



Zoning Text Amendment (ZTA) No. 16-10, Transferable Development Rights Overlay Zone – Optional Method Standards



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Description

Zoning Text Amendment (ZTA) No. 16-10 would modify the Transferable Development Rights (TDR) Overlay zone to clarify when the requirements under optional method MPDU development must be followed; and correct the minimum common open space requirements for optional method development using Transferable Development Rights.

Summary

Staff recommends approval of ZTA No. 16-10 as introduced to modify the Transferable Development Rights (TDR) Overlay zone to clarify when the requirements under optional method MPDU development must be followed; and to correct the minimum common open space requirements for optional method development using Transferable Development Rights.

Background/Analysis

Zoning Text Amendment (ZTA) 16-10 would amend the optional method requirements for the Transferable Development Rights (TDR) Overlay zone by reducing the required common open space area. The 2014 Zoning Ordinance Rewrite redefined common open space to exclude private green space without appropriately adjusting the amount of space required for common open space. The Council partially corrected this problem by approving ZTA 15-09 on December 1, 2015 (Omnibus ZTA). However, ZTA 15-09 inadvertently omitted making the appropriate open space percentage adjustments to the TDR Overlay zone. The table beginning at line 37 of the zoning text amendment would correct that oversight by reducing the minimum common open space requirement for the TDR designations in the Rural Residential and Residential zones consistent with changes made in ZTA 15-09. Staff recommends approval of these changes.

The ZTA would also clarify when the requirements under optional method MPDU development must be followed when developing under the TDR Overlay zone. As currently adopted, in a Rural Residential or Residential zone, development using TDRs and providing MPDUs above 12.5% must follow the

requirements under optional method MPDU Development. As adopted this requirement appears inconsistent with the standards of the previous Zoning Ordinance. Under the prior Code, it appears that for TDR densities of 3 or more units per acre, lot sizes and other development standards were determined at the time of preliminary and site plan for conformance with the applicable master plan guidelines and in accordance with the purposes and provisions of the PD zone and the Special provisions for TDR developments (Section 59-C-1.395). Where the master plan designated density was less than 3 units per acre and MPDUs were required, the MPDU development standards were applicable. Modifications to Section 4.9.16.B.1.d.iii of the current Code (Lines 15-21) are proposed to closely mirror the original intent of the previous Code's provision. Staff believes that this change reflects a clarification of the original intent. Specifically, for a Rural Residential or Residential zone with a TDR density designation of less than three units per acre, development using TDRs and providing MPDUs above 12.5% must follow the requirements under optional method MPDU Development. Any other optional method development in a Rural Residential or Residential zone must satisfy the requirements of Section 4.9.16.B (All other TDR Overlay Zone Optional Method requirements). Staff recommends approval of ZTA 16-10 as introduced.

Attachments

1. ZTA No. 16-10 as introduced

ATTACHMENT 1

Zoning Text Amendment No.: 16-10
Concerning: Transferable
Development Rights
Overlay Zone – Optional
Method Standards
Draft No. & Date: 1-07/19/16
Introduced: August 2, 2016
Public Hearing:
Adopted:
Effective:
Ordinance No.:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- modify the Transferable Development Rights (TDR) Overlay zone to clarify when the requirements under optional method MPDU development must be followed;
- correct the minimum common open space requirements for optional method development using Transferable Development Rights; and
- generally amend the requirements for development under the TDR Overlay zone

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 4.9. “Overlay Zones”
Section 4.9.16. “Transferable Development Rights (TDR) Overlay Zone”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-4.9 is amended as follows:

DIVISION 4.9. Overlay Zones

* * *

Section 4.9.16. Transferable Development Rights (TDR) Overlay Zone

* * *

B. Optional Method

1. In General

The TDR Overlay optional method of development permits an increase in the maximum residential density, if the development satisfies the requirements for optional method development using Transferable Development Rights under Section 4.9.16.B.

* * *

d. Development with Moderately Priced Dwelling Units

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iii. In a Rural Residential or Residential zone with a TDR density designation of less than three units per acre, development using TDRs and providing MPDUs above 12.5% must follow the requirements under optional method MPDU Development. Any other optional method development in a Rural Residential or Residential zone must satisfy the requirements of Section 4.9.16.B.

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2. Rural Residential and Residential Zones

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b. Calculation of TDRs Required in the Rural Residential or Residential Zones

27 Development using TDRs must include at least 2/3 of the
 28 maximum number of development rights unless the Planning
 29 Board finds that a lower density is more appropriate for
 30 environmental or compatibility reasons.

31 i. In the Rural Residential and Residential zones, the
 32 following building types require a minimum percent of
 33 total units indicated, and where applicable a maximum
 34 allowed number of units (noted in parentheses). In
 35 addition, the minimum amount of common open space
 36 required is indicated:
 37

TDR Density Designation	Size of Development	Building Type (minimum required as a percentage of total units)				Common Open Space (min)
		Detached House	Duplex	Townhouse	Apartment	
1	Any size	100%	0%	0%	Not permitted	0%
2	Any size	100%	0%	0%	Not permitted	0%
3-5	< 800 units	30%	0%	0%	Not permitted	[35] <u>20</u> %
	800+ units	30%	0%	0%	0% (20% max)	[35] <u>20</u> %
6-10	< 200 units	15%	0%	0%	Not permitted	[40] <u>20</u> %
	200+ units	15%	0%	0%	0% (35% max)	[40] <u>20</u> %
11-15	< 200 units	0%	0%	0%	0%	[50] <u>25</u> %
	200+ units	0%	0%	0%	35% (60% max)	[50] <u>25</u> %

TDR Density Designation	Size of Development	Building Type (minimum required as a percentage of total units)				Common Open Space (min)
		Detached House	Duplex	Townhouse	Apartment	
16-28	200 units	0%	0%	0%	0%	[50]25%
	200+ units	0%	0%	0%	25% (60% max)	[50]25%
> 28	Any size	0%	0%	0%	25%	[50]25%

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39 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
 40 date of Council adoption.

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42 This is a correct copy of Council action.

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45 Linda M. Lauer, Clerk of the Council