

Ordinance No.: 18-02
Zoning Text Amendment No.: 15-02
Concerning: Townhouse Living –
Design for Life
Draft No. & Date: 2 – 4/9/15
Introduced: January 20, 2015
Public Hearing: February 24, 2015
Adopted: April 21, 2015
Effective: May 11, 2015

**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
Co-Sponsors: Councilmember Katz, Council Vice President Floreen, Councilmembers Berliner,
Navarro, and Hucker

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- Allow design for life projects with increased density under certain circumstances

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

DIVISION 59.3.1. “Use Table”
Section 59.3.1.6. “Use Table”
Division 59.3.3. “Residential Uses”
Section 59.3.3.1. “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.*

OPINION

Zoning Text Amendment No. 15-02 was introduced on January 20, 2015 to allow a conditional use for Design for Life projects with increased density under certain circumstances. ZTA 15-02 would create a new conditional use for Design for Life communities that include features to make access easier for visitors and residents. The approval of the conditional use would increase the number of dwelling units per acre over a site's base zoning and require Level II accommodations.

In its report to the Council, the Montgomery County Planning Board recommended that the text amendment be approved. Planning Board Staff recommended approval with an amendment to lower the maximum density allowed as a conditional use.

The Council conducted a public hearing on February 24, 2014. All 7 speakers, including the Planning Board Chair, spoke in favor of ZTA 15-02. Several possible revisions were suggested in testimony:

- 1) Reduce the maximum allowable density from the proposed 15.25 units per acre (the maximum in the TMD zone) to 9.76 units per acre (the maximum density in the TLD zone).
- 2) Prohibit the Design for Life conditional use in the R-40 and R-60 zone.
- 3) Require a maximum 2% slope from the public right-of-way to an accessible entry and from the parking area to the accessible entry.

The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

On March 16, 2015, the Committee recommended approval of ZTA 15-02 with the following amendments:

- 1) Delete the R-40 zone from the list of zones that may get Townhouse Living conditional use.
- 2) Add a requirement for an accessible aisle next to the accessible parking space.
- 3) Delete the requirement for proximity to a hospital.
- 4) Add a provision to prohibit accessibility tax credits for property owners that take advantage of the Townhouse Living conditional use.

The Committee believed that the density incentive provision on ZTA 15-02 for accessible communities is in the public interest, with sufficient neighborhood protection mechanisms (conditional use approval and site plan approval) to ensure compatibility with existing communities. The Committee considered, but did not recommend, a lower maximum density. The Committee noted the lack of any R-40 zoned sites of 2 acres or more and recommended deleting R-40 zoned property from the possibility of a conditional use for that reason. The proximity to a hospital was recommended for removal. The requirement to be within 2 miles of a Metrorail station already made the hospital proximity requirement superfluous. As a matter of policy, the Committee thought that both a density bonus and a tax credit for the same attribute would be excessive.

The District Council reviewed Zoning Text Amendment No. 15-02 at a worksession held on April 21, 2015. The Council agreed with the Committee recommendations.

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. 15-02 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 59.3.1 is amended as follows:**

2 **DIVISION 59.3.1. Use Table**

3 * * *

4 **Section 3.1.6. Use Table**

5 The following Use Table identifies uses allowed in each zone. Uses may be
6 modified in Overlay zones under Division 4.9.

USE OR USE GROUP	Definitions and Standards	Ag	Residential															
			Rural Residential			Residential Detached								Residential Townhouse			Residential Multi-Unit	
			AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20
* * *																		
RESIDENTIAL																		
HOUSEHOLD LIVING	3.3.1.																	
Single-Unit Living	3.3.1.B	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Two-Unit Living	3.3.1.C				P		L	L	L	L	L	P	P	P	P	P	P	P
Townhouse Living	3.3.1.D				P		L	L/C	L/C	L/C	L/C	L/C	P	P	P	P	P	P

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8 **Sec. 2. DIVISION 59.3.3 is amended as follows:**

9 **Division 3.3. Residential Uses**

10 **Section 3.3.1. Household Living**

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12 **D. Townhouse Living**

13 **1. Defined**

14 Townhouse Living means 3 or more dwelling units in a townhouse building
15 type.

16 **2. Use Standards**

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- a. Where Townhouse Living is allowed as a limited use, it must satisfy the following standards:

 - [a] i. In the RE-2C and RE-1 zones, Townhouse Living is permitted as part of a development including optional method Moderately Priced Dwelling Units (see Division 4.4) if it is:

 - [i.] (a) served by public sewer service; or
 - [ii.] (b) designated for sewer service in an applicable master plan.
 - [b] ii. In the R-200 and R-40 zones, Townhouse Living is permitted as part of a development including optional method Moderately Priced Dwelling Units (see Division 4.4).
 - [c] iii. In the R-90 and R-60 zones, Townhouse Living is permitted as part of the following:

 - [i.] (a) a development including optional method Moderately Priced Dwelling Units (see Division 4.4);
 - [ii.] (b) optional method cluster development (see Division 4.4) that is a minimum of 10 acres in size; or
 - [iii.] (c) optional method cluster development (see Division 4.4) that is a minimum of 3 acres or more in size and recommended in a master plan.
 - [d] iv. In the GR, NR, and EOF zones, the gross floor area of all Household Living uses is limited to 30% of the gross floor area on the subject site.

44 [e] v. In the LSC zone, all Household Living uses are limited to
 45 30% of the maximum allowed FAR mapped on the
 46 subject site.

47 b. Where Townhouse Living is allowed as a conditional use, it
 48 may be permitted by the Hearing Examiner under Section
 49 7.3.1, Conditional Use, and the following standards:

50 i. All buildings and structures must meet or exceed the
 51 Level II Accessibility Standards established by Section
 52 52-18[[T]]T and detailed in Section 52-18[[U]]U.

53 ii. Public bus service must be available on a road abutting
 54 the site.

55 iii. A Metro Station must be within 2 miles of the site.

56 iv. Public recreation or park facilities must be within 1,000
 57 feet of the site.

58 v. [[A Hospital must be within a 5 mile radius of the site.]]

59 [[vi]] A grading plan must demonstrate that the post
 60 construction site will have a slope less than 5%.

61 [[vii]] vi. The minimum site size is 2 acres.

62 [[viii]] vii. The density limitations and development standards
 63 of the TMD zone under optional method (Section
 64 4.4.12.C) apply in spite of any other limitation in this
 65 Chapter.

66 [[ix]] viii. Reducing the number of required parking spaces
 67 through alternative compliance under Division 6.8 is
 68 prohibited.

69 [[x]] ix. A minimum of one parking space for each
 70 dwelling unit must satisfy the dimensional standards for

71 handicapped-accessible vehicle parking and a minimum
72 8 foot wide access aisle required by the State.

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

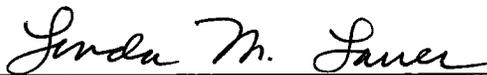
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80 **Sec. 3. Effective date.** This ordinance becomes effective 20 days after the
81 date of Council adoption.

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83 This is a correct copy of Council action.

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86 Linda M. Lauer, Clerk of the Council