

33. *May A Property Owner In A Designated Receiving Area Develop It Without Purchasing Development Rights?*

Yes. It can be developed at the base density.

34. *As A Potential Purchaser Of Development Rights, How Can A Developer Check Their Validity?*

They may be verified at the County Court House in the Land Records Office. Also, the purchaser should undertake a title search.

35. *Can An Owner Resubdivide Land In The Receiving Area After Development Rights Have Been Used?*

Regulations regarding the resubdivision of land apply uniformly to both existing recorded subdivisions and receiving areas. Resubdivision of land also must comply with appropriate zoning standards and recommended TDR optional density for the property.

36. *What Is The Smallest Number Of Units Which A Developer Needs To Make Use Of Development Rights?*

To use the optional density an owner must prepare a subdivision plan using at least two-thirds of the number of TDR's permitted on the property, but the actual number permitted will be determined by the Planning Board in its action on the subdivision and site plan. The two-thirds requirement may be waived by the Planning Board based on compatibility or environmental reasons.

DENSITY OPTION DEVELOPMENT PROCEDURES IN A TDR RECEIVING AREA

37. *What Is The Method For Calculating The Number Of Possible TDR's For Property In A TDR Receiving Area?*

The number of TDR's to be used for property designated as a receiving area is the difference in units between the base density and the TDR density option, exclusive of the MPDU bonus.

EXAMPLE: 100 acre parcel recommended in a master plan for use of TDR's at a density of 7 units per acre is in the R-60/TDR Zone. The R-60 zone establishes the base density.



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- A. The maximum number of units based on the TDR density (not including moderately priced dwelling units) is: 100 (gross acreage) X 7 (TDR density) = 700 dwelling units
 - B. The maximum number of units based on the R-60 Zone density (not including moderately priced dwelling units) is: 100 (gross acreage) X 5 (R-60 cluster development) = 500 dwelling units.

The difference between these two densities, A minus B equals C, is the number of TDR's necessary to achieve the Master Plan recommendation for the property. $700 - 500 = 200$ TDR's

NOTE: The number of TDR's for a receiving area property is calculated using the gross acreage.

38. Are TDR's Required For Moderately Priced Dwelling Units Calculated In Accordance With Chapter 25-A Of The County Law?

No.

39. What Is The Minimum Number Of TDR's Needed For A Property, If Developed At A Density Less Than The Maximum Number Of TDR's Recommended In The Master Plan?

To proceed with any development using TDR's, a minimum two-thirds of the calculated number of TDR's must be used unless the Planning Board waives the requirement.

40. Can The Two-Thirds Requirement Be Waived For Any Reason?

The Planning Board, upon review of a submitted preliminary plan, may waive the two-thirds requirement for environmental or compatibility reasons. In all other situations, the full consignment of TDR's will be required.

41. Does the TDR Recommendation On A Master Plan Represent The Actual Number Of Units That Will Be Approved On A Preliminary Plan, Site Plan, Or Final Record Plat?

No. The master plan is a guide to land use development and establishes the maximum number of units for which application can be made. It is not an



engineering document. Each property is unique and has its own development constraints which include configuration, slopes, and soil conditions. In many cases, the Planning Board finds that the development must be restricted to fewer units.

42. *If the Preliminary Plan Only Covers A Portion Of The Property, Are The TDR's Calculated On The Entire Property Or Only That Portion Covered By The Plan?*

TDR's are only calculated on that portion of the property covered by the preliminary plan.

43. *Are The Dwelling Units Or Lots, Resulting From The Use Of TDR's, Calculated On The Entire Property Or Only That Portion Covered By The Preliminary Plan?*

There is no specific designation of TDR units or lots. Only the total number of TDR's used in the submitted preliminary plan is required.

44. *If The Number Of Required TDR's Is Based On The Acreage Of The Property Shown On A Preliminary Plan, Is This Method Of Calculation Also Applied To Record Plats?*

Yes, if the record plat covers the entire preliminary plan. If the record plat only covers a portion of the preliminary plan then the number of required TDR's would be proportionate to the number of dwelling units shown.

45. *What Standards Are Used For Development When Applying The TDR Density Option?*

A TDR density option for a receiving area shown on a master plan shall correlate with the following development standards and permitted residential uses. Where Moderately Priced Dwelling Units are included in accordance with the requirements of Chapter 25A of the Montgomery County Code, the MPDU development standards shall apply. The increase in density shall not exceed 22 percent of the TDR density option.



Development Standards and Permitted Residential Uses

TDR Density Per Acre	Without MPDU's	With MPDU's
TDR 1	RE-1, RE-1 cluster	Not applicable
TDR 2	R-150, R-200 cluster, R-150	R-200 MPDU

Minimum Percentage Required¹

TDR Density Per Acre	Size of Develop- ment*	One- Family Detached	One- Family Townhouse Attached	Multiple Family ² Four Story or less**	Green Area
TDR 3-5	Less than 800 dwelling units	30	P	Not Permitted	35
TDR 3-5	800 dwelling units or more	30	P	P (20)	35
TDR 6-10		15	P	P (35)	40
TDR 11-15	Less than 200 dwelling units	P	P	P	50
TDR 11-15	200 dwelling units or more	P	P	35(60)	50
TDR 16-28	Less than 200 dwelling units	P	P	P	50
TDR 16-28	200 dwelling units or more	P	P	25	50

- * Total number of dwelling units planned.
- ** One-family attached may be substituted for all or part of this requirement.
- P Permitted but not required.
- () Maximum percentage permitted.



¹ Upon a finding by the Planning Board that a proposed development is more desirable for environmental reasons or is more compatible with adjacent development than what would have resulted from adherences to these standards, the percentage requirements for one-family and multiple-family units may be waived.

² Permitted only where specifically recommended as a unit type in the area master or sector plan for the receiving area. In any instance where the minimum percentage requirement would yield a total of one hundred fifty (150) multiple-family dwelling units or less, this requirement shall will not apply, and no such units shall will be required. Whenever the minimum percentage would yield 151 units or more, the full number shall be required except in cases covered by footnote #1.

46. When Applying MPDU Provisions To A TDR Development, Can The Number Of Dwelling Units Exceed The TDR Density Option As Expressed In The Master Plan Recommendation?

Yes. As in the case of all zoning and land use recommendations on master plans, the master plan designation is subject to an increase to accommodate required MPDU's. See Chapter 25-A of the County Code, and Sections 59-C-1.61 of the Zoning Ordinance. These provisions permit an increase in density with a minimum 12.5% of the total dwelling units being MPDU's.

47. What Is The Procedure For Transferring Development Rights?

The following diagram summarizes the procedure and shows the process for the transfer of development rights. First, the developer files a preliminary plan with the Montgomery County Planning Board for approval. The preliminary plan of subdivision for property in the receiving area then is prepared to show at least two-thirds of the possible development rights transferable to the receiving area property.

Once the preliminary plan of is approved by the by the Planning Board, the developer then files a detailed site plan for approval by the Planning Board. Following site plan approval, the developer prepares a record plat. Prior to record plat recordation, however, easement documents for the sending areas and deed of transfer for the TDR's must be prepared.

The easement document limits future residential development in the sending area. This easement document conveys the easement to the County as the Grantee. The deed of transfer conveys ownership of TDR's to the developer. Upon recordation of the easement document and deed of transfer, the record plat is recorded in the land records.

The transfer of development rights is complete when the TDR extin-



guishment document is recorded following the recordation of the record plat. The extinguishment document shows that a TDR has been used on a specific property in a receiving area and that the TDR is no longer available to be transferred.

48. *Do TDR's Have Serial Numbers?*

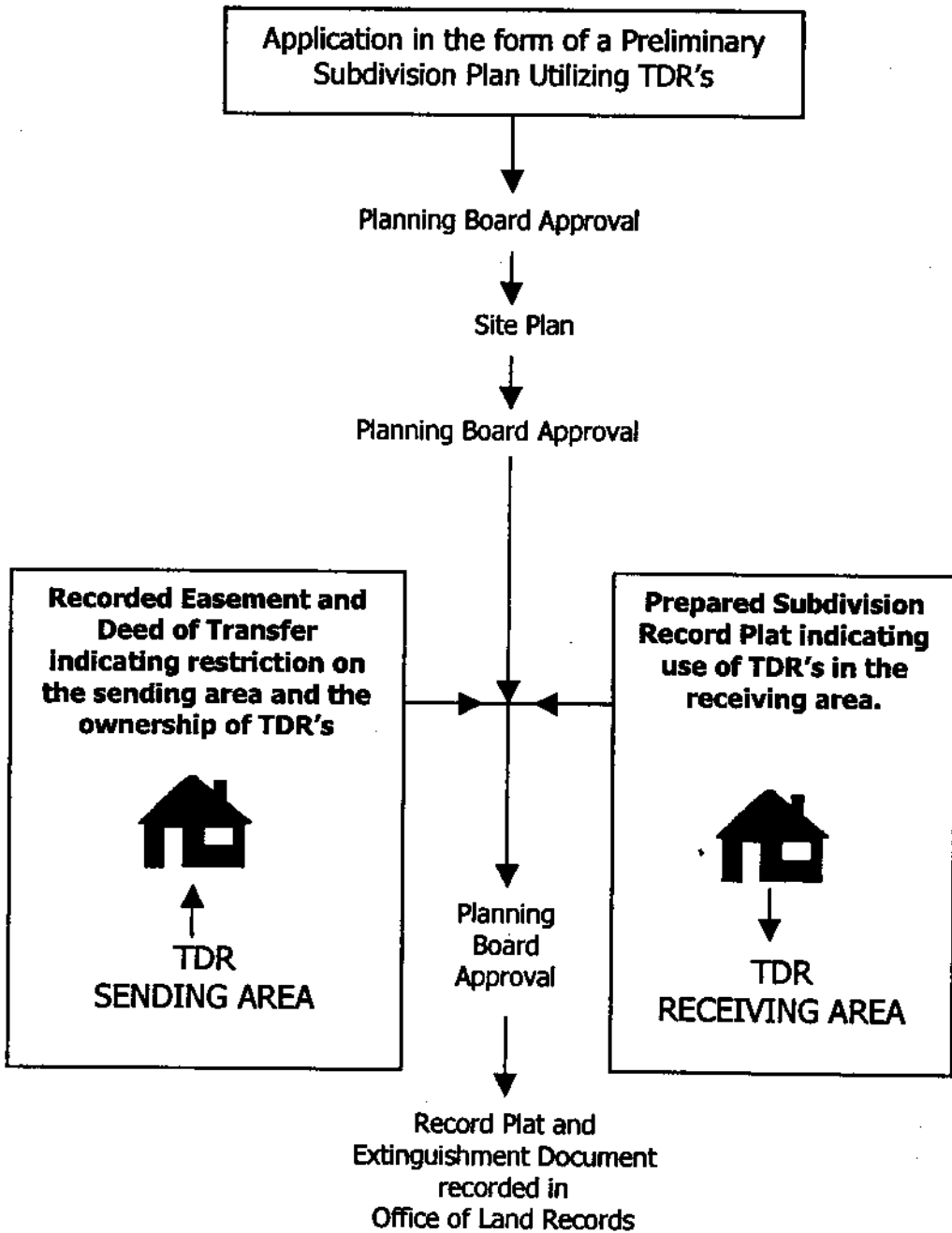
Yes. Once the TDR easement document is prepared, it must be approved by the County Attorney's Office. As part of its review, a number is assigned to each TDR. This same number appears on the record plat indicating its use as an increase in density. Once the record plat is recorded, a TDR Extinguishment Document is immediately recorded indicating that TDR's previously attached to a property in the RDT Zone have been transferred to property in the receiving area. The use of serial numbers aids in the tracking of the TDR's and any title search which is conducted on the properties.

49. *What Is The Length Of Time To Complete The TDR Process?*

Since the TDR process does not involve a rezoning of land, the length of time is comparable to the normal subdivision review process.

50. *Does The Use Of TDR's In A Receiving Area Affect The Water And Sewer Category?*

In some cases. In accordance with the County Ten-Year Water Supply and Sewerage Systems Plan, land that is designated in a master plan for automatic provision of sewerage and water service upon assembly of TDR's is automatically changed from Categories 4, 5, or 6 to Category 3 upon approval by the Planning Board of a preliminary subdivision plan using TDR's. As a pre-requisite to an approval of a given subdivision and an automatic advancement in water/ sewer category, the Planning Board conducts a joint public hearing with the Director of the County Department Permitting Services (DPS). The proposed development must have passed the Adequate Public Facilities test and acquired at least two-thirds of the maximum number of TDR's permitted to be used under the master plan designation, or a lesser number equal to the maximum permitted by the Planning Board upon preliminary plan approval. Upon written notification by the Planning Board that the above requirements have been met, the Director of the DPS will change the water and sewer category designations for the TDR development to Category 3. Land already in Category 1, 2, or 3 is not affected.





51. Can Available TDR's From Two Or More Parcels Of Land In The RDT Zone Be Used For An Increase In Density On A Single Property Designated As A Receiving Area?

Yes. Any TDR can be used in any receiving area.

52. Are Adjoining Property Owners And Citizen Groups Notified Of A Proposed TDR Subdivision Plan?

Yes, as part of the subdivision process the developer notifies the confronting and adjacent property owners and the technical staff of the Planning Board notifies the appropriate civic associations.

53. What Sections Of The Zoning Ordinance And Subdivision Regulations Give Guidance To The TDR Process?

Zoning Ordinance:

- Section 59-A-2.1. Definitions
- Section 59 C-1.33. Transfer of Development Rights Zones [One-Family Zones]
- Section 59 C-1.39. Special Regulations for Optional Method Development Using Transferable Development Rights.
- Section 59-C-2.43. Transferable Development Rights Zones [Multi-family Zones]
- Section 59-C-2.44. Special Regulations for Option Method Development Using Transferable Development Rights.
- Section 59-C-9.23. Purposes of the Rural Density Transfer Zone.
- Section 59-C-9.6. Transfer of Density - Option in Rural Density Transfer Zone.
- Section 59-C-10.2. Methods of Development in RMX Zones.

Subdivisions Regulations:

- Section 50 – 34. Preliminary Subdivision Plans - Filing and Specifications
 - Subsection (h) -- Increase in Density
 - Subsection (i) – Development Rights
- Section 50 – 36. Record Plats-Specifications and Supporting Data: subsections (d)(2) (q), (g) and
 - Subsection (c)(4) - Application
 - Subsection (d)(2)(q) - Drawing
 - Subsection (g) – Other Supporting Data
 - Subsection (h) – Preliminary Plans Using TDR's