

Corrected Copy 10/25/06
Ordinance No: 15-85
Zoning Text Amendment No: 06-15
Concerning: RMX-2C/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 RMX-2C/TDR Zone; and
- creating development standards and procedures for the RMX-2C/TDR Zone.

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

DIVISION 59-C-10	“RMX ZONES-RESIDENTIAL MIXED USE DEVELOPMENT.”
Section 59-C-10.1.	“Zones established.”
Section 59-C-10.2.1.	“Standard Method of development regulations.”
Section 59-C-10.3.	“Optional Method of development regulations.”
Section 59-C-10.3.2.	“Land uses.”
Section 59-C-10.3.3.	“Minimum green area or outside amenity area.”
Section 59-C-10.3.4.	“Maximum commercial density.”
Section 59-C-10.3.5.	“Maximum gross leasable (non-residential) floor area.”
Section 59-C-10.3.6.	“Minimum number of dwelling units required.”
Section 59-C.10.3.11	“Development procedure.”

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. 06-15 was introduced on May 9, 2006 to establish a new RMX-2C/TDR Zone; and create development standards and procedures for the RMX-2C/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 worksessions on July 10 and September 18, 2006 to review the amendment. The Committee recommended changes to clarify the text amendment and to conform the text amendment to the intent of the Shady Grove Sector Plan.

The District Council reviewed Zoning Text Amendment No. 06-15 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. 06-15 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-10 is amended as follows:**

2

3 **DIVISION 59-C-10. RMX ZONES-RESIDENTIAL MIXED USE**
4 **DEVELOPMENT.**

5

6 **Sec. 59-C-10.1. Zones established.**

7 The Residential-Mixed Use Development Zones are Euclidean zones and their
8 identifying symbols are as follows:

9 * * *

10 RMX-2C/TDR Residential-Mixed Use Development, Specialty Center,
11 Commercial Base/Transferable Development Rights

12 * * *

13 **Sec. 59-C-10.2.1. Standard Method of development regulations.**

14

15 **59-C-10.2.1.1. Land uses and development standards.**

16 * * *

17 3. **RMX-2C, RMX-2C/TDR and RMX-3C Zones:** Standard method
18 commercial projects in these zones must comply with the standards
19 and requirements of the standard method of development in the C-2
20 Zone, as contained in Sections 59-C-4.351 and 59-C-4.353 through
21 59-C-4.355. A maximum floor area ratio of 0.3 is permitted under this
22 form of development. The uses allowed under this method are the
23 same as those allowed under the optional method of development as
24 set forth in Section C-10.3.2. Standard method residential projects in
25 these zones must comply with the standards and requirements of the
26 R-30 Zone as contained in Division 59-C-2.

27 * * *

28 **Sec. 59-C-10.3. Optional Method of Development Regulations.**

29 * * *

30 **59-C-10.3.2. Land uses.**

31 The following uses are allowed under the Optional Method of Development
 32 in the RMX-1, RMX-2, RMX-3, RMX-1/TDR, RMX-2/TDR, and RMX-
 33 3/TDR Zones and under both the Standard Method and Optional Method of
 34 Development in the RMX-2C, RMX-2C/TDR and RMX-3C Zones:

35
 36 - **Permitted uses.** Those uses designated by the letter "P" and uses of a
 37 similar character are permitted on any lot, subject to all applicable
 38 regulations.

39 - **Special exception uses.** Those uses designated by the letters "SE" may
 40 be authorized as special exceptions, in accordance with the provisions
 41 of Article 59-G.

42

	RMX-1 RMX-1/TDR	RMX-2 RMX-2/TDR	RMX-2C <u>RMX- 2C/TDR*</u>	RMX-3 RMX-3/TDR	RMX-3C
(a) Residential:					
Dwellings, multiple-family.	P	P	P	P	P
* * *					

43 * * *

44 * Any existing structure or established use for which a building permit was issued
 45 prior to the reclassification of land to the RMX-2C/TDR zone must not be regarded
 46 as a nonconforming structure or use.

47

48 **59-C-10.3.3. Minimum green area or outside amenity area.**

49
50 Minimum green area or outside amenity area:

51

	RMX-1 RMX-1/TDR	RMX-2 RMX-2/TDR RMX-2C RMX-2C/TDR	RMX-3 RMX-3/TDR	RMX-3C
(a) Within the commercial portion of a site	15%	15%	20%	10%
(b) Within the residential portion of a site	50%	50%	50%	20%

52

53 **59-C-10.3.4. Maximum commercial density.**

54 * * *

55 (b) In the RMX-2, RMX-2C, RMX-3, RMX-2C/TDR, RMX-3C, RMX-
56 2/TDR and RMX-3/TDR Zones the maximum commercial density
57 must not exceed 0.5 FAR.

58 * * *

59 **59-C-10.3.5. Maximum gross leasable (non-residential) floor area.**

60

	RMX-1 RMX-1/TDR	RMX-2 RMX-2/TDR	RMX-2C <u>RMX- 2C/TDR</u>	RMX-3 RMX-3/TDR	RMX-3C
Maximum gross leasable (non-residential) floor area (in square feet):	200,000	600,000	600,000	1,300,000	1,300,000

61

62 **59-C-10.3.6. Minimum number of dwelling units required.**

63

64 In the RMX-1, RMX-2, RMX-2C, RMX-3, RMX-3C, RMX-1/TDR, RMX-
65 2/TDR, RMX-2C/TDR and RMX-3/TDR Zones any site over 30 acres in size must
66 include a minimum of 150 dwelling units, but not more than the number
67 recommended on the approved and adopted master plan.

68 **59-C-10.3.7. Maximum residential density.**

- 69 (a) The maximum residential density in an RMX Zone must not exceed
70 30 dwelling units per acre for residential areas shown on the project
71 plan. The density approved by the Planning Board must not exceed
72 the density shown on the approved and adopted master plan which
73 must be no greater than the density permitted by the RMX zone.
74 Where residential development is proposed to be located within a
75 proposed commercial area, the maximum residential density for such
76 areas must not exceed 40 dwelling units per acre.

77 (b) Under the RMX-2C/TDR optional method of development, any
78 increase in residential density or residential units above the standard
79 method density or dwelling units requires the use of TDRs. Any
80 residential units above the standard method density must be based on
81 a ratio of one single-family dwelling unit for each TDR, and two
82 multi-family dwelling units for each TDR; however, within a
83 designated Metro Station Policy Area, a ratio of three multi-family
84 dwelling units for each TDR and two one-family ~~[[detached]]~~ units for
85 each TDR applies.

86 ([b]c) The density of residential development should be compatible with the
87 density recommended on the approved and adopted master plan
88 except that the number of units permitted may be increased by a
89 number equal to the number of moderately priced dwelling units
90 included in the development plan in accordance with Chapter 25A of
91 this Code, as amended, provided that the total increase does not
92 exceed 22 percent of the total number of units recommended on the
93 master plan.

94 * * *

95 **59-C-10.3.11. Development procedure.**

96 * * *

97 (b) **RMX-2C, RMX-2C/TDR and RMX-3C Zones:**

98
99 The RMX-2C, RMX-2C/TDR and RMX-3C zones are intended primarily
100 for sites where there is existing commercial development that is suitable for
101 substantial expansion or redevelopment with mixed uses. [As such, a special

102 set of procedures is required to ensure an orderly process for such
103 development.]

104
105 In order to encourage the orderly and staged development of large-scale
106 mixed use centers, a concept plan may be submitted to the Planning Board in
107 lieu of a project plan for the entire site. [[Individual project plans for each
108 stage of development is required.]] In approving [the] a concept plan, the
109 Board must take into account the mix of uses and density of development
110 recommended for the site in the applicable master or sector plan.

111
112 When an optional concept plan is submitted, a project plan as defined in
113 division 59-D-2 must be submitted for the first stage of new development
114 proposed in the concept plan's development program. A concept plan [is
115 intended to] must show the general location of [major] proposed types of
116 land use [types], the [land use quantities proposed] number of residential
117 units and square footage of non-residential space, the staging or sequence of
118 development, and such other features as enumerated in section 59-C-10.3.12.
119 A project plan, as [provided] required in division 59-D-2, must be submitted
120 for each stage of development according to the sequence established in the
121 concept plan. Such project plans must be [in accordance] consistent with the
122 concept plan approved by the Planning Board unless [it is] accompanied by
123 a requested amendment to the concept plan. If a concept plan is not
124 submitted, a project plan must be submitted for the entire site in addition to
125 the individual phases.

126 * * *

127 **59-C-10.3.13. Special regulations for development using transferable**
128 **development rights zone.**

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59-C-10.3.131. Applicability. The following procedures and regulations apply to the transfer of development rights to land classified in the RMX-2C/TDR zone. The Planning Board may approve subdivision of such land at densities not to exceed the maximum density permitted in these zones and must conform 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 ~~[[conforming to the guidelines contained in]]~~ the applicable master or sector plan. Any residential density or units above the standard method density must be increased by the use of TDRs. Residential units must be based on a ratio of one single-family dwelling unit for each TDR, and two multi-family dwelling units for each TDR, except within a designated Metro Station Policy Area, where a ratio of three multi-family dwelling units for each TDR and two one-family ~~[[detached]]~~ units for each TDR applies.

59-C-10.3.132. General provisions.

- (a) A development right must be created, transferred and extinguished only by means of documents in a recordable form approved by the Planning Board, including an easement and appropriate releases. The easement must limit the future construction of one-family dwellings on a property in the RDT zone to the total number of development rights established by the zoning of the

156 property minus all development rights previously
157 transferred in accordance with this section, the number of
158 development rights to be transferred by the instant
159 transaction, and the number of existing one-family
160 detached dwellings on the property.

161
162 (b) The transfer of development rights must be recorded
163 among the land records of Montgomery County,
164 Maryland.

165
166 (c) A property developed under the RMX-2C/TDR zone
167 must conform to the requirements of Chapter 25A
168 requiring MPDU[']s.

169
170 **59-C-10.3.133. Development approval procedures under the**
171 **optional method of development.**

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

176
177 (b) A site plan must be submitted and approved in accordance with
178 the provisions of Division 59-D-3.

179
180 (c) The Planning Board must approve a request to use transferred
181 development rights if the request:

182

- 183 (1) is in accordance with provisions of this chapter;
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185 (2) is in accordance with Chapter 50, title "Subdivision of
186 Land";
187
188 (3) conforms to the numeric limits in the applicable master
189 or sector plan concerning floor area ratio, dwelling units
190 per acre, building heights, and setbacks; in all other
191 respects the development is consistent with [[other
192 recommendations of]] the applicable master or sector
193 plan ; and
194
195 (4) achieves a desirable development compatible with both
196 site conditions and surrounding existing and future
197 development.
198
199 (d) Prior to Planning Board approval of a final record plat for a
200 subdivision using transferred development rights, an easement
201 to the County in the form required by Section 59-C-10.132(a)
202 above limiting future construction of dwellings on a property in
203 the RDT zone by the number of development rights received
204 must be recorded among the land records of Montgomery
205 County, Maryland.
206
207 (e) A final record plat for a subdivision using transferred
208 development rights must contain a statement setting forth the
209 development proposed, the zoning classification of the
210 property, the number of development rights used, and a notation

211 of the recordation of this conveyance required by Section 59-C-
212 10.132(b).

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214 **59-C-10.3.134. Development standards applicable to the optional**
215 **method of development.**

216
217 (a) The final density achieved for any property located in a
218 TDR receiving area developed under the procedures herein
219 must be determined by the Planning Board and must conform to
220 the site plan provisions (Division 59-D-3) and subdivision
221 regulations (Chapter 50).

222
223 (b) In making the determination as to the final density, the
224 Planning Board will consider the following factors:

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

230
231 (2) preserves environmentally sensitive and priority forest
232 areas, and mitigates unavoidable impacts on the natural
233 environment;

234
235 (3) facilitates good transit serviceability and creates a
236 desirable and safe pedestrian environment; and

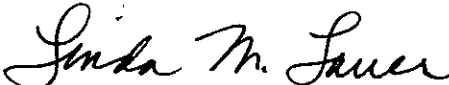
237

238 (4) achieves compatibility with surrounding land uses;;
239 and;;

240
241 [(5) conforms to the relevant master or sector plan approved
242 by the District Council]

243
244 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
245 date of Council adoption.

246
247 This is a correct copy of Council action.

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250  _____

251 Linda M. Lauer, Clerk of the Council

252 Clerk's Note: Corrected subsection identifications