



Zoning Text Amendment (ZTA) No. 18-10, Townhouse Living – Accessibility Tax Credits

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Completed: 09/06/18

Description

ZTA 18-10 would allow a tax credit under Section 52-107 for a townhouse unit approved as a conditional use that meets or exceeds the Level II Accessibility Standards established by Section 52-18T and detailed in Section 52-18U.

Summary

Staff has no objection to eliminating the current policy provision that does not allow a tax credit for a project that was approved as an accessible conditional use. Per the sponsor of the ZTA, the intent of removing this provision is to assist in establishing more accessibility projects in the County.

Background/Analysis

As adopted under ZTA 15-02 in 2015, a conditional use is allowed for townhouse living in the RE-1, R-200, R-90, and R-60 zones under requirements that include: meeting the Level II Accessibility Standards of Sections 52-18(T) and 18(U) for all units(as a part of the County's Design for Life program¹); close proximity to public transit (on road abutting the site), public recreation services within 1,000 feet of the site; a Metro Station within 2 miles of the site; demonstration that the post construction site will be minimally sloped; a project site of at least 2 acres; density limitations and development standards of the

¹ ZTA 15-02 was adopted as part of the County's Design for Life program, intended to incentivize builders and property owners to install accessibility features in existing and new construction. A key objective of the Design for Life program is to increase the stock of existing and new residences usable by people of diverse abilities. The County provides tax credits to builders and homeowners for including features in new and existing residential housing that improve accessibility for persons of all ages, including seniors and those with disabilities. There are standards for both making it easier for physically challenged visitors and physically challenged occupants. The law was effective on July 1, 2014. The intent of this law was to increase stock accessible dwelling units in the County and thereby create a more inclusive community.

TMD zone under optional method; at least one parking space for each dwelling unit satisfying the dimensional standards for handicapped-accessible vehicle parking; and, as a condition of approval, any property owner of the conditional use project must be prohibited from seeking a tax credit under Section 52-18U or Section 52-93(e). At the time of adoption, the Council believed that allowing both a density bonus and a tax credit for the same attribute would be excessive.

ZTA 18-10 would allow the owner of a project that was approved as an accessible, conditional use with increased density to be eligible for credit tax credits. Specifically, the provision for accessible townhouse projects includes the following provision:

As a condition of approval, any property owner of the conditional use project must be prohibited from seeking a tax credit under Section 52-18U or Section 52-93(e). This prohibition does not apply to additional accessibility features that are installed post-occupancy and for which a property tax credit is requested.

ZTA 18-10 would delete that provision. In the opinion of the sponsor, the public interest in getting accessible projects completed outweighs any speculative loss in revenue.

Staff has no objection to this ZTA given the policy intent to increase the number of accessible units in the County.

Attachments

1. ZTA No. 18-10 as introduced

ATTACHMENT 1

Zoning Text Amendment No.: 18-10
Concerning: Townhouse Living –
Accessibility Tax Credit
Draft No. & Date: 2 – 7/11/2018
Introduced: July 24, 2018
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: Councilmember Rice

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow a tax credit under Section 52-107 for a townhouse unit approved as a conditional use; and
- generally amend the standards for townhouses approved as a conditional use

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

Division 3.3. “Residential Uses”
Section 3.3.1. “Household Living”

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

1 **Sec. 1. DIVISION 59-3.3 is amended as follows:**

2 **DIVISION 3.3. Residential Uses**

3 Section 3.3.1. Household Living

4 * * *

5 D. Townhouse Living

6 * * *

7 2. Use Standards

8 * * *

9 b. Where Townhouse Living is allowed as a conditional use, it
10 may be permitted by the Hearing Examiner under Section 7.3.1,
11 Conditional Use, and the following standards:

- 12 i. All buildings and structures must meet or exceed the
13 Level II Accessibility Standards established by Section
14 52-18T and detailed in Section 52-18U.
- 15 ii. Public bus service must be available on a road abutting
16 the site.
- 17 iii. A Metro Station must be within 2 miles of the site.
- 18 iv. Public recreation or park facilities must be within 1,000
19 feet of the site.
- 20 v. A grading plan must demonstrate that the post_
21 construction site will have a slope less than 5%.
- 22 vi. The minimum tract size is 2 acres.
- 23 vii. The density limitations and development standards of the
24 TMD zone under optional method (Section 4.4.12.C)
25 apply in spite of any other limitation in this Chapter.
- 26 viii. Reducing the number of required parking spaces through
27 a parking waiver under Section 6.2.10 is prohibited.

- 28 ix. A minimum of one parking space for each dwelling unit
- 29 must satisfy the dimensional standards for handicapped-
- 30 accessible vehicle parking and a minimum 8-foot-wide
- 31 access aisle required by the State.
- 32 [x. As a condition of approval, any property owner of the
- 33 conditional use project must be prohibited from seeking a
- 34 tax credit under Section 52-18U or Section 52-93(e). This
- 35 prohibition does not apply to additional accessibility
- 36 features that are installed post-occupancy and for which a
- 37 property tax credit is requested.]

38 * * *

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 Megan Davey Limarzi, Esq.

46 Clerk of the Council