



Zoning Text Amendment (ZTA) No. 15-02, Townhouse Living – Design for Life

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Description

ZTA No. 15-02 would allow a conditional use for design for life projects with increased density under certain circumstances. Specifically, the ZTA would allow a conditional use for townhouse living in the RE-1, R-200, R-90, R-60 and R-40 zones under requirements that include: meeting the Level II Accessibility Standards of Sections 52-18(T) and 18(U) for all units; close proximity to public transit, public recreation and hospital services; 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 TMD zone under optional method; and at least one parking space for each dwelling unit satisfying the dimensional standards for handicapped-accessible vehicle parking.

Summary

Staff recommends approval, with modifications, of ZTA No. 15-02 to allow a conditional use for design for life projects with increased density under certain circumstances. Staff modifications reflect a more appropriate incentive density commensurate with the limitations and standards of the Townhouse Low Density (TLD) zone. As introduced, the incentive density reflects the limitations and standards of the Townhouse Medium Density (TMD) zone.

Background/Analysis

The Design for Life program is 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. As no new dwelling units have taken advantage of this provision, this intent has not been realized.

The sponsors of ZTA 15-02 believe that more incentives are warranted for new accessible communities. ZTA 15-02 would create a new conditional use for Design for Life communities that at least make access easier for visitors. The approval of the conditional use would increase the number of dwelling units per acre over a site's base zoning. In the sponsors' opinion, the conditions for approval will restrict approvals to appropriate areas of the County.

In General- Universal Design Living

Within the building industry, universal design is considered far more than just ADA compliance or accessibility. The National Association of Home Builders defines universal design as “the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.” Universal Design involves designing products and spaces so that they can be used by the widest range of people possible. Universal Design evolved from Accessible Design, a design process that addresses the needs of people with disabilities. Universal Design goes further by recognizing that there is a wide spectrum of human abilities. Everyone, even the most able-bodied person, passes through childhood, periods of temporary illness, injury and old age. By designing for this human diversity, we can create things that will be easier for all people to use

A universally designed home is convenient for an age-diverse population without overtly suggesting any age. It does include features that are designed to provide independence: no-step entry, wide doorways and hallways, and good lighting with easy-to-use rocker switches.

The Center for Inclusive Design and Environmental Access (IDeA Center) states that there are a number of goals for this type of design: body fit that covers a wide range of sizes; design that helps with promoting wellness and preventing injury; and personalization, so that residents have an element of choice and individuality in their environment. With these goals in mind, architects and builders can create housing that avoids feeling institutional. They further refer to this type of design as “enabling rather than disabling.” The new universal design is attractive, easy to use, and has high-tech functionality that is nearly invisible. Although right now this is a concept that has been age driven, it is anticipated that the target will soon be everyone.

ZTA Provisions and Staff Comments

Currently Townhouse Living is a limited use in all but one Residential Detached zone (the RE-2 zone). The limitation allows townhouses only as part of a development including optional method Moderately Priced Dwelling Units. In the R-90 and R-60 zones, Townhouse Living is also permitted as part of an optional method cluster development that is a minimum of 10 acres in size or as part of an optional method cluster development that is a minimum of 3 acres or more in size and recommended in a master plan. ZTA No. 15-02 would require a conditional use for townhouse living proposed outside of the parameters stated above that includes increased density equivalent to the limitations and development standards of the Townhouse-Medium Density (TMD) zone. A townhouse living proposal under these provisions must: meet the Level II Accessibility Standards of Sections 52-18(T) and 18(U) for all units; be located in close proximity to public transit (public bus service must abut project site; metro station must be located within 2 miles); be located near public recreation or park (within 1000 feet of the site); be located near hospital services (within 5 mile radius); demonstrate that the post construction site will be

minimally sloped (less than 5%); be on a site of at least 2 acres; and provide at least one parking space for each dwelling unit satisfying the dimensional standards for handicapped-accessible vehicle parking.

Staff has no objection to a majority of the standards established for a design for life townhouse living project. The Level II Accessibility Standards (Attachment 2) ensures that each unit has at least one no-step entrance located at an entry door to the house that is connected to an accessible route to a place to visit on the entry level, a usable powder room or bathroom, and a 32-inch nominal clear width interior door while also providing an accessible circulation path that connects the accessible entrance to an accessible kitchen, a full bath, and at least one accessible bedroom. In essence, the Level II Accessibility standards ensure accessibility for those visiting as well as for those living in the townhouse unit. Adjacency to public transit provides ease of access for those who might not, at some point, be able to drive, while the provision for a handicapped space for each unit provides easy access to vehicles for those who continue to own a vehicle- Ease of access to either of these provisions would be enhanced by the minimally sloped topography.

The one provision that staff has some concern with pertains to the amount of additional density permitted for a design for life townhouse living project. Staff recognizes that because every project must go through the conditional use process, attaining the maximum allowed density of the TMD zone is not a guarantee. However, with a maximum allowed density of 15.25 dwelling units per acre using the TMD optional method of development provisions, in the RE-1 zone, for example, one could potentially gain approximately 12.5 times more density for a design for life project than they could attain otherwise (maximum density of 1.22 du/ac). Staff believes that the density limitations (9.76 du/ac) and standards of the Townhouse Low Density (TLD) zone would be a more appropriate tradeoff. Staff recommends this modification to ZTA No. 15-02.

Conclusion

With the proposed change to the ZTA language as depicted in Attachment 1 (density modification from TMD to TLD), staff recommends approval of ZTA No. 15-02.

Attachments

1. ZTA No. 15-02 as modified by staff
2. Accessibility Standards of Sections 52-18(T) and 52-18(U)

ATTACHMENT 1

Zoning Text Amendment No.: 15-02
Concerning: Townhouse Living –
Design for Life
Draft No. & Date: 1 – 1/5/15
Introduced: January 20, 2015
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**

By: Councilmembers Rice, Katz, Floreen, and Berliner

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.

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	Rural Residential		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
* * *																			
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	P
Two-Unit Living	3.3.1.C				P		L	L	L	L	L	P	P	P	P	P	P	P	P
Townhouse Living	3.3.1.D				P		L	<u>L/C</u>	<u>L/C</u>	<u>L/C</u>	<u>L/C</u>	<u>L/C</u>	<u>L/C</u>	P	P	P	P	P	P

* * *

7 * * *

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

9 Division 3.3. Residential Uses

10 **Section 3.3.1. Household Living**

11 * * *

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**

- 17 a. Where Townhouse Living is allowed as a limited use, it must
18 satisfy the following standards:
- 19 [a] i. In the RE-2C and RE-1 zones, Townhouse Living is
20 permitted as part of a development including optional
21 method Moderately Priced Dwelling Units (see
22 Division 4.4) if it is:
23 [i.] (a) served by public sewer service; or
24 [ii.] (b) designated for sewer service in an applicable
25 master plan.
- 26 [b] ii. In the R-200 and R-40 zones, Townhouse Living is
27 permitted as part of a development including optional
28 method Moderately Priced Dwelling Units (see
29 Division 4.4).
- 30 [c] iii. In the R-90 and R-60 zones, Townhouse Living is
31 permitted as part of the following:
32 [i.] (a) a development including optional method
33 Moderately Priced Dwelling Units (see
34 Division 4.4);
35 [ii.] (b) optional method cluster development (see
36 Division 4.4) that is a minimum of 10 acres in size;
37 or
38 [iii.] (c) optional method cluster development (see
39 Division 4.4) that is a minimum of 3 acres or more
40 in size and recommended in a master plan.
- 41 [d] iv. In the GR, NR, and EOF zones, the gross floor area of all
42 Household Living uses is limited to 30% of the gross
43 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) and detailed in Section 52-18(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. The minimum site size is 2 acres.
- 62 viii. The density limitations and development standards of the
63 [[TMD]] TLD zone under optional method (Section
64 [[4.4.12.C]] 4.4.11C) apply in spite of any other
65 limitation in this Chapter.
- 66 ix. Reducing the number of required parking spaces through
67 alternative compliance under Division 6.8 is prohibited.
- 68 x. A minimum of one parking space for each dwelling unit
69 must satisfy the dimensional standards for handicapped-
70 accessible vehicle parking required by the State.

71 * * *

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

74

75 This is a correct copy of Council action.

76

77 _____

78 Linda M. Lauer, Clerk of the Council

Sec. 52-18T. Property tax credit — accessibility features.

(a) *Definitions.* In this Section, the following terms have the meaning indicated.

Department means the Department of Permitting Services.

Director means the Director of the Department or the Director's designee.

Eligible costs means costs that are:

- (1) incurred within 12 months before the property owner submits an application to the Department for the credit;
- (2) for a feature authorized under this Section, including reasonable costs to install the feature;
- (3) paid by the applicant and not, or will not be, reimbursed by any entity; and
- (4) in excess of \$500.

Feature means a permanent modification to a residence that results in:

- (1) a no-step front door entrance with a threshold that does not exceed ½ inch in depth with tapered advance and return surfaces or, if a no-step front entrance is not feasible, a no-step entrance to another part of the residence that provides access to the main living space of the residence;
- (2) an installed ramp creating a no-step entrance;
- (3) an interior doorway that provides a 32-inch wide or wider clearing opening;
- (4) an exterior doorway that provides a 32-inch wide or wider clear opening, but only if accompanied by exterior lighting that is either controlled from inside the residence, automatically controlled, or continuously on;
- (5) walls around a toilet, tub, or shower reinforced to allow for the proper installation of grab bars with grab bars installed in accordance with the Americans with Disabilities Act Standards for Accessible Design;
- (6) maneuvering space of at least 30 inches by 48 inches in a bathroom or kitchen so that a person using a mobility aid may enter the room, open and close the door, and operate each fixture or appliance;
- (7) an exterior or interior elevator or lift or stair glide unit;
- (8) an accessibility-enhanced bathroom, including a walk-in or roll-in shower or tub; or
- (9) an alarm, appliance, and control structurally integrated into the unit designed to assist an individual with a sensory disability.

(b) *Credit established.* In accordance with Section 9-250 of the Tax-Property Article of the Maryland Code, the owner of real property may receive a property tax credit against the County property tax for a feature that is installed on an existing residence that is the owner's principal residence when the feature is installed.

[Type text]

(c) *Credits.*

(1) The tax credit allowed under this Section is the lesser of:

(A) 50% of the eligible costs; or

(B) \$2,500 less any subsidy received from a governmental, quasi-governmental, or non-profit entity for the feature.

(2) Any credit that is received which exceeds the annual tax liability of the property may be carried over to the next tax year.

(3) The credit runs with the property upon the transfer of title, and the balance of any credit must be applied to the tax bill of the subsequent owner of the property.

(d) *Annual Limit on Amount of Credits Granted.*

(1) During any fiscal year, the total of all tax credits granted under this Section must not exceed \$100,000.

(2) Credits must be granted in the order in which the Department certifies the amount of the credit under subsection (e)(3).

(3) A certification of a credit that would cause the limit in subsection (d)(1) to be exceeded must be granted in the next tax year or years, subject to subsections (c) and (d)(1).

(e) *Application for the Credit.*

(1) To receive the credit, a property owner must submit an application to the Department:

(A) in the format the Department requires;

(B) that includes a copy of the building permit to install the feature;

(C) that includes any document that the Department requires; and

(D) on or before the date the Department sets.

(2) The Department must only accept one application for a credit under this Section for each property during a single tax year.

(3) The Department must certify to the Department of Finance that the property is eligible for the credit and the amount of the credit.

(4) A property owner may submit an application on or after March 1, 2014 for a credit.

(f) *Administration.*

(1) The County Executive may adopt regulations under Method (2) to administer this Section.

(2) The Department must submit a written report to the Council by October 1 of each year for the preceding fiscal year. The report must include the following:

(A) number of applicants;

[Type text]

(B) number of applications approved;

(C) modification made by the applicant;

(D) other sources from which the applicant received funds or applied for assistance for the modification;

(E) efforts to advertise the credit; and

(F) any program recommendations.

(g) *Publicity*. The Department must publicize the credit in a way designed to inform those most likely to benefit from the credit.

(h) *Effective Date*. The credit authorized by this Section applies to tax years beginning on or after July 1, 2014. (2013 L.M.C., ch. 32, § 1; 2014 L.M.C., ch. 18, § 1.)

Sec. 52-18U. Property tax credit — level I and level II accessibility standards.

(a) *Definitions*. In this Section, the following terms have the meaning indicated:

Department means the Department of Permitting Services.

Director means the Director of the Department or the Director's designee.

Eligible costs means costs that are:

(1) incurred within 12 months before the property owner submits an application to the Department for the credit;

(2) for an accessibility feature authorized under this Section, including reasonable costs to install the feature;

(3) paid by the applicant and not, or will not be, reimbursed by any entity; and

(4) in excess of \$500.

Accessibility Feature means a permanent addition to a single family residence that is a requirement under a Level I or Level II Accessibility Standard.

Level I Accessibility Standard means a permanent addition to a single family residence that include at least one no-step entrance located at any **entry door** to the house that is **connected to an accessible route to a place to visit on the entry level, a usable powder room or bathroom, and a 32-inch nominal clear width interior door** as further defined and described in Executive Regulations adopted under Method 2.

Level II Accessibility Standard means permanent additions to a single family residence that provide **all of the Level I Accessibility Standards plus an accessible circulation path that connects the accessible entrance to an accessible kitchen, a full bath, and at least one accessible bedroom**, as further defined and described in Executive Regulations adopted under Method 2.

Single family residence means an attached or detached single family home.

[Type text]

(b) *Credit established.* As authorized by Section 9-250 of the Tax-Property Article of the Maryland Code, the owner of a single family residence located in Montgomery County may receive a property tax credit against the County real property tax for the cost of features that achieve Level I or Level II Accessibility Standards.

(c) *Amount of Credit.* The tax credit permitted by this Section must be as follows:

(1) For features meeting Level I Accessibility Standards, certified costs of up to \$3,000 less any credit received against the Development Impact Tax for School Improvements under Section [52-93](#) for those features and less any funds or assistance received for the accessibility feature.

(2) For features meeting Level II Accessibility Standards, certified costs of up to \$10,000 less any credit received against the Development Impact Tax for School Improvements under Section [52-93](#) for those features and less any funds or assistance received for the accessibility feature.

(3) The maximum amount of credit that may be applied in any one tax year is \$2,000.

(4) The amount of credit that may be applied in any one tax year must not exceed the amount of County property tax imposed on the property in that year.

(5) Any credit that is granted that exceeds the limit set in subsection (c)(3) or exceeds the annual tax liability of the property may be carried over to the next tax year, subject to subsection (c)(3), until the entire amount of the credit is applied.

(6) The credit runs with the property upon transfer of title and the balance of any credit must be applied to the tax bill of the subsequent owner of the property.

(d) *Annual Limit on Amount of Credits Granted.*

(1) During any tax year, the total of all tax credits granted under this Section must not exceed \$500,000.

(2) Credits must be granted in the order in which the Department certifies the amount of the credit under subsection (e)(3).

(3) A certification of a credit that would cause the limit in subsection (d)(1) to be exceeded must be granted in the next tax year or years subject to subsections (c)(3) and (d)(1).

(e) *Application for the Credit.*

(1) To receive the credit, a property owner must submit an application to the Department:

(A) in the format the Department requires;

(B) that includes a copy of the building permit to install the feature;

(C) that includes any document that the Department requires; and

(D) on or before the date set in the regulations.

(2) The Department must only accept one application for a credit under this Section for each property during a single tax year.

[Type text]

(3) The Department must certify to the Department of Finance that the property is eligible for the credit and the amount of the credit.

(4) A property owner may apply for a credit on or after March 1, 2014.

(f) *Administration.*

(1) The County Executive may adopt regulations under Method (2) to administer this Section.

(2) The Department must submit a written report to the Council by October 1 of each year for the preceding tax year. The report must include the following:

(A) number of applicants;

(B) number of applications approved;

(C) modification made by the applicant; and

(D) efforts to promote the credit.

(g) *Publicity.* The Department must publicize the credit in a way designed to inform those most likely to benefit from the credit.

(h) *Effective Date.* The credit authorized by this Section applies to tax years beginning on or after July 1, 2014. (2013 L.M.C., ch 32, § 1.)