

M E M O R A N D U M

October 20, 2016

TO: Planning, Housing, and Economic Development Committee

FROM: Jeff Zyontz, Senior Legislative Analyst

SUBJECT: Zoning Text Amendment 16-10, Transferable Development Rights Overlay Zone – Optional Method Standards

Zoning Text Amendment (ZTA) 16-10, lead sponsor Council President Floreen, was introduced on August 2, 2016. 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 corrected this problem, for the most part, by approving ZTA 15-09 on December 1, 2015. That ZTA did not make the same adjustment to the TDR Overlay zone that it did to other zones. This amendment would correct that oversight.

The ZTA would also clarify requirements for the TDR overlay zone. For a Rural Residential Zone or Residential zone with a TDR density designation less than 3 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 developments in these zones must satisfy all TDR Overlay Zone optional method requirements. This clarification is consistent with the zoning code in effect before November 1, 2014 and the Council's policy to favor the provision of more affordable housing.

The Council held a public hearing on September 20, 2016. A representative of Brookfield Residential spoke in favor of the ZTA as introduced. The Planning Board and Planning Staff recommended approval of ZTA 16-10 as introduced.

Staff recommends approval.

This Packet Contains
ZTA 16-10

© number
1 – 5

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:

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

2 **DIVISION 4.9. Overlay Zones**

3 * * *

4 **Section 4.9.16. Transferable Development Rights (TDR) Overlay Zone**

5 * * *

6 **B. Optional Method**

7 **1. In General**

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

12 * * *

13 **d. Development with Moderately Priced Dwelling Units**

14 * * *

15 iii. In a Rural Residential or Residential zone with a TDR
16 density designation of less than three units per acre,
17 development using TDRs and providing MPDUs above
18 12.5% must follow the requirements under optional
19 method MPDU Development. Any other optional method
20 development in a Rural Residential or Residential zone
21 must satisfy the requirements of Section 4.9.16.B.

22 * * *

23 **2. Rural Residential and Residential Zones**

24 * * *

25 **b. Calculation of TDRs Required in the Rural Residential or**
26 **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%

38 * * *

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

41

42 This is a correct copy of Council action.

43

44

45 _____
 Linda M. Lauer, Clerk of the Council