

Corrected Copy 11/16/06

Ordinance No: 15-84

Zoning Text Amendment No: 06-14

Concerning: TOMX/TDR Standards

Draft No. & Date: 2 – 10/3/06

Introduced: 5/9/2006

Public Hearing: 6/13/2006; 1:30 p.m.

Adopted: October 3, 2006

Effective: October 23, 2006

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

By: District Council

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- establishing a new TOMX/TDR Zone; and
- creating development standards and procedures for the TOMX/TDR Zone.

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

DIVISION 59-C-13

“TRANSIT ORIENTED, MIXED USE ZONES (TOMX)”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*

Underlining indicates text that is added to existing laws by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by the 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.*

OPINION

Zoning Text Amendment No. 06-14 was introduced on May 9, 2006 to establish a Transit Oriented Mixed Use/Transfer of Developments Rights Zone (TOMX/TDR) and creating development standards and procedures for the TOMX/TDR Zone.

The Montgomery County Planning Board in its report to the Council recommended that the text amendment be approved.

The County Council held a public hearing on June 13, 2006, to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on July 10 and September 18, 2006 to review the amendment. The Committee recommended changes to clarify the text amendment and conform the text amendment to the intent of the Shady Grove Sector Plan.

The District Council reviewed Zoning Text Amendment No. 06-14 at a worksession held on October 3, 2006, and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 06-14 will be approved as amended.

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-C-13 is amended as follows:**

2
3 **DIVISION 59-C-13. TRANSIT ORIENTED, MIXED-USE ZONES**
4 **(TOMX).**

5
6 **59-C-13.11 Zones permitted.**

7 These zones are permitted in transit station development areas as defined in
8 Section 59-A-2.1.

9 * * *

10 TOMX-2.0/TDR

11
12 **59-C-13.24 TOMX/Transferable development rights zones.**

13
14 **59-C-13.241. Method of development.** The following 2 methods of
15 development apply in any TOMX/TDR zone:

- 16
17 (a) **Standard method of development.** Development under the
18 standard method for any TOMX/TDR zone must comply with
19 the requirements and procedures for development and density
20 limitations contained in the corresponding TOMX zone, except
21 that greater residential densities may be permitted pursuant to
22 Section 59-C-13.242. Development must also conform to the
23 special regulations for developments in a TOMX zone using
24 transferable development rights contained in Section 59-C-
25 13.243.

(b) Optional method of development. Development under the optional method for any TOMX/TDR zone must comply with the requirements and procedures for development and density limitations contained in the corresponding TOMX zone and must ~~[[be]]~~ conform to the numeric limits in ~~[[guidelines established in]]~~ the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights and setbacks. In all other respects the development must be consistent with the master or sector plan, however greater residential densities may be permitted pursuant to Section 59-C-13.242. Development must also conform to the special regulations for developments using transferable development rights contained in Section 59-C-13.243. The special regulations require ~~[[compliance with the density and any numerical limitations]]~~conformance to the numeric limits in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights and setbacks. In all other respects the development must be consistent with ~~[[other guidelines contained in]]~~ the applicable master or sector plan ~~[[approved by the district council]]~~.

-	<u>TOMX-2.0/TDR</u>
<u>59-C-13.242. Development Standards-Transferable Development Rights Zone(s):</u>	-
<u>(a) Land uses. Uses allowed in the TOMX/TDR zones are those uses allowed in the following zone(s):</u>	<u>TOMX-2.0</u>
<u>(b) Development standards-Standard method must conform with each of the following:</u>	

-Maximum density of development (FAR) without TDRs The Residential FAR may be increased by a maximum of 20% by the use of TDRs.	<u>0.5</u>
-Maximum dwelling units per acre without TDRs Dwelling units per acre may be increased by a maximum of 20% by the use of TDRs	<u>20</u>
-All other development standards must be in accord with the development standards applicable to the following zones and as specified in the special regulation provisions of Section 59-C-13.243:	<u>TOMX-2.0</u>
<u>(c) Development standards-Optional method of development must conform to each of the following:</u>	
-Maximum density of development (FAR) without TDRs: The Residential FAR may be increased by a maximum of 20% by the use of TDRs.	<u>1.6</u>
-Maximum dwelling units per acre without TDRs Dwelling Units per acre may be increased by a maximum of 20% by the use of TDRs	<u>[[50]]40</u>
-All other development standards must comply with the development standards of the applicable zone and as specified in the special regulation provisions of Section 59-C-13.243:	<u>TOMX-2.0</u>

59-C-13.243. Special regulations for development using transferable development rights in the TOMX/TDR zone.

59-C-13.2431. Applicability. The following procedures and regulations apply to the transfer of development rights to land classified in a TOMX/TDR zone. The Planning Board may approve subdivision of such land at densities not to exceed the maximum density permitted in the applicable TOMX/TDR zone [[and]]. The development must conform to the numeric limits in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights and

61 setbacks. In all other respects the development must be
62 consistent with [[conforming to the guidelines contained in]]
63 the applicable master or sector plan. Any increase in the
64 residential FAR above the residential FAR and dwelling units
65 per acre allowed under the standard and optional methods of
66 development of 59-C-13.215 and 59-C-13.23 must not exceed
67 20% of the maximum dwelling units per acre or FAR permitted
68 without TDRs and must be based on a ratio of one single-family
69 dwelling unit for each TDR, and 2 multi-family dwelling units
70 for each TDR; however, within a designated Metro Station
71 Policy Area, a ratio of three multi-family dwelling units for
72 each TDR and two one-family [[detached]] units for each TDR
73 applies.

74
75 **59-C-13.2432. General provisions.**

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77 (a) A development right must be created, transferred and
78 extinguished only by means of documents in a recordable
79 form approved by the Planning Board, including an
80 easement and appropriate releases. The easement must
81 limit the future construction of one-family dwellings on a
82 property in the RDT zone to the total number of
83 development rights established by the zoning of the
84 property minus all development rights previously
85 transferred in accordance with this section, the number of
86 development rights to be transferred by the instant

87 transaction, and the number of existing one-family
88 detached dwellings on the property.

89
90 (b) The transfer of development rights must be recorded
91 among the land records of Montgomery County,
92 Maryland.

93
94 (c) A property developed under a TOMX/TDR zone must
95 conform to the requirements of Chapter 25A requiring
96 MPDU[(')]s.

97
98 (d) A property developed with transferable development
99 rights must include MPDUs as required by Chapter 25A
100 and workforce housing units as required by Section 59-
101 A-6.18 and Chapter 25B. The number of MPDUs and
102 any resulting bonus density must be calculated after the
103 base density of a property has been increased by a
104 transfer of development rights. The calculation of the
105 number of workforce housing units must be based on the
106 total number of market dwelling units in the development
107 including any transfer of development rights, but not
108 counting any MPDUs or resulting bonus density units.
109 The MPDU density bonus does not require the
110 acquisition of additional development rights.

**59-C-13.2433. Development approval procedures under the
standard and optional method of development.**

(a) A request to use transferred development rights under the
standard or optional method must be in the form of a
preliminary subdivision plan in accordance with Chapter
50.

(b) A site plan must be submitted and approved in
accordance with the provisions of Division 59-D-3.

(c) The Planning Board must approve a request to use
transferred development rights if the request:

(1) is in accordance with provisions of this chapter;

(2) is in accordance with Chapter 50, title
"Subdivision of Land";

(3) conforms to the numeric limits in the applicable
master or sector plan concerning floor area ratio,
dwelling units per acre, building heights, and
setbacks; in all other respects the development is
consistent with [[other recommendations of]] the
applicable master or sector plan ; and

(4) achieves a desirable development compatible with both site conditions and surrounding existing and future development.

(d) Prior to Planning Board approval of a final record plat for a subdivision using transferred development rights, an easement to the County in the form required by Section 59-C-13.2432 (a) above limiting future construction of dwellings on a property in the RDT zone by the number of development rights received must be recorded among the land records of Montgomery County, Maryland.

(e) A final record plat for a subdivision using transferred development rights must contain a statement setting forth the development proposed, the zoning classification of the property, the number of development rights used, and a notation of the recordation of this conveyance required by Section 59-C-13.2432(b).

59-C-13.2434. Development standards applicable to the standard and optional method of development.

(a) The final density achieved for any property located in a TDR receiving area developed under the procedures herein must be determined by the Planning Board and must conform to the site plan provisions (Division 59-D-3) and subdivision regulations (Chapter 50).

(b) In making the determination as to the final density, the Planning Board will consider the following factors:

(1) [[provides housing types]] conforms to the numeric limits in the applicable master or sector plan concerning floor area ratio, dwelling units per acre, building heights, and setbacks; in all other respects the development is consistent with the approved master or sector plan ;

(2) preserves environmentally sensitive and priority forest areas, and mitigates unavoidable impacts on the natural environment;

(3) facilitates good transit serviceability and creates a desirable and safe pedestrian environment; and

(4) achieves compatibility with surrounding land uses[[; and]] ;

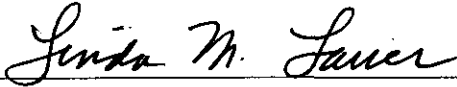
[[5) conforms is to the relevant master or sector plan approved by the District Council]]

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

193 This is a correct copy of Council action.

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196 Linda M. Lauer, Clerk of the Council

CLERK'S NOTE: Omitted words and section numbers from the current law need to be retained. In addition, the brackets on page 4, line 31 and 32, should be placed to remove the word "in".