR program to a) estimate the value of a development credit to receiving site developers and b) determine if it is more cost effective for sending site owners to sell sending area property or sell the development rights. The premise behind these formulas is that it must first be determined what developers would be willing to pay for
development credits and then determine if this price is enticing enough for sending area land owners to sell their development credits.

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<th>A</th>
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<tr>
<td>Projected Revenue to Developer from</td>
<td>Desired Return on investment</td>
<td>Costs incurred to developer minus costs</td>
<td>Value of TDR credit to receiving site</td>
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<td>Selling Receiving Site Development</td>
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<td>$260,000</td>
<td>130%</td>
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How much will a receiving site developer pay for development rights?

Calculating the estimated value of a development credit to receiving site developers requires those involved in the process to gather three pieces of real estate and development cost estimates. Under Pruetz’s formula, the value of a development right equals the projected revenue from the sale of new construction divided by the desired return on investment minus the total costs to the developer, apart from the costs of the development right(s) transaction (Pruetz p. 150).

In the example above, a developer can use a development credit to build two single family dwellings, on a parcel zoned for one dwelling per acre, and sell the two houses for a total of $260,000. This figure is then divided by the expected return on investment (ROI) estimated to be 130%, meaning that a developer expects to make 30% more than his expenses. After dividing projected revenue from the ROI, this amount of $200,000 is subtracted by the costs of development, estimated to be $190,000. This would suggest that receiving site developers would be willing to pay $10,000 for a development credit.

Will sending area owners sell development rights?

Once the worth of development credits to developers has been established, it must then be determined if this price is sufficient for sending area land owners to sell their development rights. The profits to sending area property owners are estimated by adding the revenue from selling the development rights to the revenues associated with continuing ownership of the land under present allowed uses. This figure is then subtracted from the potential sales price the sending area land owner could reasonably expect if sold at the current fair market value based on the current zoning and by-right development allotments. If the revenues from the sale of development rights and the income from maintaining ownership of the land is worth more to the sending site area owner than selling the property outright, it can be inferred that sending site land owners will have interest in participating in the TDR program (Pruetz p. 155).
In this example, a land owner in the sending area is able to sell five development rights at $10,000 a piece for a total of $50,000. The land owner is also able to generate $100,000 in revenue through continuing to use the land as permitted within the deed restrictions (such as farming). Combining the revenues would account for $150,000, which would then be subtracted from the $125,000 that real estate professionals’ estimate to be a reasonable sales price. In this example, the sending area owner would make a profit of $25,000 by selling the development rights to his land.

$$\text{Value of TDR credit to receiving site developer} = \text{Revenue from continued ownership of land} + \text{Revenue from Selling TDR's} - \text{Sending Site Sales Price}$$

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**Transferring Development Credits: The TDR Bank**

Many of the more successful TDR programs have implemented a TDR Bank to facilitate the transfer of development credits and to bring credibility to the program. The function that the TDR Banks plays in the overall TDR program varies among individual programs as does the administrating organization dedicated to operate the TDR Bank.

Various organizations have been formed to operate the TDR Bank. Some TDR programs have simply placed this responsibility within the local planning department while other programs have placed the responsibility of operating a TDR Bank under an existing non-profit agency. Forming a separate local government department outside of the planning department is deemed as the most effective way of operating a TDR Bank. When the responsibilities of operating the TDR Bank are left to local planning departments, the TDR program often takes a back seat to required functions such as zoning hearings and comprehensive plan updates (Johnston and Madison, 1997).

Just as the lead organization in charge of operating a TDR Bank varies among individual TDR programs, the function these TDR banks serve also varies. TDR banks in some communities simply facilitate the transaction of development credits between developers and sending area land owners, while other TDR Banks become involved in all aspects of the process and the overall TDR program. In some cases, such as that of the New Jersey Pine Barrens TDR program, the TDR bank not only facilitates transfers between sending and receiving site owners, but also acts as the marketing agency, serves as an information clearinghouse, tracks TDR transactions and actively participates in the purchase of development credits (Strong, 1987).

Where a TDR bank acts as the central agency for TDR transactions, it will not only put buyers and sellers in contact with one another, but will also guide participants through the entire TDR transaction process. Given that “time is money” in the development field, developers will not utilize development credits if they have to spend an exorbitant amount of time finding TDR sellers. Facilitating transactions makes the transaction process more manageable for users as the bank will guide both buyers
and sellers through the process. Having sellers of development credits readily known to developers while guiding buyers and sellers through the process will make the process less complicated for participants and therefore encourage more land owners to participate in the program.

Finally, TDR Banks can also act as a buyer of development credits. In instances where the TDR bank can purchase development rights, the community can preserve targeted parcels of land by purchasing the development rights to this land. The community thereby can preserve key parcels of land, while simultaneously providing market stability within the TDR program. By purchasing development credits, the TDR bank can purchase and sell credits at strategic times to ensure that the price of development credits does not fluctuate excessively and ensure that there is an adequate number of development credits available for purchase. Furthermore, by allowing the TDR bank to purchase development credits from sending site owners at anytime, the TDR program will be able to protect itself from potential takings litigation.

**Success of TDR Programs:**

The success of TDR programs is typically measured by two factors: how many acres a community preserves in the sending areas and how many development credit transactions take place. By evaluating the TDR programs of the New Jersey Pinelands, Manheim Township, PA and Montgomery County, MD, Machemer and Kaplowitz (2002) identified elements that are critical to a successful TDR program. Upon evaluating various elements of these three TDR programs, they found that political leadership, the implementation of a TDR bank and a simple, cost-efficient TDR mechanism are the most critical framework elements.

Good leadership is a vital element contributing to the success of TDR programs. Machemer and Kaplowitz (2002) note that involving strong political leadership in the design and implementation phases, inspires confidence in the TDR process and therefore fosters the overall success of the TDR program. While strong political leadership is vital to the continued commitment to local TDR program efforts, it should be noted that political opinions regarding land use programs and therefore TDR programs can change as elections occur.

Another factor significantly contributing to the overall success of TDR programs is the ease and cost effectiveness with which TDR transactions take place. TDR programs that are kept simple and easily understood are more successful than those programs that had complicated eligibility factors and formulas for determining TDR allocation rates (Machemer and Kaplowitz 2002). The transaction process must also be cost efficient in order to make TDR economically beneficial for developers wishing to participate in the program.

The third element of successful TDR programs, as identified by Machemer and Kaplowitz (2002), was the creation of a TDR bank. Each of the analyzed TDR programs formed a TDR bank that helped bring stability and credibility to the TDR program. While the TDR bank of each program served different functions within the individual TDR program, the authors noted that these TDR banks served many purposes that were critical to each TDR program’s success.
Section III:

Vision Statement
Goals and Objectives
Assets and Liabilities
Vision Statement:

_Nelson County will preserve its rural character, highlighted by open spaces, scenic vistas, agricultural activity and outdoor recreational tourism, by directing development to particular compact, rural villages or towns._

Goals and Objectives:

1. **Preserve the Agricultural and Tourism Industries that Contribute Significantly to the Local Economy.**
   - Objective 1.1: Identify sending area(s) that will limit development on land visible from the Blue Ridge Parkway scenic viewpoints.
   - Objective 1.2: Ensure that agricultural activities remain permitted within the sending areas.

2. **Limit development from taking place on open spaces that contribute to Nelson County’s rural character.**
   - Objective 2.1: Amend the current Nelson County zoning ordinance to create an overlay district in sending areas in which the by-right development density is lowered.

3. **Direct development to identified areas where development can take form in a pedestrian friendly and compact manner.**
   - Objective 3.1: Direct development to identified receiving areas with municipal water and sewer service capable of accommodating new development.
   - Objective 3.2: Amend the current Nelson County zoning ordinance to create a receiving area overlay district that permits increased densities for development using TDR credits.
   - Objective 3.2: Ensure that new construction follows the small town development pattern outlined in the Comprehensive Plan to ensure that development takes place in a pedestrian friendly, compact manner.

4. **Avoid Excessive Public Costs to Provide Municipal Services.**
   - Objective 4.1: Extend municipal water and sewer service only to parcels in or adjacent to designated receiving areas.

5. **Create an active TDR market where development credits are easily transferred between sending and receiving area land owners.**
   - Objective 5.1: Form a TDR bank to facilitate development credit transactions.
   - Objective 5.2: Formulate a transaction process that is easy to navigate and ensures that transactions occur in a timely manner.
Assetts and Liabilities

**Assets**

- Federally owned land within the George Washington National Forests is already protected from development.
- The Blue Ridge Parkway brings in tourist and tax dollars from citizens who reside outside Nelson County.
- The Conservation (C-1) Zoning District permits only one dwelling unit per 20 acres.
- Slow growth rates are not currently placing extreme development pressures on Nelson County.
- The aesthetic quality and rural character of Nelson County.
- A strong tourism sector within the local economy.
- A rural landscape consisting of predominantly undeveloped land.
- The County has a low unemployment rate.

**Liabilities**

- The limited staff resources within the Nelson County Planning Department may hinder the department’s ability to administer a TDR program.
- The current real estate market is directing development toward areas without municipal water and sewer service in the Rockfish Valley along VA-151.
- 75% of new residential units within the County are being constructed north of Lovingston. Land north and west of Lovingston consist of mountainous terrain and steep slopes.
- Municipal water and sewer infrastructure serves only a small portion of the County.
- Agricultural zoning district (A-1) permits one detached residential dwelling unit per two acres. The current density permitted in the A-1 zoning district will lead to sprawl when the building rates of the County increase.
- Nelson County possesses a limited amount of parcels zoned for residential and commercial uses as over 95% of land in the County is zoned as A-1.
- Unfamiliarity with TDR concept will require lots of education efforts for both County staff and citizens.
- The extremely slow growth rates may negate market demand for the purchase of development credits within a TDR program.
- The local economy is comprised predominantly of low-wage, low-skill jobs in the service sector.
- A lack of readily available data will make it difficult to address various elements within a TDR plan.
Section IV:

The Plan
Introduction

Ideally, elements of a TDR program should be developed through an extensive public participation campaign. Holding community information and input sessions, will allow the County to gain the support of local citizens and better identify characteristics or elements that the general population wishes to preserve. However, due to time constraints and the nature of this particular planning process, the majority of elements for this TDR plan were determined through interviews with Nelson County staff. In depth analysis and public consultation will be needed by the County to customize a TDR program that fits the needs and wishes of the general population.

Sending Areas:

Sending areas are areas the community wishes to preserve by transferring development elsewhere. Nelson County staff identified specific elements that it wishes to preserve through a TDR program. According to County staff development should be limited along mountain top ridges and steep slopes as well as within designated view sheds from the Blue Ridge Parkway.

Steep Slopes

Initial examination of the topography within Nelson County indicates that steep slopes would not be feasible to serve as sending areas. Due to the vast acreage covered by slopes greater than 15%, the sending areas would be disproportionately large compared to the receiving areas. If parcels on steep slopes were to serve as sending areas, the market would become flooded with development credits and overburden the infrastructure capacity of the receiving areas. Steep slopes were therefore eliminated from consideration as sending areas.

Viewsheds:

Due to the aesthetic quality of mountainous terrain in Nelson County and the economic benefits associated with the Blue Ridge Parkway and recreational tourism, County staff also wishes to limit development from occurring in areas visible from the Blue Ridge Parkway. Viewsheds were deemed the best community element to preserve as they also contain many of the steep slopes on which the County wants to limit development.

Viewsheds from the Blue Ridge Parkway were obtained from the Blue Ridge Parkway Association (BRPA), which conducted fieldwork to identify areas visible from Blue Ridge Parkway viewpoints. The BRPA identified numerous viewpoints along the 30 miles of Blue Ridge Parkway roadway in Nelson County. Upon analyzing the viewshed areas identified by the BRPA, it was observed that the majority of these areas consist of land within the George Washington National Forest. Land within the George Washington National Forest is owned by the federal government and already protected from development. Therefore, these lands are not suitable sending areas.

A viewshed area in northern Nelson County, from the Afton Mountain Overlook, lies outside the George Washington National Forest. The overlook from Afton Mountain provides a view of the Rockfish Valley and is well suited to serve as a sending area in the Nelson County TDR program. The view from the Afton Mountain Overlook is one of the most magnificent and pristine along the Blue Ridge Parkway as it offers an unobstructed view of the sweeping Rockfish Valley floor. The Rockfish Valley contains an assortment of agricultural and undeveloped natural lands with the Blue Ridge Mountain ridgeline in the background. This area would also be a well-suited sending area as it is not served by municipal water and sewer service; it is becoming increasingly developed and therefore threatened by low density residential development, mainly along VA-151.
This viewshed from Afton Mountain, containing the Rockfish Valley, was used as the sending area in this plan for demonstrational purposes only. Since the majority of land in Nelson County is zoned as A-1, it is assumed that any land contained in the sending areas will also be zoned as A-1, regardless of where Nelson County ultimately decides to draw the boundaries of the sending areas. As a result, the actions required to protect the sending area(s) should be based on the recommendations and steps outlined in the rest of this plan.

**Downzoning the Sending Areas: The Overlay District**

It is recommended that an overlay district be placed over parcels within the sending area to downzone the currently permissible by-right development densities. Down-zoning land in the sending areas will limit sprawling development from occurring therein. The proposed overlay district should reduce the by-right development rights in the sending areas from one dwelling per two acres to one dwelling per 20 acres.

Down zoning all parcels within the sending areas will have two important influences on the sending area(s) and TDR market. The first result of down zoning will be the preservation of large tracts of land. Reducing the development density down to one dwelling per 20 acres would effectively protect sending areas from sprawling rural subdivisions, which would likely emerge otherwise.

The second result of downzoning would be to foster the transfer of development credits. As only one dwelling per 20 acres would be permitted in the sending area, land owners would need to sell their development rights if they wish to maximize the economic benefits potentially derived from their property. By limiting development in the sending areas, new construction would not seize, but rather would occur in areas of the County outside of the sending area(s). Allowing developers to build at increased densities well above the level permitted under the base
line zoning will hopefully encourage new development to take place within the receiving areas of the TDR program and not on other A-1 zoned properties.

**Property Eligibility:**

Determining the development rights allocated to sending area parcels is an important element of any TDR program. Other TDR programs have certain eligibility requirements for sending area parcels and eliminate portions of land that are not developable when allocating development credits. Land that would be denied a building permit, based on physical characteristics, should be eliminated from consideration when allocating a sending area parcel’s development rights. Residential development that already exists and portions of parcels already under conservation easements should also be excluded when allocating development credits. For example, should five acres of a 25 acre parcel consist of wetlands, the sending area property would be eligible for development credits based on only 20 acres.

Larger parcels may have portions of land both within and outside of the boundaries of the sending area. Once the sending area boundary has been determined, it is recommended that only portions of land within the sending area be eligible for development credits. If 25 acres of a 100 acre tract are located outside the sending area boundary, the property owner would be allocated development rights based only on the 75 acres within the sending area boundary.

**Receiving Areas:**

The receiving areas were determined by analyzing the location of existing infrastructure already in place and the ability of the County to extend this infrastructure to accommodate future development. The location of existing infrastructure was determined from maps included in the Nelson County comprehensive plan.

A primary consideration in identifying the receiving areas was the location of transportation infrastructure. As Nelson County is a predominantly rural county, many areas lack the proper transportation infrastructure needed to accommodate increased density. US 29 is the primary north-south transportation corridor in the County as it is a four-lane divided highway and traverses the center of Nelson County. As such, it is recommended that the receiving areas be established in close proximity to US 29.

Another factor considered when determining the location of the receiving area was the location of existing water and sewer availability. Few areas in the County outside of the Wintergreen Resort have both water and sewer municipal service in place. Only two other areas outside the Wintergreen Resort have both water and sewer infrastructure in place: a small section along the Albemarle County line near Schuyler and in a crescent along US 29 between Lovingston and Colleen.

Upon analyzing the location of existing infrastructure, it was determined that the crescent paralleling US 29 between Lovingston and Colleen would be best suited to serve as the receiving area of this TDR program. This area would be best equipped to act as a receiving area due to its central location within the County, access to US 29, proximity to civic amenities, including the Middle and High School complex, and the availability of government services such as water and sewer infrastructure.
A specific parcel of land, just south of Lovingston would be an ideal parcel to serve as the initial receiving area. Parcel 68 A 1 is owned by Mr. Paul Whitehead Jr. and covers 214 acres. This identified piece of property would be the preferred receiving area as it is located just to the south of Lovingston, and is served by both US 29 as well as municipal water and sewer service. While this parcel of land is only 214 acres in size, surrounding parcels can be rezoned under the recommended receiving area overlay district as future development occurs therein.

The two other areas with water and sewer municipal service were also initially considered as receiving areas, but removed from consideration due to various factors. The terrain in northwestern Nelson County is very mountainous, consisting primarily of steep slopes and is bordered by the Blue Ridge Parkway. Since the Wintergreen Resort is visible from the Blue Ridge Parkway, transferring development to this area would be contrary to the working goal of viewshed preservation. The area around Schuyler was dismissed as a receiving area due to the area’s lack of adequate transportation infrastructure.
Receiving Area Zoning

In order to encourage the transaction of development credits, an overlay district is also recommended for the receiving areas. Just as an overlay district was placed over the sending areas, an overlay district should be placed over the receiving area as well. While the sending area overlay district downzoned sending area property, the receiving area overlay district should provide a density bonus for receiving area parcels using development credits. Since the receiving areas are based on the availability of municipal water and sewer service, it is recommended that the density levels in the receiving area be based on the R-2 zoning classification. The R-2 classification allows one single family dwelling to be built on 10,000 square feet of land (rounded up to 0.25 acres). Parcels within the receiving area would retain the development densities of the A-1 zoning classification, but would be eligible to develop at the density rates stipulated in the R-2 zoning district (one dwelling per 0.25 acres) if development credits are applied to new construction projects. Placing an overlay district over the receiving areas will allow development to occur in a compact manner that will limit land consumption by following the small town development pattern outlined in the comprehensive plan.

In efforts to foster transactions within the TDR program, the Nelson County planning department must limit rezoning parcels within the receiving areas once the overlay district is in place. If developers have other means of better acquiring increased density levels, thru rezoning cases, development credits will not be utilized and the sending areas will not be preserved.
**Small Town Development Model**

Development within the receiving areas should be built in accordance with the small town development pattern identified in the Nelson County Comprehensive Plan (p. 28). The small town development plan is the preferred development pattern identified for Lovingston and is also viewed as the best planning model leading to the development of a compact traditional small town. This pattern is based on a traditional mixed-use, pedestrian oriented planning model. The small town development pattern is characterized by the grid street network that contains sidewalks for pedestrians and has buildings situated on smaller lot sizes with minimal setbacks that are needed to permit denser development and create spatial enclosure. The grid street network should extend south from Lovingston as development occurs to replicate the walkable community.

The small town development model states in the comprehensive plan that residential units should be constructed around activity nodes of commercial or civic uses. While new civic uses such as parks are feasible in the receiving area, the majority of civic uses are already situated in Lovingston. As a result, the activity nodes for future development of the receiving areas will most likely consist of commercial uses. Commercial uses should therefore be incorporated into the receiving area. Developers can obtain a special use permit from the Planning Department or the County can proactively spot zone specific blocks for commercial uses. Agricultural uses and open space would remain on the periphery of the town center expanded by future development.

The historical character of Lovingston requires that infill development be visually compatible with existing buildings and that new construction on the town fringe be built at a similar scale to buildings in the town center. Having new construction built at similar scale and design standards will maintain the historical characteristics of Lovingston as well as the small town atmosphere (Figure 11).

**Figure 11**

**Features of the Small Town Development Model:**
- A well-defined center of rural activity that is surrounded by sparsely developed, or sparsely populated rural or agricultural land.
- The area contains at least several of the following land uses: residential, retail, office, civic, institutional, limited industrial, and park/recreation.
- Building Sizes and scale should be compatible with existing buildings.
- Proximity of Activities and Methods of Transportation - High proximity, balanced travel among automobile, rural transit, bicycling, and walking.
- Locational Requirements - Usually at or near a crossroads; sometimes major highways.
- Parking Characteristics - A mixture of on-street parking, parking lots, and driveways.
- Growth/Change Potential - Relatively stable. However, some areas are facing growth pressures and suburbanization, while others are losing residents. Infill development is encouraged.
The Transfer Ratio:

The TDR program for Nelson County should establish a transfer ratio of 5:1. While the overlay district would down-zone the by-right density for parcels in the sending areas to one dwelling per 20 acres, owners in the sending areas would retain the right to sell development credits at the current density permitted in the A-1 zoning district (one dwelling per two acres). If sending area property owners choose not to participate in the TDR program, they would only be permitted to build one dwelling per 20 acres as stipulated in the sending area overlay district.

Reducing the development credits associated with sending area parcels would be extremely unpopular among land owners affected by the TDR program and would likely create a political backlash against the program. However, by allocating development credits to sending area land owners based on their current development rights of one dwelling per two acres, opposition to the TDR program as well as the risk of litigation based on a takings claim will be reduced if not eliminated.

Ensuring the Proper Size of the Receiving Areas

Receiving areas must be able to accommodate the number of development credits that can be potentially severed from sending area parcels. It is estimated that the sending area within the Rockfish Valley contains approximately 5,000 acres. It also is estimated that, on average, 20% of all land in the sending area would be ineligible for develop credits due to existing residential development, wetlands, steep slope or other natural barriers. Therefore, of the 5,000 acres within the receiving area, approximately 4,000 acres would be eligible for development credits in this TDR program. Since sending area property owners are able to sell development credits at a rate of one dwelling per two acres, an estimated 2,000 development credits could potentially be sold.

The size of the receiving area needs to reflect the number of development credits allocated to sending area parcels. As the sending area could possible produce 2,000 development credits, the receiving area must be able to accommodate this increased density on quarter acre lots. The proposed overlay district for the receiving area permits a density rate of one dwelling per approximately 0.25 acres and would therefore require the receiving area to include 500 acres to accommodate future development.

While the receiving area needs to be 500 acres in size to adequately accommodate all the potential development rights, the chance of total (100%) build out in the receiving areas is highly unlikely. Due to the slow growth rate of Nelson County (only 883 new residential units since 2003), the current real estate market does not demand development to occur at a density rate of one dwelling per .25 acres. If all residential units for the entire county were constructed within the receiving area, a 100% build out of the receiving areas would occur in approximately 11 years and four months at the County’s recent building rate.

Banking: TDR credits as commodities

In order to have development credits treated as a commodity and to create an active market, owners of credits should be able to buy and sell them at strategic times. Purchasers of should be able to hold on to the development credits for an indefinite amount of time. This will provide owners of development credits the option of selling their credits to other purchasers when prices are high or of using the credits in receiving area development projects. If the purchaser of development credits decides to hold on to his credits, he is considered to be “banking” the development credits in hopes that the market will drive up their value. When the development credits are finally used to increase densities in receiving area developments, the credits will then be “extinguished” and retired.
from the TDR program. By treating the development credits as a commodity, they become viewed as a potential investment for not only sending and receiving area landowners and developers, but the general population as well.

**Value of Development Credits:**

*How much are developers willing to pay for a development credit?*

While market forces will ultimately determine the value of a development credit over time, their cost must be estimated to determine if the TDR program will be mutually beneficial to all parties. If the estimated price of a credit is too low, sending area owners will have little incentive to sever the rights and participate in the TDR program. Conversely, if the price of a development credit is too high, receiving area developers will not purchase them.

The average price of a development credit should be estimated by local real estate professionals who can use information and a locally devised method that would be tailored to Nelson County. Determining the value of a development credit in this plan was estimated using Pruetz’s (1997) formula already outlined earlier in “The Basics of TDR” section.

Under the current A-1 zoning classification, a developer can build one single family detached dwelling on a two acre lot. However, the developer would be able to construct eight residential dwellings on two acres in the receiving area overlay district by applying seven development credits to this project. This example assumes that a developer in the receiving area will use seven development credits in order to build eight residential dwellings on quarter acre lots.

The average price for new residential dwellings constructed since 2002 on parcels less than three acres in size was determined to be $230,500 (James Wood Real Estate). The high price of newer residential construction may be inflated due to the large parcels that the dwellings are situated upon. In order to account for the lower land values associated with smaller lot sizes, it is assumed that the average price of a residential dwelling in the receiving area would be approximately $200,000.

The average cost of construction incurred by a developer was determined assuming that a 2,000 square foot single family dwelling could be constructed at an estimated cost of $80 per square foot (Virginia Homebuilders Association). Both of the above mentioned figures are generally accepted to lie within average ranges for rural real estate markets. However, as with all elements of a TDR program, they should be re-evaluated by professionals in the field with more local expertise.

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<th>A</th>
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<th>D</th>
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<tr>
<td>Projected Revenue</td>
<td>Desired Return</td>
<td>Costs incurred to developer minus costs of TDR transaction</td>
<td>Value of TDR credit to receiving site developer</td>
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<tr>
<td>to Developer from</td>
<td>on investment</td>
<td></td>
<td></td>
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<tr>
<td>Selling Receiving Site</td>
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<tr>
<td>Development</td>
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</tr>
<tr>
<td>$1,600,000 (8 houses at $200K)</td>
<td>125%</td>
<td>$1,240,000</td>
<td>$5,715 ($40,000/7 credits)</td>
</tr>
</tbody>
</table>

Projected Revenue to Developer from Selling Receiving Site Development / Desired Return on investment - Costs incurred to developer minus costs of TDR transaction = Value of TDR credit to receiving site developer

Virginia Commonwealth University Spring 2008
Using the above figures, it is estimated that a developer could construct a 2,000 square foot residential dwelling for approximately $170,000. It is further assumed that a developer could reduce construction costs by $15,000 per dwelling by building multiple dwellings and benefitting from economies of scale. A developer who builds at the densities permitted in the TDR program, using TDR credits, could build eight houses on quarter acre lots for $155,000 a piece for a total cost of $1,240,000. Using the estimated sales price for new residential dwellings ($200,000), we can assume that a developer could sell an eight house development for projected revenues of $1,600,000. This projected revenue can then be divided by a desired return on investment (ROI) of 125% which comes out to $1,280,000. If this figure is then subtracted by the cost incurred to the developer ($1,240,000), this developer would profit $40,000 by using development credits. Assuming a developer could make a $40,000 profit by using seven development credits, the estimated price of a single development credit would be $5,715.

Will sending area land owners sell development credits??

Once the estimated worth of development credits to developers is established, it must now be determined if this price is enough to entice sending area property owners to participate in the TDR program. This example will analyze the financial effects for a sending area owner of a 100 acre parcel who will sell the development rights to his land and maintain the right to use the land for agricultural purposes. For demonstrational purposes, it is assumed that all land in the parcel is eligible for the allocation of development credits. Although this TDR program is aimed at preserving viewsheds from the Blue Ridge Parkway, much of the land viewable from the Afton Mountain view area currently consists of agricultural land. As sending area parcels may still be in agricultural production, revenues from farming must be considered when determining the income a land owner could produce from maintaining ownership of the property.

According to the Nelson County profile from the 2002 Census of Agriculture, the average market value of production per farm is calculated at $16,590 a year. This figure was used as the estimated revenues to the parcel owner for maintaining continued ownership of the land. In addition to revenues from continued farm production, a farming operation in Nelson County also typically receives an annual government subsidy payment of $2,761 (Virginia Agricultural Statistics Service). A sending area owner could therefore produce $19,351 in annual revenues from continued agricultural production. Over a 20 year time frame, the sending area land owner could thus produce $387,020 in revenues. A 20 year time frame was used as this is the standard time horizon for Comprehensive Plans and future land use designations.

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<tr>
<td>Revenue from continued ownership of land</td>
<td>+ Revenue from Selling TDR’s</td>
<td>- Sending Site Sales Price</td>
<td>= Value of TDR credit to receiving site developer</td>
</tr>
<tr>
<td>$387,020 over 20 years</td>
<td>+ $285,750</td>
<td>- $600,000</td>
<td>= $72,770</td>
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By being in the sending area overlay district, the property owner could sell 50 development credits (one dwelling per two acres) at an estimated price of $5,715 a piece for a total of $285,750. Using the average price of $6,000 per acre for undeveloped land on parcels larger than 40 acres (James Wood Real Estate), it is estimated that a sending area property owner could sell a 100 acre parcel for $600,000.

Combining the revenues from continued ownership ($387,020) of the parcel and the revenue from selling the development credits ($285,750) comes to a total of $672,770 in revenues. This figure was then subtracted from the estimated sales price of the parcel ($600,000), to estimate that this particular land owner would make an estimated profit of $72,770 by selling the development rights to his property. This would imply that development credits would be both bought by developers and sold by sending area land owners at the estimated price of $5,715 per development credit.

**The TDR Bank:**

Due to the vital role that TDR banks have played in the overall success of other TDR programs, it is recommended that Nelson County create a TDR Bank. As the TDR concept will be foreign to both land owners and developers at first, it is further recommended that Nelson County set up a TDR Bank that is heavily involved in numerous facets of the TDR program. Nelson County should establish a strong TDR bank that serves four primary functions: to serve as an information clearinghouse; put buyers and sellers in contact with one another; facilitate the transaction process; and act as a buyer of last resort. Each of these functions is described below.

**Education/Marketing Efforts**

Perhaps the most important function of the TDR bank will be to educate the public about this new concept. Once the sending area(s) have been identified, an information packet should be mailed to all effected property owners. This packet would educate sending area property owners about the benefits of severing development rights and provide them with contact information for the TDR bank. Land owners would then be able contact the TDR bank to ask any questions they have about the program and/or procedures for deed restricting their property.

**Central Agency**

Establishing a TDR bank that tracks potential buyers and sellers of development credits reduces the time it would take for receiving area developers to find potential sellers and vice versa. Sending area property owners would be notified in their information packets that development credit transactions will take place through a central TDR bank. Sending area owners would then contact the TDR bank to inform the bank of their desire to sell the development rights associated with their property. Maintaining a list of potential sellers will limit the time it takes developers to locate development credits.

Having the TDR bank serve as the central agency for the TDR program will not only allow program administrators to track potential sellers, but will also allow the County to record statistical data. Maintaining good statistical data will allow program administrators to track the number of transactions taking place and the quantity of acres being preserved in order to make future adjustments to the TDR program if necessary.
Facilitate the Transaction Process

Sending area land owners wishing to participate in the TDR program will need to complete an application. This application will have questions needed to determine if the property is eligible to participate in the program and, if so, how many development rights will be allocated to the property. A model application from the Snohomish County TDR program is included in the appendix of this document to serve as a guide for Nelson County. After the application process has been completed and the allocation of development rights determined, a seller will then enter into an agreement with a purchaser to begin the development credit transfer process. The TDR bank will guide both parties through the transaction process and provide each party with the legal documents necessary for completing the transfer and deed restricting the sending area parcel. Reducing the time and effort it takes to track down development credits and complete the transaction process will make developers more likely to participate in the TDR program.

Participation in the TDR program

The TDR bank should also have the ability to participate in the TDR program. The TDR bank should be able to purchase development credits from sending area property owners when a private purchaser is not readily available. This will enable the County to purchase targeted parcels of property within the sending area and ensure that enough development credits are always available to developers. Once the County has purchased the initial development credits, it will be able to sell credits at strategic times and ensure stability within the TDR market. Selling the initial development credits will also create a revolving fund. The TDR bank can then continue to use this revolving fund to finance purchases of additional development rights from sending area properties.

Operating the TDR Bank

The limited staff resources within the Nelson County Planning Department make it infeasible for the Planning Department to implement and administer the TDR program. As a result of these staff limitations, it is suggested that the County follow one of the following alternatives as a means of administering the TDR program:

a) Hire additional staff member(s)
b) Seek an outside non-profit agency to administer the TDR program
c) Seek staff support from the Thomas Jefferson Planning District Commission.

Choosing an alternative best suited for Nelson County will depend on various factors including budget constraints and the County’s ability to hire a qualified candidate who is capable of administering this complex program.

Hiring an additional full-time staff member to implement and administer the TDR program would allow the County to maintain total control of the TDR program. However, hiring a staff member with the skill set necessary to administer the TDR bank may be both difficult and costly due to the technical intricacies, complex nature and scarcity of TDR programs. Another downside of hiring an additional staff member is that it would be premature to do so without first gauging the demand for TDR credits. If development credits are not being transferred at high frequencies, hiring an additional staff member would not be warranted unless this staff member can also be utilized in other areas.

Outsourcing the TDR bank to an outside agency is another option available. This will allow staff to concentrate on core planning issues, such as rezoning cases, and allow the chosen organization to allocate staff resources to the program as needed. While outsourcing the TDR bank to an outside agency will allow County staff to focus on core planning initiatives, the ability of the County to maintain autonomy over the TDR program may be reduced.
The last option would be to seek staff support from the Thomas Jefferson Planning District Commission (TJPDC). The TJPDC is set up to conduct regional planning efforts and support local planning projects for membership governments. Even though the TJPDC office is located in Charlottesville, seeking its support may be the best available option for administering the TDR bank due to the function of the TJPDC and the established working relationship between the TJPDC and Nelson County local staff.

Marketing Component

The word development often has a negative connotation among citizens of rural communities. Renaming the development credits to “scenic preservation credits” will add a marketing component to the TDR program that might gather further support for the identified working goal. Renaming the development credits to adequately reflect the goals for the sending areas will reinforce the preservation efforts of the TDR program with each TDR transaction completed.

A Voluntary TDR Program:

While a mandatory TDR program is recommended, Nelson County staff has indicated that the County may prefer a voluntary TDR program. A mandatory program is strongly recommended for two primary reasons. Firstly, academic literature about TDR programs indicates that mandatory programs are the best approach to preserve large tracts of undeveloped land in the sending areas. Secondly, the current real estate market is being satisfied by the current development densities permitted within the A-1 zoning classification. With little incentive to transfer development rights to receiving area projects, transactions of development credits will be unlikely. However; if the County still wishes to pursue a voluntary TDR program, slight changes will need to be made to the recommendations for this mandatory TDR program.

In a voluntary TDR program, an overlay district would not be necessary. Parcels in the sending area would maintain the right to develop at the current densities permitted in A-1 zoning classification, but would also have the option of selling the development rights to receiving area developers.
In order to permit increased development densities, the zoning overlay district for the receiving area would be the same for either a mandatory or voluntary TDR program.

Should the County choose to implement a voluntary program, revenues from selling development credits must be greater than the income received from building residential dwellings at the densities permitted in the current zoning code. If sending area property owners can make more money building one residential dwelling per two acres than selling the property’s development rights, they will not be likely to participate in a voluntary TDR program. Therefore with a voluntary TDR program, an increased transfer ratio is necessary to entice sending area land owners to participate. If property owners choose to deed restrict their property voluntarily, they would go through the same process as in a mandatory program.

Another difference in a voluntary TDR program is the eligibility for participation of parcels within the sending area. In a voluntary TDR program, property owners should be able to deed restrict the entire property or only a portion of the parcel once the number of development rights has been determined. If a sending area property owner chooses to sell the development rights on only a portion of his land, that portion of the land would be protected from development and the property owner would still be able to use the remaining land as stipulated within the current zoning ordinance.
Implementation Steps:

Implementing a TDR program is a lengthy process that requires extensive public involvement guided by planning expertise. The following section provides a step-by-step guide to be followed in order to effectively integrate a TDR program into the planning process.

Step I: Data Collection:

Gathering data is the first step to provide staff with the necessary information needed to develop a TDR program. Economic, demographic, environmental, real estate and land use data should all be collected. Specific examples of data that should be collected include information depicting the employment sectors, demographics; water aquifers; median house values; ecologically sensitive areas, key wildlife habitats and the zoning map.

Step II: Form an Advisory Committee:

Forming a citizens committee to oversee the TDR planning process is recommended. Some communities have simply placed this responsibility with the local planning board, while others have formed a separate Citizens Advisory Committee (CAC) with the sole purpose of overseeing the TDR program. While the Planning Board already has extensive knowledge of local planning issues, Nelson County should create a separate CAC that can focus exclusively on implementing the TDR program. The CAC should be composed of various members of the community who will be affected by a TDR program. Real estate professionals, environmental organizations, developers, community groups and potential sending and receiving area land owners should all be represented in order to have a balanced CAC.

Step III: Conduct Preliminary Data Evaluation and Develop Alternative Working Goals:

Once all the necessary background data has been collected, the advisory committee can begin to evaluate this data and develop the initial goals of the Nelson County TDR program. In this step, the CAC should begin to identify critical areas and features that Nelson County citizens wish to preserve through a TDR program and formulate working goals of the TDR program.

Step IV: Public Meetings:

After the CAC has done initial data analysis and identified preliminary working goals, a series of public meetings should be held to present the initial findings and working goals to the general public. This will help the CAC to gather community support and get an indication of the general feel of the public regarding the initial progress of the CAC. If major objections are voiced by the general public, the CAC may need to either reevaluate the initial working goals or refine the presentation to ensure that citizens clearly understand the objectives and process behind a TDR program.

Step V: Develop Alternative Scenarios:

Once the community meetings have been conducted, the CAC should further develop alternative scenarios for meeting the preferred working goals. The CAC should develop three variables related to the sending and receiving areas. For the sending areas, the CAC needs to determine their size, the development restrictions or density limits for sending area parcels, and the necessary transfer ratio needed to motivate sending area property owners to participate in the TDR program. In regards to the receiving area, the CAC should analyze the effects of the receiving area size, the development densities permitted in the current zoning ordinance and how those existing limits in the receiving area would be altered by a TDR program. Various scenarios should be developed by making adjustments to the previously identified variables.
Step VI: Analyze the Preferred Scenario’s Ability to Generate Transfers:

Once the CAC has developed the alternative scenarios to the preferred working goals, it must now determine which scenarios will enable the TDR program to generate transfers. This is the point in the process where the CAC should estimate the value of development rights to receiving site developers and then determine if this price is enough to motivate sending area landowners to sell development credits.

Step VII: CAC Public Meeting and Selection of Preferred Alternative:

After the preferred scenarios have been developed and analyzed, another series of public meetings should be held. In these meetings, the CAC should guide the general public and the Board of Supervisors through the entire process already completed by the CAC. In addition to guiding the audience through the TDR process, the CAC should also present its findings and discuss the advantages and disadvantages associated with each developed scenario. Most importantly the CAC should state its preferred alternative to the general public and the Nelson County Board of Supervisors.

Step VIII: Refine Preferred Alternative:

Once the preferred alternative has been identified, the CAC must now incorporate further details into the alternative. Other components that need to be incorporated into the preferred alternative include sending area parcel eligibility, regulations for TDR transactions; review of receiving area developments; requirements of the receiving area(s); receiving site design standards; the transaction process and government involvement in the TDR program.

Step IX: Environmental Review and Recommendations:

Once all of the fine details for the TDR program have been ironed out, an environmental review should take place. This environmental review should identify the TDR program’s effect on community natural resources; municipal infrastructure; the character of the community; the effects on the overall growth patterns of the County and any other significant impacts that the program may have on Nelson County. Once the environmental review has been completed, the CAC should make a formal recommendation to the County Board of Supervisors.

Step X: Implementation:

After the Board of Supervisors adopts the recommended TDR plan, staff must now implement the program. Information should be distributed to all affected property owners, the TDR program should be marketed to developers, funding should be dedicated to allow the County to participate in the TDR program and most importantly, staff resources must be adequately dedicated to create the TDR bank that will facilitate the TDR transaction process and provide administrative support.

Step XI: Monitor and Refine Program as Needed:

Once Nelson County has successfully adopted a TDR program and integrated the program into the planning process, it should be continually monitored to refine various elements of the program as necessary.
Summary of Recommendations:

- Regardless of whether or not Nelson County implements a TDR program, the current zoning code needs to be modified to adjust the development densities currently permitted in the A-1 zoning district. The development densities within the A-1 district should be lowered to prohibit rural sprawling development from degrading the rural character of the County.

- The sending area should encompass the view area from the Afton Mountain overlook of the Blue Ridge Parkway.

- The receiving area should be located along the crescent of US 29 that is served by municipal water and sewer service just south of Lovingston.

- The TDR program should have a transfer ratio of 5:1.

- The estimated cost of a development credit is $5,715, but should be further analyzed by local real estate professionals for confirmation.

- The zoning ordinance should be amended to create separate sending and receiving area overlay districts. The sending area overlay district will lower the by-right development density to one dwelling per 20 acres, while the receiving area overlay district will increase densities to one dwelling per quarter acre if development credits are applied.

- Purchasers of development credits should be able to “bank” credits by holding them and selling them at strategic times.

- Development in the receiving area should follow the Small Town Development Pattern in the comprehensive plan.

- A Citizens Advisory Committee should be formed to oversee the TDR process.

- Development credits should be referred to as “scenic preservation credits” to adequately reflect the working goal of the TDR program.

- Developers should be able to obtain special use permits to include commercial uses in the receiving area.

Limitations of this plan:

- A lack of rezoning cases make it hard to determine the difference in land values between A-1 zoned land and R-1/R-2 zoned properties. This affects the price of development credits.

- The slow building rates of Nelson County do not currently necessitate a TDR program in Nelson County as densities within the A-1 zoning code are able to supply enough housing to meet market demand.

- Parcel data could not be merged with the parcel boundary shapefile in GIS but needs to be done in order to pinpoint the exact boundaries and acreage within both the sending and receiving areas.

- Viewshed areas obtained from the BRPA are not currently available in digital form and therefore the exact boundaries of the Afton Mountain viewshed could not be determined.
References


Appendix
Transfer of Development Rights (TDR) Application Packet

Dear applicant:

Thank you for your interest in the Transfer of Development Rights program. Snohomish County’s farmlands are the foundation of a vibrant agricultural industry and a cherished way of life for generations of farm families. Scenic landscapes of green, productive fields are an important part of what makes this county a desirable place to live and work. By participating in the TDR program, you will help preserve our farming heritage while contributing to the overall quality of life for each and every Snohomish County resident.

In the first portion of this packet you will find a TDR application. This application has been designed to provide the County with a clear understanding of your property and its potential as a TDR sending site. To prevent delays in the processing of your application, please answer all questions completely and remember to attach all required documents before submitting it to Planning and Development Services.

TABLE OF CONTENTS

The TDR application packet should contain the following:

(1) The TDR application, including a fee schedule
(2) A sample TDR Calculation Worksheet
(3) PDS Bulletin #69: “Transfer of Development Rights”
(4) A copy of Snohomish County Code 30.35A
(5) A sample letter of intent to issue TDR certificates
(6) A conservation easement template

TDR APPLICANT CHECKLIST

Before you submit your TDR application, please make sure you have included the following:

[ ] Completed application, signed by the landowner(s)
[ ] Legal description of the property
[ ] Title report issued no more than 30 days prior to submittal of application
[ ] Survey maps of the property
[ ] TDR fee payment
[ ] Copies of lot status certifications (if applicable)
[ ] Affidavit of compliance with state reforestation requirements (if applicable)
[ ] Official copies of the zoning maps covering the subject property
FILING INSTRUCTIONS

TRANSFER of DEVELOPMENT RIGHTS (TDR) PROGRAM

CERTIFICATION OF DEVELOPMENT RIGHTS APPLICATION

TDR Certification of Development Rights Application Packets can be submitted at the PDS Customer Support Center (CSC), which is located in Everett at 3000 Rockefeller Avenue, on the 2nd floor of Administration Building West.

FORMS/CHECKLISTS

You may download the required application forms, template documents, and checklists by visiting our Forms and Bulletins web page: http://www.snoco.org/Departments/PDS/Services/FormsBrochures. Once the web page is open, scroll down to “Transfer of Development Rights.” You may also pick up the necessary TDR application materials in person at the PDS Customer Support Center in Everett.

FEES

Applications will not be accepted without the required fees. A fee schedule is included in the TDR application packet. Please call (425) 388-3311 if you have questions regarding fees.

FURTHER INSTRUCTIONS TO THE APPLICANT

• Please answer all questions completely. PDS cannot process incomplete applications.

• You may attach additional sheets of paper if necessary to fully respond to the question(s).

• Prior to submitting your application, be sure to attach copies of **all required documents**, including deeds, survey maps, and lot status certifications which describe the property. Please see the TDR Applicant Checklist on the previous page for the complete list of required documents.

• If any item or question is not applicable, please mark it “N/A.”

• Remember, this is an application to obtain certification of development rights. After you sell certified development rights and the conservation easement on your property is approved and recorded, the only permitted use of your land will be agricultural.

• Please contact Tom Niemann, PDS Principal Planner, at (425) 388-3311 ext. 2214 if you have general questions regarding the TDR Program or this application.
TDR CERTIFICATION OF DEVELOPMENT RIGHTS APPLICATION

PART 1: GENERAL INFORMATION

1. Applicant information:
   Name: ____________________________________  Primary phone: ______________________________
   Alternate phone: _____________________________  Fax number: _______________________________
   Mailing address: ________________________________________________________________________
   City, State, Zip: ______________________________________
   Email address: ______________________________________

2. Relation of applicant to the property (check one):
   [ ] Owner
   [ ] Contract purchaser
   [ ] Lessee
   [ ] Other (specify) ___________________________________

3. Primary contact person, if different from the applicant.
   Name: ____________________________________  Primary phone: ______________________________
   Alternate phone: _____________________________  Fax number: _______________________________
   Mailing address: ________________________________________________________________________
   City, State, Zip: ______________________________________
   Email address: ______________________________________

4. All persons/firms having an ownership interest in the property:
   Name: ________________________________________________________________________________
   Mailing address: ________________________________________________________________________
   Phone: _______________________
   Name: ________________________________________________________________________________
   Mailing address: ________________________________________________________________________
   Phone: _______________________
   Name: ________________________________________________________________________________
   Mailing address: ________________________________________________________________________
   Phone: _______________________

5. Farm name or corporate/business name: __________________________________________________

6. Type of legal entity:
   [ ] Individual/sole proprietor
   [ ] Corporation incorporated in the State of Washington
   [ ] General partnership created in the State of Washington
   [ ] Limited partnership created in the State of Washington
   [ ] Limited liability company created in the State of Washington
   [ ] Other (specify) ___________________________________
7. Legal counsel representing applicant:
   Name: ________________________________________________________________________________
   Mailing address: ________________________________________________________________________
   Phone: _____________________________  Fax number: ____________________________

8. Accountant information (optional):
   Name: ________________________________________________________________________________
   Mailing address: ________________________________________________________________________
   Phone: ______________________________  Fax number: ___________________________

9. Are there any material facts or circumstances (e.g., pending litigation, bankruptcy, etc.) affecting the property or any of the parties involved in the proposed TDR transaction that could potentially impact the approval process for this application?
   [   ] Yes   [   ] No
   If yes, please explain:
   ______________________________________________________________________________________
   ______________________________________________________________________________________
   ______________________________________________________________________________________

PART 2: PROPERTY INFORMATION

1. General location of the property (including nearest intersection):
_____________________________________________________________________________________
_____________________________________________________________________________________

2. To qualify as a TDR sending site, the property must be:
   (1) Privately owned
   (2) Within a designated TDR sending area
   (3) Zoned Agricultural-10
   (4) Designated commercial farmland in the county Comprehensive Plan

   Does the property meet these four requirements?   [   ] Yes   [   ] No

3. The proposed sending site must follow established lot lines and must include any adjacent lots that have substandard area under current zoning (i.e., lots smaller than 10 acres). Does the property meet these requirements?   [   ] Yes   [   ] No

4. Does the property consist of one or more parcels that are divided by a zoning boundary?   [   ] Yes   [   ] No
   If yes, please attach official copies of the quasi-judicial decision, administrative approval, or legislative enactment establishing the zoning boundary for each parcel.

5. Is the property the subject of ongoing code enforcement action by the county?
   If yes, what steps have been taken to resolve the code violation(s)?
   ______________________________________________________________________________________
   ______________________________________________________________________________________

6. Have any portions of the property been cleared or graded pursuant to a Class II, III, or IV special forest practices permit, as defined by state law, within the last six years?   [   ] Yes   [   ] No
   If yes, please attach an affidavit of compliance with the reforestation requirements of RCW 76.09.050, WAC 222-34-010, and any additional reforestation conditions of the forest practice permit.
7. Please attach (1) a legal description of the property and (2) a title report issued no more than 30 days prior to the application.

Documents attached? [ ] Yes

8. For each land parcel, please list the assessor tax account number (14 digits), the parcel number, the acreage, and the section, township, and range.

<table>
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<tr>
<th>Assessor tax account #</th>
<th>Parcel #</th>
<th>Acreage</th>
<th>Sec</th>
<th>Twp</th>
<th>Range</th>
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9. Total acreage of property: ________________________________

10. Is any portion of the property in the floodway? [ ] Yes [ ] No

If yes, how many square feet of land are in the floodway? ______________

11. Is any portion of the property already subject to an easement (for access, utilities, conservation, or other purpose) or to any other recorded encumbrance restricting development? [ ] Yes [ ] No

If yes, how many square feet of land are unbuildable? ______________

Please describe each easement or encumbrance and provide the auditor file recording number(s) below:
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________ 

12. Please attach copies of survey maps of the property showing (1) the locations of existing or proposed structures, (2) the 10 acres associated with each single family dwelling unit, and (3) the locations of easements or other encumbrances described in the previous question.

Survey maps attached? [ ] Yes

13. Are any lot status certifications proposed to be used in calculating the number of Certified Development Rights? [ ] Yes [ ] No

If yes, please attach copies of lot status certifications and provide the number of lots certified: ______________

14. Are there any liens or mortgages on the property? [ ] Yes [ ] No

If yes, please list all lienholders. Lienholders will be required to subordinate their mortgage or deed of trust to the conservation easement.
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________
15. Source of water supply and name of water district, if any:
_____________________________________________________________________________________

Method of sewage disposal and name of sewer district, if any:
_____________________________________________________________________________________

PART 3: LAND USE INFORMATION

1. Present zoning and use(s) of the property:
_____________________________________________________________________________________

Please describe the agricultural uses of the property, including the number and types of livestock, a general description of crops, forest products, specialty crops, etc:
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________

2. Please break down the property by acreage:

   Tillable cropland    _________
   Nursery/orchard     _________
   Pasture            _________
   Woodland           _________
   Other              _________

3. Please identify all soil and water conservation practices and plans in effect on the property:
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________

4. Please describe and provide the number of residences and other structures (barns, etc.) on the property:
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________

5. Please indicate the percentage of “prime soil,” as defined by the USDA Natural Resource Conservation Service, on the property:
   [ ] 0-49%  
   [ ] 50-75%  
   [ ] 76-100%

6. Please complete and attach the TDR Calculation Worksheet. Attached?  [ ] Yes

PART 4: OTHER INFORMATION

1. Total number of acres to be included in the TDR conservation easement:  ______________

2. Total number of vested development rights:  ______________

3. Is the property classified as Ag – Open Space?  [ ] Yes  [ ] No
4. Are any properties adjacent to your land subject to existing conservation easements, variance or plat restrictions, or public-owned open space?

[ ] Yes
[ ] No
[ ] Don’t know

5. Are there any anticipated or pending offers to purchase the property and convert it to a non-agricultural use, or is there any other reason to believe that your land is under immediate threat of conversion?

[ ] Yes  [ ] No

If yes, please describe:
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________
_____________________________________________________________________________________

E. EXECUTION OF THE APPLICATION

It is understood that the above information is submitted in good faith, based on present expectations of the applicant, to aid in the conservation of Snohomish County agricultural land through the certification of transferable development rights and the execution of a conservation easement.

It is declared that the sending site for which TDR certificates are sought contains only undivided legal lots and that no substandard lots outside of the sending site are held in common ownership with the sending site.

The information in this application and supporting documents is true and complete to the best of my/our knowledge and is submitted for the purpose of certifying development rights. I/We understand that this application is subject to review for consistency with selection policies and criteria approved by the TDR Executive Committee in order to properly evaluate and process this application. I/We agree to allow PDS staff entry to our property with advance notice.

Dated at _________________________________, on the ________ day of _____________________, 20___.

(City)   (State)

Name and Signature of Landowner

Name and Signature of Landowner

Name and Signature of Landowner
SNOHOMISH COUNTY PLANNING & DEVELOPMENT SERVICES
TDR FEE SCHEDULE
(Effective March 15, 2005)

Fees are charged to cover the costs of application processing. PDS cannot accept your application until all fees are paid in full.

**Table 30.86.135 – TDR FEES**

<table>
<thead>
<tr>
<th>Activity</th>
<th>Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Processing and review of application for TDR certificates and issuance of TDR certificate letter of intent pursuant to SCC 30.35A.050(1)(a)</td>
<td>$600</td>
</tr>
<tr>
<td>Issuance of TDR certificates pursuant to SCC 30.35A.060(3)</td>
<td>$150</td>
</tr>
<tr>
<td>Review of conservation easement pursuant to SCC 30.35A.060(2)</td>
<td>$250</td>
</tr>
<tr>
<td>Review of deed of transferable development rights pursuant to SCC 30.35A.070(3)</td>
<td>$150</td>
</tr>
<tr>
<td>Site inspection pursuant to SCC 30.35A.050(1)(b)</td>
<td>$250</td>
</tr>
</tbody>
</table>