DISCUSSION

Pursuant to Montgomery County Zoning Code § 59-C-9.41, "[o]nly one one-family dwelling unit per 25 acres is permitted" on a property included within an RDT zone. But, under Montgomery County Zoning Ordinance § 59-C-9.74(b)(4), child lots created pursuant to § 59-C-9.41.1 are exempt from "the area and dimensional requirements of section 59-C-9.4." Section 59-C-9.74(b)(4) states:

> 59-C-9.74. Exempted lots and parcels-Rural Density Transfer zone. . . .
>
> (b) The following lots are exempt from the area and dimensional requirements of section 59-C-9.4 but must meet the requirements of the zone applicable to them before their classification in the Rural Density Transfer zone. . . .
>
> (4) A lot created for use for a one-family dwelling by a child, or the spouse of a child, of the property owner, if the lot satisfies the requirements of 59-C-9.41.1.

At the time the Planning Board approved the motion to deny the Dufresnes' appeal, the requirements for the creation of child lots were listed in Montgomery County Zoning Code § 59-C-9.74(b)(4). While the present appeal was pending in this Court, an amendment to the zoning code moved these requirements to § 59-C-9.41.1(a), which provides, in part:[1]

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[1]On October 26, 2010, after oral argument in the present appeal, the Montgomery County Council adopted Zoning Text Amendment ("ZTA") No. 10-12 — codified in part at Montgomery County Zoning Ordinance § 59-C-9.41.1 — which imposes stricter limits on both the acreage and number of child lots a property owner is allowed to create. While the appeal was pending in this Court, the Dufresnes filed a Motion to Dismiss, in which they argued that ZTA No. 10-12 renders moot the first issue the Planning Commission raised on appeal (*i.e.*, whether the proposed child lots were inconsistent with the AROS Master Plan (continued...)