



GENERAL INFORMATION

1. *What Is The Purpose Of The Transfer Of Development Rights (TDR) Program?*

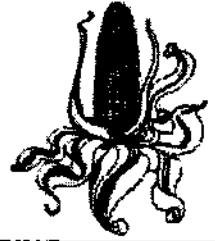
The Transfer of Development Rights (TDR) Program helps preserve farmland and farming in the *Agricultural Reserve*. Farming cannot continue without a substantial contiguous area available for agricultural use. The zoning to implement the TDR Program is the Rural Density Transfer Zone (RDT). TDR is similar to the cluster concept in that development is shifted from the *Agricultural Reserve* to another location to achieve a public purpose – in this case the preservation of farmland. The basic difference from other “clustering” developments is that TDR sending and receiving areas are not contiguous, and they are not necessarily under the same ownership. By moving residential uses away from farmland, TDR preserves a critical and irreplaceable natural resource while still allowing for a limited amount of housing in the *Agricultural Reserve*. The TDR process moves the dwelling units that would have been built under the Rural Zone designation to other – more appropriate - areas.

There are two basic steps necessary to use TDR: 1) establishment of a density transfer “sending area” in which development rights are created and from which they can be sold; and 2) designation of density transfer “receiving areas” where the land and public services are capable of absorbing additional density.

2. *What Is The Rural Density Transfer (RDT) Zone?*

The Rural Density Transfer Zone (RDT) is a zone designed to protect farmland and open space in the rural areas of Montgomery County. The zone has been applied by Sectional Map Amendment to property in the designated *Agricultural Reserve*. The purpose of this zone is to promote agriculture as the primary land use.

Most of this land had been classified in the Rural Zone which is intended for agricultural uses but with a permitted density of one house per five acres. The RDT Zone permits development of no more than one house per 25 acres, with a minimum 1-acre lot size, and allows the property owner to sell development rights (TDR's) at the prior Rural Zone rate of one unit for each five gross acres. These TDR's must be used in non-rural areas of the County which are identified as appropriate for the additional density in an approved and adopted area master plan.



3. *What Are The Benefits Of Being In The RDT Zone?*

- Protection of agricultural activities.
- Fewer people in the area which reduces nuisance complaints directed at farmers and farming activities.
- Equity protection of development of the land.
- Expanded farm related uses permitted under the zone or available by special exception.
- The ability to cluster on smaller lots without jeopardizing the permitted density (one dwelling unit per 25 acres) if the development meets Department of Permitting Services regulations, primarily well and septic requirements.
- Ability to expand farming operations by purchase of more land at agricultural value, after TDR's are sold.

4. *If Land Is Zoned RDT, What Can A Farmland Owner Who Wishes To Continue Farming Do With The Land?*

The owner can continue to farm or expand the agricultural operation to include the new agricultural related uses recognized as permitted or as available through the special exception process.

The farmland owner can sell all or a portion of the development rights (one unit per five gross acres), at a density equivalent to the former density permissible under the Rural Zone, (the classification it had before adoption of the Functional Master Plan for the Preservation of Agriculture and Rural Open Space). In that way, the farmland owner retains title to the land minus its development rights. At any future time, the farmland owner can sell the farm at its *agricultural* value.

5. *For Land Zoned RDT, What Can A Farmland Owner Who Wants To Develop Do With The Land?*

The farmland owner is restricted to a density of one dwelling unit per 25 acres, based on the gross acreage of the property, although lots sizes may vary.

6. *Is There A Maximum And Minimum Lot Size?*

There is no maximum; the minimum is 40,000 square feet - slightly less than one acre. Of course, the subdivision of the parcel is subject to other County regulations for development.



7. *Is There A Limitation On The Possible Subdivision Configurations?*

In some cases, a minor subdivision process is available to create lots. In all other cases, submission of preliminary plan application will be required to meet the subdivision regulations pursuant Chapter 50. The applicant may pursue a cluster option that permits the lots on parcels as small as 40,000 square feet. This allows more flexibility in the placement of the permitted density.

8. *Are Lots For The Landowners' Children Exempt?*

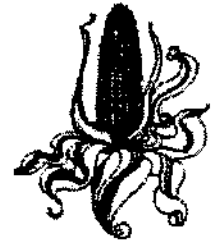
Maybe, depending on when the property was purchased and the availability of a development right. An exemption is allowed for children of property owners in the RDT Zone prior to January 6, 1981. A development right must be held in reserve for each house built on the property for a child of the owner. Any development rights used for "child lots" reduce the total number that can be sold from the property. When this application goes through the subdivision process, affidavits will be required to verify that the lots will be used for the landowner's child, and appropriate measures are taken in the land records to restrict development of these properties. Any property owner who purchased land in the RDT Zone after January 6, 1981 is not eligible for a child exemption. See Questions 9 and 23.

9. *Can The Number Of Lots Created For The Landowner's Children Exceed The Density Of One Dwelling Unit Per 25 Acres?*

If the lots created are for the children of the property owner of record before January 6, 1981 (the time of the placement of the property in the RDT Zone), lots can be created at the density one dwelling per five acres of the previous Rural Zone, but there must be a TDR for each lot.

10. *Do All Residences, Including Tenant Houses And Mobile Homes, Account For The Allowable TDR's For The Property?*

All habitable residences and/or buildable lots subdivided from the parent parcel (gross acreage) since the adoption of the Sectional Map Amendment, are discounted from the allowable TDR's that can be transferred from the sending areas. However any houses and mobile homes for tenants associated with a farm operation are not discounted from the allowable TDR's that can be transferred from the sending areas.



11. Can An Owner Deed Off A Portion Of The Farm?

The Subdivision Regulations, Chapter 50, require that prior to issuance of a building permit, the property must be recorded by plat, unless it qualifies as an exception to the provisions. The person receiving the deed should check the subdivision and zoning regulations to determine that the deeded property is, in fact, buildable and the required TDR's have been retained on the property.

12. What Happens If The Property Was Deeded Prior To 1981?

The property can be developed for a single-family residence in accordance with requirements of the zone applicable to it prior to reclassification. However, unless the property qualifies for an exception to the Subdivision Regulations, the lot would have to be recorded in accordance with the Subdivision Regulations.

13. What Is The Relationship Of The "Sending" And "Receiving" Areas To The TDR Program?

The TDR program applies to the area specifically identified for inclusion in the *Agricultural Reserve*. The areas identified for inclusion are appropriate as "sending areas" because they demonstrate a long history of agricultural use and/or are interrelated to one another forming a critical mass of farmland and woodland. The development density, at one dwelling unit per 25 acres, is appropriate and consistent with studies in Montgomery County and elsewhere in the United States which show that a 25-acre farm parcel, if managed properly, is economically viable for agricultural use. The development density certainly helps to preserve the *farmland*, while the equity aspect of the TDR program encourages *farming*.

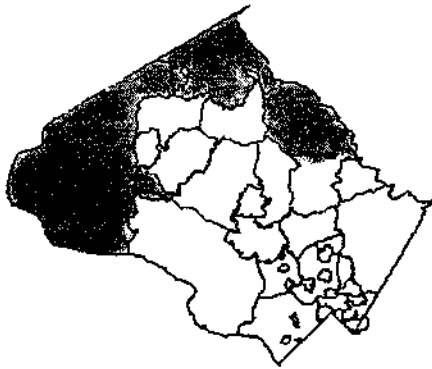
The TDR program is an optional, *voluntary* program; a landowner still has the option to develop under the Rural Density Transfer Zone (RDT). The base density of this zone is one dwelling per 25 acres, however, the number of development rights which can be transferred is based on the gross density permitted under the prior Rural Zone (one dwelling unit per five acres). Only the excess development rights that are not retained on the parcel can be transferred.

The TDR program allows RDT property owners to sell their development rights and still retain title to their land. For farmers, the sale of development rights can help to finance capital improvements needed on the farm *without* carving small residential lots from the farm. This approach, unlike traditional zoning techniques, offers rural property owners an economic incentive to



resist development pressure by allowing for the sale of the excess development rights instead of the land itself, thereby helping to preserve the farming activity and rural character.

"Receiving areas" are those areas to which development rights are transferred and in which density may be increased only through purchase of TDR's. A developer must purchase development rights from a farmland owner in the *Agricultural Reserve* area or from anyone already owning development rights (including TDR brokers). The additional units allowed in the receiving zone are transferred away from the *Agricultural Reserve*. The TDR program shifts them to receiving areas designated in Approved and Adopted Area Master Plans suitable for higher density.



SENDING AREAS

14. *How Are Development Rights Transferred?*

First, the farmland owner sells his rights or gives an option to a developer (or another individual interested in purchasing the development rights) who wants to develop land in a receiving area. The developer then files a preliminary plan of subdivision for the property with the Montgomery County Planning Board, using at least two-thirds of the possible development rights transferable to that property in accordance with a specific designation on an Approved and Adopted Area Master Plan. Once the preliminary plan is approved, the developer files a site plan. Following site plan approval, the developer prepares a record plat and submits it to the Montgomery County Planning Board along with proof of TDR ownership. A protective easement on the farmland in the sending area is prepared which limits the development potential of the property to the number of rights retained. This protective easement is conveyed to the County and filed among the land records prior to recordation of the plat for the receiving area.