



Committee: PHP

Committee Review: At a future date

Staff: Livhu Ndou, Senior Legislative Attorney

Purpose: To introduce agenda item – no vote expected

AGENDA ITEM #13A

December 2, 2025

Introduction

SUBJECT

Zoning Text Amendment (ZTA) 25-14, Optional Method Public Benefits – Overlay Zones

Lead Sponsor: Planning, Housing, and Parks (PHP) Committee

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- To introduce agenda item – no vote expected

DESCRIPTION/ISSUE

ZTA 25-14 will amend the Overlay Zones to make them consistent with the new Optional Method Public Benefits system.

SUMMARY OF KEY DISCUSSION POINTS

- In July 2025, the Council adopted [ZTA 25-05, Development Standards – Optional Method Public Benefits](#). That ZTA created new Optional Method Public Benefits standards. At that time, Planning and Council Staff recommended the PHP Committee and District Council first make decisions on the new system, and then subsequently introduce a ZTA to apply the new system to the Overlay Zones. The Overlay zones to be amended made localized changes to the prior public benefits points system and required additional review to ensure that those specific standards fit within the new system. The Committee agreed and now requests the introduction of that promised measure.
- ZTA 25-05 is not effective until January 1, 2026, to reduce the delay between when it goes into effect, adoption of the Implementation Guidelines, and introduction of this overlay zone ZTA. Until that effective date, persons should reference the adopted [ZTA 25-05](#) instead of [AmLegal](#), the County's online website for the current Zoning Ordinance; since AmLegal reflects effective laws.
- ZTA 25-14 will apply the new Optional Method Public Benefits standards adopted in ZTA 25-05 to the Overlay zones. The impacted Overlay zones are the: Bethesda (B) Overlay Zone; Downtown Silver Spring (DSS) Overlay Zone; Germantown Transit Mixed Use (GTMU) Overlay Zone; Great Seneca Life Sciences (GSLs) Overlay Zone; and Transferable Development Rights (TDR) Overlay Zone.
- ZTA 25-14 will also grandfather the existing public benefits points system standards from the Overlay Zones to allow for a transition period.

- A public hearing is tentatively scheduled for January 13, 2025.

This report contains:

ZTA 25-14

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Ordinance No.: _____
Zoning Text Amendment No.: 25-14
Concerning: Optional Method Public
Benefits – Overlay Zones
Revised: 11/26/2025 Draft No.: 1
Introduced: December 2, 2025
Public Hearing: _____
Adopted: _____
Effective: _____

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Planning, Housing, and Parks Committee

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- (1) amend the Overlay Zones to make them consistent with the Optional Method Public Benefits system;
- (2) grandfather the existing public benefits points system standards from the Overlay Zones;
- (3) generally amend the public benefits system.

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

Division 4.7.	“Optional Method Public Benefits”
Section 4.7.1.	“General Provisions”
Section 4.7.3.	“Public Benefit Descriptions and Criteria”
Division 4.9.	“Overlay Zones”
Section 4.9.2.	“Bethesda (B) Overlay Zone”
Section 4.9.7.	“Downtown Silver Spring (DSS) Overlay Zone”
Section 4.9.11.	“Germantown Transit Mixed Use (GTMU) Overlay Zone”
Section 4.9.12.	“Great Seneca Life Sciences (GSLs) Overlay Zone”
Section 4.9.18.	“Transferable Development Rights (TDR) Overlay Zone”
Division 8.4.	“Optional Method Public Benefits”
Section 8.4.1.	“General Provisions”

And adding:

Section 8.4.4	“Overlay Zones”
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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:

Sec. 1. DIVISION 59-4.7 is amended as follows:

Division 4.7. Optional Method Public Benefits

Section 4.7.1. General Provisions

B. General Public Benefit Considerations

* * *

7. A master plan may modify the public benefits options under Section 4.7.2.A. including adding, prioritizing, modifying, or prohibiting the use of certain public benefits, and modifying the compliance criteria or the tiers of participation under Section 4.7.3. These modifications must be discussed in the implementation section of the master plan. Adding, modifying, or prohibiting the use of certain public benefits, and modifying the compliance criteria or the tiers of participation under Section 4.7.3, must be [and] reflected through an overlay zone.

* * *

Section 4.7.3. Public Benefit Descriptions and Criteria

* * *

B. Local Needs from Applicable Master Plans

Local needs are public benefits that are intended to implement critical local needs identified through master, sector, or functional plans.

1. Infrastructure for Compact Growth

Public benefits in this category are intended to deliver public facilities that enhance connectivity by creating an infrastructure framework supportive of compact growth. Projects may include, but are not limited to, new streets, new or upgraded sidewalks, bicycle facilities, transit access, streetscapes, seating, tree canopy, and lighting.

a. Offsite Improvements

A development application that provides needed linear infrastructure improvements in an existing public right-of-way that are not part of an application's required frontage improvements is eligible for incentive density.

i. Tier 1 must provide at least one of the following:

(a) offsite streetscape improvements greater than 2,000 square feet, or with an estimated cost greater than or equal to \$100,000 but less than \$300,000, that are consistent with County guidelines or master plan recommendations, or;

(b) ~~[contribute]~~ make a payment in lieu at a minimum of \$0.33 per square foot of gross floor area proposed within a development application to a CIP project within the same master plan area.

ii. Tier 2 must provide at least one of the following:

(a) offsite streetscape improvements greater than 4,000 square feet, or with an estimated cost greater than or equal to \$300,000 but less than \$500,000, that are consistent with County guidelines or master plan recommendations;

(b) construct offsite bikeways greater than 1,000 linear feet, or with an estimated cost greater than or equal to \$300,000 but less than \$500,000, consistent with the applicable master plan; or

(c) ~~[contribute]~~ make a payment in lieu at a minimum of \$1.00 per square foot of gross floor area proposed

within a development application to a CIP project within the same master plan area.

iii. Tier 3 must provide at least one of the following:

- (a) offsite streetscape improvements greater than 5,000 square feet, or with an estimated cost greater than or equal to \$500,000 but less than \$1,000,000, that are consistent with County guidelines or master plan recommendations;
- (b) construct offsite bikeways greater than 1,800 linear feet, or with an estimated cost greater than or equal to \$500,000 but less than \$1,000,000, that are consistent with the applicable master plan;
- (c) [~~contribute~~] make a payment in lieu at a minimum \$2.00 per square foot of gross floor area proposed within a development application to a CIP project within the same master plan area; or
- (d) construct or upgrade an offsite stormwater management facility with an estimated cost greater than or equal to \$500,000 but less than \$1,000,000.

iv. Tier 4 must provide an offsite major transportation improvement, a major improvement or reinforcement to runoff conveyance or storage, or a stormwater treatment facility with an estimated cost greater than \$1,000,000. This Tier 4 improvement must be recommended in the relevant master plan.

b. Public Facilities

79 A development application that provides space for, or constructs,
80 Public Facilities such as bus stops, bus stations, bicycle parking and
81 storage, utility boxes, public parking, and major facilities such as police
82 or fire stations is eligible for incentive density. Public Facilities such as
83 libraries, community centers, or park spaces are covered under [Section
84 59.4.7.3.B.2.] Section 4.7.3.B.2. Public Facilities are often identified
85 and prioritized by applicable master plans.

86 i. Tier 1 must provide at least one of the following:

87 (a) dedicate land or construct a public facility such as a
88 bus stop, BRT station, or bicycle parking, with an
89 estimated cost greater than or equal to \$100,000 but
90 less than \$300,000;

91 (b) underground or locate within a building existing
92 electric transformers and other utility boxes located
93 along a site frontage with an estimated cost greater
94 than or equal to \$100,000 but less than \$300,000; or

95 (c) [contribute] make a payment in lieu at a minimum
96 of \$0.33 per square foot of gross floor area proposed
97 within a development application to an identified
98 county CIP project within the same master plan
99 area.

100 ii. Tier 2 must provide at least one of the following:

101 (a) dedicate land or construct a public facility such as a
102 bus stop, BRT station, or bicycle parking, with an
103 estimated cost greater than or equal to \$300,000 but
104 less than \$500,000;

- (b) underground, or locate within a building, existing electric transformers and other utility boxes located along a site frontage with an estimated cost greater than or equal to \$300,000 but less than \$500,000; or
- (c) [~~contribute~~] make a payment in lieu at a minimum of \$1.00 per square foot of gross floor area proposed within a development application to an identified county CIP project within the same master plan area.

iii. Tier 3 must provide at least one of the following:

- (a) dedicate land or construct a public facility such as a BRT station, or enhance an existing light rail or metro rail station with an estimated cost greater than or equal to \$500,000 but less than \$1,000,000;
- (b) underground existing overhead utilities along a site frontage, or another location offsite within the master plan area, with an estimated cost greater than or equal to \$500,000 but less than \$1,000,000; or
- (c) [~~contribute~~] make a payment in lieu at a minimum of \$2.00 per square foot of gross floor area proposed within a development application to an identified county CIP project within the same master plan area.

iv. Tier 4 must provide at least one of the following:

- (a) dedicate land and fully construct a major public facility such as a police or fire station, or a public

parking garage, with an estimated cost greater than \$1,000,000; or

- (b) underground all existing overhead utilities along a site frontage, or another location offsite within the master plan area, with an estimated cost greater than \$1,000,000.

c. Street Grid and Multi-Modal Extensions

A development application that enhances the transportation network by completing missing sections of master planned transportation infrastructure or enhancing the quality of the area transportation network by providing new bike and pedestrian connections or reducing the number of curb cuts into rights-of-way is eligible for incentive density.

- i. Tier 1 must provide at least one of the following:

- (a) construct a publicly accessible trail greater than 2,500 linear feet but less than 3,500 linear feet in length or with an estimated cost greater than or equal to \$100,000 but less than \$300,000;
- (b) [contribute] make a payment in lieu at a minimum of \$0.33 per square foot of gross floor area proposed within a development application to a CIP project within the master plan area; or
- (c) for redevelopment applications, reduce the number of existing curb cuts by 50%.

- ii. Tier 2 must provide at least one of the following:

- (a) construct a publicly accessible trail greater than or equal to 3,500 linear feet but less than 6,000 linear

- 158 feet in length or with an estimated cost greater than
 159 or equal to \$300,000 but less than \$500,000;
- 160 (b) [contribute] make a payment in lieu at a minimum
 161 of \$1.00 per square foot of gross floor area proposed
 162 within a development application to a CIP project
 163 within the master plan area; or
- 164 (c) build at least one new through street that bisects an
 165 existing block as recommended by an applicable
 166 master plan or meets the intersection spacing
 167 standards in Chapter 50 of the County Code. The
 168 street must meet the preferred standards of the
 169 Complete Streets Design Guide.
- 170 iii. Tier 3 must provide at least one of the following:
- 171 (a) construct a publicly accessible trail greater than or
 172 equal to 6,000 linear feet in length or with an
 173 estimated cost greater than or equal to \$500,000 but
 174 less than \$1,000,000; or
- 175 (b) design a development site providing at least 2 new
 176 street connections, or future street connections such
 177 as a stub road, with an adjacent property as
 178 recommended by an applicable master plan or
 179 meeting the intersection spacing standards in
 180 Chapter 50 of the County Code. The streets must
 181 meet the preferred design standards of the Complete
 182 Streets Design Guide.
- 183 iv. Tier 4 must construct a transportation connection
 184 identified by a master plan over an environmentally

sensitive area or across a major arterial highway that will contribute to the bike, pedestrian, or transit network in the area with an estimated cost greater than \$1,000,000.

2. Complete Community Amenities

Public benefits within this section are intended to further the creation of complete communities where residents can easily access services and amenities to fulfill their daily needs.

a. Art and Placemaking

A development application that installs public art, provides accessible programming in open spaces, or promotes the arts through providing affordable housing, workspaces, and gallery space for the arts and theater is eligible for incentive density. Contributions for art or placemaking may be received by the Public Arts Trust Steering Committee (PATSC), an urban district, a business improvement district, an arts and entertainment district, or a Regional Services Center.

i. Tier 1 must provide at least one of the following:

- (a) provide artistic elements or treatments to the façade of buildings or parking garages, or freestanding within the streetscape that enhances the public realm;
- (b) provide, at least monthly, recurring and publicly accessible programming in an open space for a minimum of 12 months of operation; or
- (c) ~~[contribute]~~ make a payment in lieu at a minimum of \$0.33 per square foot of gross floor area proposed

- 211 within a development application for the purpose of
 212 providing and maintaining public art.
- 213 ii. Tier 2 must provide at least one of the following:
- 214 (a) install public art approved by the Art Review Panel,
 215 or partner with an Urban District, public agency,
 216 arts nonprofit, or Regional Services Center to install
 217 public art facing or accessible to the public;
- 218 (b) provide, at least monthly, recurring and publicly
 219 accessible programming in an open space for a
 220 minimum of 36 months; or
- 221 (c) [contribute] make a payment in lieu at a minimum
 222 of \$1.00 per square foot of gross floor for the
 223 purpose of providing and maintaining public art.
- 224 iii. Tier 3 must provide at least one of the following:
- 225 (a) at least 5% of all units in a development application
 226 are restricted to artist housing, or as live/work units
 227 for artists earning 70% or less AMI, in addition to
 228 any required MPDUs; or
- 229 (b) [contribute] make a payment in lieu at a minimum
 230 of \$2.00 per square foot of gross floor area proposed
 231 within a development application for the purpose of
 232 providing and maintaining public art.
- 233 iv. Tier 4 must provide a major public artist space such as a
 234 community theater, an art gallery, or a performance venue
 235 at least 20,000 square feet in size either onsite or within
 236 the same master plan area.

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c. Great Public Realm

A development application that provides publicly-owned, or privately-owned and publicly accessible, open spaces designed and maintained to a higher design and usability quality than required by code is eligible for incentive density. Amenities may be provided onsite or within the applicable master plan area.

i. Tier 1 must provide at least one of the following:

- (a) intergenerational amenities and inclusive design features over at least 0.25 acres of the required onsite public open space with an estimated cost greater than or equal to \$100,000 but less than \$300,000;
- (b) improve an existing park or privately-owned public open space with intergenerational amenities and inclusive design features over at least 0.25 acres with an estimated cost greater than or equal to \$100,000 but less than \$300,000; or
- (c) [~~contribute~~] make a payment in lieu at a minimum of \$0.33 per square foot of gross floor area proposed within a development application for creating or improving public spaces as recommended by an applicable master plan.

ii. Tier 2 must provide at least one of the following:

- (a) exceed the minimum required public open space for a development application by 50%, and include a privately-owned publicly accessible open space, or a dedicated, constructed, and conveyed park facility

that is a minimum 0.25 acre Neighborhood Green as described in the Energized Public Spaces Design Guidelines; or

- (b) [contribute] make a payment in lieu at a minimum of \$1.00 per square foot of gross floor area proposed within a development application for creating or improving public spaces as recommended by an applicable master plan.

iii. Tier 3 must provide at least one of the following:

- (a) provide a privately-owned publicly accessible open space, or a dedicated, constructed, and conveyed park facility that is a minimum 1.5-acre Civic Green/Plaza as described in the Energized Public Spaces Design Guidelines; or

- (b) [contribute] make a payment in lieu at a minimum of \$2.00 per square foot of gross floor area proposed within a development application for creating or improving public spaces as recommended by an applicable master plan.

iv. Tier 4 must provide a privately-owned publicly accessible open space, or a publicly dedicated, constructed, and conveyed park facility that is a minimum 3-acre Urban Recreational Park, as described in the Energized Public Spaces Design Guidelines.

* * *

Sec. 2. DIVISION 59-4.9 is amended as follows:

Division 4.9. Overlay Zones

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Section 4.9.2. Bethesda (B) Overlay Zone

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C. Development Standards

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3. Moderately Priced Dwelling Units (MPDUs)

a. General Requirement

For any development application that includes 20 or more residential dwelling units, the Planning Board may only approve the application if the development provides at least 15% MPDUs under the provisions of Chapter 25A. The provisions of Section 4.9.2.C.3.b through Section 4.9.2.C.3.d apply to any development application that is required to provide a minimum 15% MPDUs and includes family-sized MPDUs that exceed the minimum number required under Chapter 25A or deeply affordable MPDUs as defined by the Department of Housing and Community Affairs.

* * *

d. Public Benefit Points

- i. The Planning Board may only grant [public benefit points] incentive density from the public benefit MPDUs under Section 4.7.3.A.1.a for providing more than 15% of the residential units as MPDUs under Chapter 25A.
- ii. The Planning Board may grant [MPDU public benefit points] incentive density from the public benefit MPDUs under Section 4.7.3.A.1.a between the tiers at a pro-rata rate of FAR for providing more than 15% MPDUs by either providing the MPDUs on site, or for the protection

of an existing off-site dwelling unit with an MPDU agreement with DHCA [at the rate of 15 points for every 1% of the number of units in the project above 15%. Any fraction of 1% increase in MPDUs entitles the applicant to an equal fraction of 15 points]. For [points] incentive density to be awarded, at least one more MPDU than would be required at 15% must be provided.

[iii. For a project providing more than 15% MPDUs, one less public benefit point category than required under Section 4.5.4.A.2 must be satisfied.]

[iv. For a project providing at least 20% MPDUs, other public benefit point categories are not required except for: 1) Exceptional Design, and 2) Energy Conservation and Generation in the High-Performance Area.]

4. **Public [Benefit Points] Benefits**

The requirements for providing public [benefit points] benefits to achieve incentive density are established by Division 4.7, except as provided in Section 4.9.2.C.3. and as follows:

a. [The Planning Board must not grant any public benefit points for transit proximity under Section 59.4.7.3.B.] Providing public benefits under Division 4.7. is only required to achieve incentive density requested by a development application. Public benefits are not required for any BOZ density purchased by or awarded to a development.

b. Park [Impact] CIP Payment

[i. If a Park Impact Payment is not required under Section 59.4.9.2.C.2.b.ii and the applicant makes a payment, the

Planning Board may grant one point for every \$5,000 payment up to 20 public benefit points.]

[ii. If a Park Impact Payment is required under Section 59.4.9.2.C.2.b.ii, the Planning Board may grant public benefit points only if the Park Impact Payment exceeds the minimum required. The number of public benefit points that the Planning Board may grant is determined by dividing the amount of the payment greater than the required payment by the required payment, and multiplying this result by 100.] An applicant may receive incentive density from the public benefit Great Public Realm under Section 4.7.3.B.2.c. by making a payment in lieu contribution toward a Montgomery Parks CIP within the Bethesda Overlay Zone based on the gross floor area of the proposed development.

[iii. The maximum number of points from a Park Impact Payment is 30.]

c. Within the High-Performance Area designated in the Bethesda Downtown Plan, the Planning Board must determine that the development [exceeds the applicable building or energy code standards] achieves a minimum of Tier 1 from the public benefit Energy Efficiency under Section 4.7.3.A.2.a.

d. If the applicant reaches an agreement with the Department of Housing and Community Affairs to retain or provide affordable housing rents for dwelling units located anywhere in the Overlay zone area, the Planning Board may grant [6 public benefit points for every 1% of units in the project included in the rental

agreement. Any fraction of 1% increase in the number of units covered by the agreement entitles the applicant to an equal fraction of 6 points.] incentive density under the public benefit MPDUs under Section 4.7.3.A.1.a. for providing affordable housing units covered by a rental agreement with the Department of Housing and Community Affairs based on the following modified tiers:

- i. Tier 1 must provide or retain affordable housing units greater than or equal to 5% and less than 10% of the applications total number of dwelling units;
- ii. Tier 2 must provide or retain affordable housing units greater than or equal to 10% and less than 15% of the applications total number of dwelling units;
- iii. Tier 3 must provide or retain affordable housing units greater than or equal to 15% and less than 20% of the applications total number of dwelling units; and
- iv. Tier 4 must provide or retain affordable housing units greater than or equal to 20% of the applications total number of dwelling units.

For this purpose, affordable housing is defined as rents that are affordable to a household with a household income of 80% [percent] of Area Median Income (AMI) or below, for at least 20 years. The agreement with [the Department of Housing and Community Affairs] DHCA may include limits on the income of residents for the affordable dwelling units.

- [e. If an applicant reaches an agreement with the Department of Housing and Community Affairs and another property owner for

the use of an off-site existing dwelling, within the Bethesda Downtown Area as an MPDU, the Planning Board may grant 15 public benefit points for every 1% of MPDU units in the project included in the MPDU agreement above the minimum required 15% MPDUs.]

[f]e. The Planning Board must determine that the development achieves [at least 10 points for exceptional design under [Section 59.4.7.3.E.4.] Section 4.7.3.E.4. The maximum number of public benefit points for exceptional design is 30] a minimum of Tier 2 from the public benefit Design Excellence under Section 4.7.3.B.2.d. The Planning Board must appoint a Design Advisory Panel composed of relevant independent professionals, including at least one resident of Bethesda, and consider the comments from that panel on all projects before making their determination concerning exceptional design points.

f. Any development project providing a Tier 4 public benefit may be awarded all the necessary incentive density FAR but must still provide the public benefits of Energy Efficiency and Design Excellence, as required by Sections 4.9.2.C.4.c and 4.9.2.C.4.e.

[g. In addition to the other adjustment for maximum public benefit points made in this Section 4.9.2.C.4., the number of maximum allowed public benefit points in the following categories are increased to the number of points indicated:]

	[Minimum Parking]	[20]
	[Through Block Connection]	[30]
	[Streetscape Improvement]	[30]

	[Dwelling Unit Mix]	[30]
	[Architectural Elevations]	[30]
	[Exceptional Design]	[30]
	[Public Open Space]	[30]
	[Public Art]	[20]
	[Tower Setback]	[20]
	[Cool Roof]	[15]
	[Energy Conservation]	[25]
	[Vegetated Area]	[15]
	[Vegetated Roof]	[20]

h. For the Public Art Public Benefit under Section 4.7.3.E.5, the fee may also be accepted by the Bethesda Urban Partnership, the Bethesda Arts & Entertainment District, or other civic arts organization accepted by the Planning Board.]

5. FAR Averaging (Density transfers)

- a. Any gross floor area allowed by the underlying zone may be transferred to any site in the Bethesda Downtown Plan.
- b. Any requirements for additional [Additional] public benefits [benefit points] above the minimum [number] necessary are not required for FAR Averaging.
- c. Gross floor area increased above mapped density because of FAR Averaging is not required to make a Park Impact Payment.

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Section 4.9.7. Downtown Silver Spring (DSS) Overlay Zone

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C. Development Standards

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2. Density

* * *

- c. DSS Density is the gross floor area by which development on a site in the Overlay Zone may exceed the maximum gross floor area mapped on the site, consistent with the requirements of the Overlay Zone, including design review[, public benefits,] and the qualifications set forth in Section 4.9.7.C.2.e below. DSS Density may not be transferred to any other property.

* * *

4. Public [Benefit Points] Benefits

The requirements for public benefits are established by Division [59.4.7] 4.7, and as follows:

- a. [The Planning Board must not grant any public benefit points for transit proximity under Section 59.4.7.3.B.] Providing public benefits under Division 4.7. is only required to achieve incentive density requested by a development application. Public benefits are not required for any DSS density purchased by or awarded to a development.
- b. The Planning Board must determine that the development achieves [10 points for the exceptional design public benefit under Section 59.4.7.3.E.4.] a minimum of Tier 2 from the public benefit Design Excellence under Section 4.7.3.B.2.d. The Planning Board must appoint a Design Advisory Panel composed of independent professionals with relevant design experience and expertise, representing the diversity of the

community, including at least one resident of Silver Spring. The Planning Board must consider the comments from the Design Advisory Panel on all projects before making its determination concerning [exceptional design points] incentive density for Design Excellence.

c. The Planning Board may only award incentive density for the public benefit Great Public Realm under Section 4.7.3.B.2.c. for the creation of open space on-site if an applicant is providing open space recommended in the Sector Plan. Applicants contributing to off-site improvements under Section 4.9.7.C.5. are not eligible for incentive density, unless making a qualifying off-site contribution exceeding that required by the underlying zone and this overlay zone.

* * *

Section 4.9.11. Germantown Transit Mixed Use (GTMU) Overlay Zone

* * *

D. Optional Method

Optional method development under the CR zone and the GTMU Overlay zone must provide public benefits under Section [4.7.3.F.1.a] 4.7.3. [except that the] The applicant must purchase BLT easements[,] or make payments to the ALPF under Section 4.5.4.A.2.b. in an amount equal to 50% of the incentive density floor area.

* * *

Section 4.9.12. Great Seneca Life Sciences (GSLs) Overlay Zone

* * *

C. Development Standards

* * *

2. Density

* * *

- b. The limits in the [GSLs] LSC zone that cap residential uses at 30% [percent] of gross floor area and retail at 15% [percent] of gross floor area do not apply.

* * *

3. Public Benefits

[All optional method development applications within the GSLs Overlay Zone must earn incentive density for any requested density above 0.5 FAR subject to the provisions of Section 4.9.12.C.2.a. and are not responsible for providing public benefits under Section 4.7, Optional Method Public Benefits. Incentive density is the term used to describe any density above 0.5 FAR including any mapped density or additional density allowed by the GSLs Overlay Zone.]

[a. General Provisions

- i. In determining how much incentive density a development application must achieve, applications must round up to the next nearest 0.25 FAR increment.
- ii. Incentive density must be earned by providing public benefits. The public benefits are divided into one of four tiers in Sections 4.9.12.C.3.b. through 4.9.12.C.3.e, based on how much FAR of incentive density an applicant is permitted for providing that public benefit.
- iii. Development applications may provide any combination of public benefits to achieve the necessary incentive density for their project.
- iv. If an application provides a Tier 4 benefit, no other public benefits are required for that application.

- v. If a specific public benefit is recommended for a property in the master plan, the applicant must provide that specific public benefit, unless the Planning Board finds that providing or maintaining the recommended benefit is infeasible or that the benefit is no longer in the public interest.]

The requirements for public benefits are established by Division 4.7, and as follows:

- a. Properties in the LSC Zone that are reviewed as optional method developments are required to provide public benefits under Division 4.7. to earn incentive density.
- b. The incentive density awarded for achieving each public benefit tier is as follows:
 - i. Tier 1 public benefits are eligible for a maximum 0.25 FAR of incentive density;
 - ii. Tier 2 public benefits are eligible for a maximum 0.5 FAR of incentive density;
 - iii. Tier 3 public benefits are eligible for a maximum 1.0 FAR of incentive density; and
 - iv. Tier 4 public benefits are eligible to satisfy all requested incentive density.
- c. The base payment in lieu rate for any applicable public benefits as described in Section 4.7.1.B.9. is modified as follows:
 - i. Tier 2 contribution of a minimum of \$0.66 per square foot of gross floor area; and
 - ii. Tier 3 contribution of a minimum of \$1.00 per square foot of gross floor area.

These modified rates shall be adjusted biennially based on the Engineering News Record's Baltimore Construction Cost Index.

d. Properties in the LSC Zone may receive incentive density for the public benefits in the Housing for All category under Section 4.7.3.A.1. by providing the following:

i. Tier 1 public benefit for providing a minimum 20% of gross floor area as residential in a development application; and

ii. Tier 2 public benefit for providing a minimum 30% of gross floor areas as residential in a development application.

e. The requirements to receive incentive density for the public benefit Sustainable Site Design under Section 4.7.3.A.2.d. are modified as follows:

i. Tier 2 requires adaptive reuse of 25,000 square feet of existing floor area from an existing building onsite or within the master plan area; and

ii. Tier 3 requires adaptive reuse of 50,000 square feet of existing floor area from an existing building onsite or within the master plan area.

f. The public benefit Offsite Improvements under Section 4.7.3.B.1.a.iv. includes the following additional standards as Tier 4 options:

i. make a contribution of a minimum of \$2.00 per square foot of gross floor area to a CIP project for either the Key West Avenue Promenade, the Great Seneca Greenway, or the LSC Loop Trail; or

ii. construct the following identified offsite transportation improvements:

(a) the street and adjacent LSC Loop Trail connecting Belward Campus Drive to Discoverly Drive, at the intersection with Great Seneca Highway; or

(b) Road Z, between Broschard Road and Dalmatian Street.

g. Tier 4 public benefits may be awarded for the public benefit Street Grid and Multi-Modal Extensions under Section 4.7.3.B.1.c. for constructing a trail connecting Darnestown Road and Medical Center Drive, between Shady Grove Road and Great Seneca Highway.

h. The public benefit Neighborhood Services and Mixed Use under Section 4.7.3.B.2.b. includes the following additional uses and standards as options:

i. Tier 1 must:

(a) provide a minimum of 10,000 square feet of flexible step-up space for life science start-ups; or

(b) achieve a minimum 10% of mixed-use development by including uses from at least two different use groups identified by the Use Table under Section 3.1.6. Each use shall be a minimum of 10% of the gross floor area, as determined at the time of Sketch Plan.

ii. Tier 2 must:

(a) provide a minimum of 20,000 square feet of flexible step-up space for life science start-ups; or

- (b) achieve a minimum 15% of mixed-use development including uses from at least two different use groups identified by the Use Table under Section 3.1.6. Each use shall be a minimum of 15% of the gross floor area, as determined at the time of Sketch Plan;
- iii. Tier 3 must provide a minimum of 30,000 square feet of flexible step-up space for life science start-ups.
- iv. Tier 4 must provide a minimum of 40,000 square feet of flexible step-up space for life science start-ups.

[b. Tier 1 Benefits

The following public benefits are worth 0.25 FAR of incentive density:

- i. Provide 20 percent GFA as a Residential use when the underlying zone is LSC.
- ii. Provide the minimum required number of MPDUs plus 2.5 percent.
- iii. Design and construct offsite pedestrian and bicycle facilities for a minimum of 750 linear feet.
- iv. Contribute funding for offsite portions of one of the following, at a rate of \$0.30 per GFA of the subject development application:
 - (a) Key West Avenue Promenade
 - (b) Great Seneca Greenway
 - (c) Life Sciences Center Loop Trail
 - (d) Streetscape improvements along a public street within the overlay zone
- v. Construct an offsite portion of the Life Sciences Center Loop Trail for a minimum length of 2,500 linear feet.

- vi. Provide offsite streetscape improvements along a public street within the overlay zone including seating, paving, street tree planting, landscaping, and lighting, for at least 5,000 linear feet based on the applicable streetscape standards of the master plan.
- vii. Provide a minimum of 10,000 square feet of flexible, step-up space for life science startups.
- viii. Achieve a minimum 10 percent mixed-use development, ensuring uses from at least two different use groups are provided, each comprising a minimum of 10 percent of the total GFA, as determined at the time of sketch plan.
- ix. Improve a minimum of 0.25 acres of an existing park or public open space within the GSLS Overlay Zone area with amenities designed to encourage use by people of all ages, cultural backgrounds, and abilities such as, but not limited to, color contrast applications on poles and pavement, accessible bathrooms, mobility device accessible play equipment, sensory playground equipment, movable seating, and art, displays, statues, and signs that recognize local history and community members.
- x. Implement at least 3 of the following design excellence strategies or achieve the International WELL Building Institute’s WELL Core Bronze certification for the project:
 - (a) Designing a building with a clear architectural base, middle, and top. The base is defined as the first one

or two floors of the building; the top is defined as the uppermost one or two floors of the building; and the middle is everything between the base and the top.

- (b) Providing human-scaled architectural elements at the building's base fronting all streets and public open spaces. Human-scaled architectural elements include clearly marked entryways into ground-floor uses, awnings, canopies, transparency, storefronts, façade lighting, signage, and decorative enhancements.
- (c) Providing direct entry to all ground floor residential units fronting a street or public open space.
- (d) Adjusting the building massing and façade design to create street-oriented development. The building massing should parallel the street, with the building base creating a continuous frontage with a minimum of 60 percent transparency. The building middle and top façade must be designed with windows, balconies, and terraces on any elevation along a street.
- (e) Lining at least 75 percent of the ground floor long all streets and public open spaces with active uses such as retail, residential units, offices, lobbies, and amenity spaces. Ground floor entrances into the building must be no further than every 100 feet.

- (f) Placing all onsite parking below ground grade or wrapping all structured parking with leasable GFA like residential or commercial floor spaces.
- (g) Designing the footprint, massing, and building façades to respond to solar orientation and local climate to minimize energy use, maximize daylight exposure and incorporate passive heating, cooling, and ventilation.
- (h) Reducing the floor plate for the top 2 floors by at least 20 percent to create terraces and an interesting skyline.
- (i) Designing all structured parking to be adaptable for alternative uses in the future by creating flat plate parking floors with a minimum floor to ceiling clearance of 10 feet, accessed through a speed-ramp.
- xi. Exceed current county code energy efficiency standards (IgCC and IECC) by a minimum of 10 percent as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.
- xii. Generate one-third of renewable energy onsite or utilize renewable energy from the regional catchment area as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.

- xiii. Meet Alternative Compliance Path for Green Code and achieve LEED Silver + 21 points as determined by the Department of Permitting Services Division of Commercial Building Construction by the final use and occupancy permit.
- xiv. Design a site that includes 2 of the following sustainable elements:
 - (a) Two principles of biophilic design from the following list of strategies:
 - (1) Incorporate environmental features such as sunlight, fresh air, plants, animals, water, native landscapes, natural colors, and natural materials such as wood and stone.
 - (2) Utilize elements in building design to simulate and mimic shapes and forms found in nature. Examples include using tree-like columns in a building interior to support a roof that projects the feeling of a forest canopy; building shapes that simulate the appearance of bird wings; ornamentation suggestive of a natural shape like a crystal or geological feature, or others as approved by the Planning Board.
 - (3) Use building and site design to stimulate a variety of senses, simulate the qualities of organic growth, or reflect the processes of aging and the passage of time.

- (4) Use spatial and lighting features that evoke the sense of being in a natural setting considering lighting placement, fixture design, and color temperature.
 - (5) Incorporate place-based relationships between buildings and the distinctive geographical, ecological, and cultural characteristics of particular places and localities by incorporating reference to geological and landscape features, the use of local and indigenous materials, and connections to particular historic and cultural traditions.
 - (6) Provide an outdoor respite space, part of a garden, or green area that offers restoration through the inclusion of natural sensory experiences and opportunities for quiet reflection and stillness.
 - (b) Enhanced green roof with a minimum coverage of 10 percent of the roof (minimum 6 inches in depth).
 - (c) Two categories of bird-friendly design as defined in the Bethesda Downtown Plan Design Guidelines.
 - (d) Pervious pavement for 10 percent of all paved surfaces as determined by the Department of Permitting Services.
- xv. Adaptively reuse at least 10,000 square feet of floor area of an existing building on site.]

[c. Tier 2 Benefits

The following public benefits are worth 0.50 FAR of incentive density:

- i. Provide 30 percent GFA as a Residential use when the underlying zone is LSC.
- ii. Provide the minimum required number of MPDUs plus 5 percent.
- iii. Design and construct offsite streetscape improvements along a public street, including any required pedestrian and bicycle facilities, for a minimum of 1,000 linear feet.
- iv. Contribute funding for offsite portions of one of the following, at a rate of \$0.60 per square foot of GFA of the subject development application:
 - (a) Key West Avenue Promenade
 - (b) Great Seneca Greenway
 - (c) Life Sciences Center Loop Trail
- v. Construct an offsite portion of the Life Sciences Center Loop Trail for a minimum length of 3,500 linear feet.
- vi. Provide a minimum of 20,000 square feet of flexible step-up space for life science startups.
- vii. Achieve a minimum of 15 percent mixed-use development, ensuring uses from at least two different use groups are provided, each comprising a minimum of 15 percent of the total GFA, as determined at the time of sketch plan.
- viii. Exceed the minimum required amount of Public Open Space on site by at least 50 percent.

- ix. Implement at least 5 of the design excellence strategies identified in Section 4.9.12.C.3.b.x above or achieve the International WELL Building Institute's WELL Core Silver certification for the project.
- x. Exceed current county code energy efficiency standards (IgCC and IECC) by a minimum of 17.5 percent as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.
- xi. Generate two-thirds of renewable energy onsite or utilize renewable energy from the regional catchment area as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.
- xii. Meet Alternative Compliance Path for Green Code and achieve LEED Gold as determined by the Department of Permitting Services Division of Commercial Building Construction by the final use and occupancy permit.
- xiii. Design a site that includes three of the following sustainable elements:
 - (a) 4 principles of biophilic design as defined in Section 4.9.12.C.3.b.xiv.
 - (b) Enhanced green roof with a minimum coverage of 15 percent of the roof (a minimum of 7 inches in depth).
 - (c) 3 categories of bird friendly design as defined in the Bethesda Downtown Plan Design Guidelines.

(d) Pervious pavement for 25 percent of all paved surfaces as determined by the Department of Permitting Services.

xiv. Adaptively reuse at least 25,000 square feet of floor area of an existing building on site.]

[d. Tier 3 Benefits

The following public benefits are worth 1.0 FAR of incentive density:

- i. Provide the minimum required number of MPDUs plus 7.5 percent.
- ii. Design and construct offsite streetscape improvements along a public street, including any required pedestrian and bicycle facilities, for a minimum of 2,000 linear feet.
- iii. Contribute funding for offsite portions of one of the following, at a rate of \$1.00 per GFA of the subject development application:
 - (a) Key West Avenue Promenade
 - (b) Great Seneca Greenway
 - (c) Life Sciences Center Loop Trail
- iv. Construct an offsite portion of the Life Sciences Center Loop Trail for a minimum length of 5,000 linear feet.
- v. Provide a minimum of 30,000 square feet of flexible, step-up space for life science startups.
- vi. Provide a minimum 1.5-acre Major Public Open Space recommended per the master plan as a Privately Owned Public Open Space, with approval on the location and design determined by the Planning Board. The Public Open Space should comply with the elements listed in the

Energizing Public Space Design Guidelines for “Civic Green / Plaza.”

vii. Implement at least 7 of the design excellence strategies identified in Section 4.9.12.C.3.b.x above or achieve the International WELL Building Institute’s WELL Core Gold certification for the project.

viii. Exceed current county code energy efficiency standards (IgCC and IECC) by a minimum of 25 percent as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.

ix. Generate three-fourths of renewable energy onsite or utilize renewable energy from the regional catchment area as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.

x. Meet Alternative Compliance Path for Green Code and achieve LEED Gold, and one of the following as determined by the Department of Permitting Services Division of Commercial Building Construction by the final use and occupancy permit:

(a) Full electrification

(b) Mass Timber construction

xi. Design a site that includes four of the following sustainable elements:

(a) Six principles of biophilic design as defined in Section 4.9.12.C.3.b.xiv.

- (b) Enhanced green roof with a minimum coverage of 25 percent of the roof (a minimum of 11 inches in depth).
 - (c) Four categories of bird friendly design as defined in the Bethesda Downtown Plan Design Guidelines.
 - (d) Pervious pavement for 40 percent of all paved surfaces as determined by the Department of Permitting Services.
- xii. Adaptively reuse at least 75,000 square feet of floor area of an existing building on site.]

[e. Tier 4 Benefits

If an applicant provides any one Tier 4 Benefit listed below, no additional public benefits are necessary to achieve all allowed incentive density:

- i. Provide greater than 25 percent MPDUs at an average of 60 percent area median income.
- ii. Design and construct offsite streetscape improvements along a public street, including any required pedestrian and bicycle facilities, for a minimum of 5,000 linear feet within the overlay zone area.
- iii. Contribute funding for offsite portions of one of the following, at a rate of \$2.00 per GFA of the subject development application:
 - (a) Key West Avenue Promenade
 - (b) Great Seneca Greenway
 - (c) Life Sciences Center Loop Trail

- iv. Provide one of the following transportation connections identified as greatly enhancing the transportation network by the Master Plan:
 - (a) The street connection, including the LSC Loop Trail, connecting Belward Campus Drive to Decoverly Drive, at the intersection with Great Seneca Highway.
 - (b) A trail connecting Darnestown Road and Medical Center Drive, located between Shady Grove Road and Great Seneca Highway.
 - (c) The street connection of Road Z between Broschart Road and Dalmatian Street.
- v. Provide a minimum of 40,000 square feet of flexible step-up space for life science startups.
- vi. Construct and dedicate or convey to Montgomery Parks a minimum 3-acre park recommended in the Master Plan. Approval of the location and design to be determined by the Planning Board. The park must comply with the elements listed in the Energized Public Spaces Design Guidelines for “Urban Recreational Park.”
- vii. Implement all 9 of the design excellence strategies identified in Section 4.9.12.C.3.b.x above or achieve the International WELL Building Institute’s WELL Core Platinum certification for the project.
- viii. Construct an energy efficient building with a net-zero rating as determined by the Department of Permitting

- 919 Services Division of Commercial Building Construction at
 920 site plan
- 921 ix. Generate 100 percent of renewable energy onsite or utilize
 922 renewable energy from the regional catchment area as
 923 determined by the Department of Permitting Services
 924 Division of Commercial Building Construction at site
 925 plan.
- 926 x. Meet the Alternative Compliance Path for Green Code and
 927 achieve LEED Platinum as determined by the Department
 928 of Permitting Services Division of Commercial Building
 929 Construction at site plan.
- 930 xi. Design a site that includes the four following sustainable
 931 elements:
- 932 (a) Six principles of biophilic design as defined in
 933 Section 4.9.12.C.3.b.xiv.
- 934 (b) Enhanced green roof with a minimum coverage of
 935 35 percent of the roof (a minimum of 16 inches in
 936 depth).
- 937 (c) Five categories of bird friendly design as defined in
 938 the Bethesda Downtown Plan Design Guidelines.
- 939 (d) Pervious pavement for 50 percent of all paved
 940 surfaces as determined by the Department of
 941 Permitting Services.
- 942 xii. Adaptively reuse at least 100,000 square feet of floor area
 943 of an existing building on site.
- 944 xiii. Underground all existing overhead utilities along the site
 945 frontage of the subject property, or at another offsite

location within the GSLS Overlay Zone, with an estimated cost of at least \$1,000,000.]

D. Development Procedures

1. Except as modified in this subsection, the development procedures of the underlying zone apply.
2. In the GSLS Overlay zone, any development at or over 0.5 FAR is considered optional method of development, regardless of the underlying zone.
3. [Except as provided under Section 4.7.3.F.1.b.ii, all] All optional method developments in the GSLS Overlay zone must require the purchase of Building Lot Termination (BLT) easements or a payment into the Agricultural Land Preservation Fund (ALPF) consistent with Section 4.5.4.A.2.b.i. [in an amount equal to 7.5 percent of the incentive density floor area in lieu of the procedures of Section 4.7.3.F.1.b. One BLT is equivalent to 31,500 square feet of incentive density floor area. Private BLT easements must be purchased in whole units. Fractions of BLT easements must be purchased through the ALPF, based on the amount established by Executive Regulation under Chapter 2B.]
4. Development is not subject to the parking minimums established in the vehicle parking spaces table under Section 6.2.4.B.
5. Surface vehicle parking is prohibited between a building and a public or private street, unless prior to February 24, 2025, the parking lot existed or was included in an approved site plan.

* * *

Section 4.9.18. Transferable Development Rights (TDR) Overlay Zone

* * *

B. Optional Method

* * *

3. Commercial/Residential and Employment Zones

* * *

**b. Calculation of TDRs Required in the
Commercial/Residential or Employment Zones**

* * *

[iii. For optional method development, the Planning Board
may grant a maximum of 20 public benefit points for
TDRs under Section 4.7.3.F.6.]

* * *

Sec. 3. DIVISION 59-8.4 is amended as follows:

Division 8.4. Optional Method Public Benefits

Section 8.4.1. General Provisions

* * *

B. General Public Benefit Considerations

1. Except for providing MPDUs exceeding 12.5% of a project's dwelling
units, granting points as a public benefit for any amenity or project
feature otherwise required by law is prohibited.

2. In approving any incentive FAR based on the provision of public
benefits, the Planning Board must consider:

[1]a. the recommendations and objectives of the applicable master
plan;

[2]b. the Commercial/Residential and Employment Zone Incentive
Density Implementation Guidelines;

[3]c. any design guidelines adopted for the applicable master plan
area;

[4]d. the size and configuration of the site;

- [5]e. the relationship of the site to adjacent properties;
- [6]f. the presence or lack of similar public benefits nearby; and
- [7]g. enhancements beyond the elements listed in an individual public benefit that increase public access to, or enjoyment of, the benefit.

3. In the CRT and CR zones the maximum total standard method FAR for any property is the limit indicated in the following table, unless shown as lower on the zoning map:

<u>Zone</u>	<u>Total Density (max)</u>
<u>CRT</u>	<u>The greater of 1.0 FAR or 10,000 SF of gross floor area</u>
<u>CR</u>	<u>The greater of 0.5 FAR or 10,000 SF of gross floor area</u>

* * *

Section 8.4.4. Overlay Zones

The following overlay zones have modified public benefits or public benefit calculations which are retained below. These provisions may continue to be used as allowed by the Public Benefit Procedures and Exemptions under Section 4.7.1.D.

A. Bethesda (BOZ) Overlay Zone Public Benefit Points

1. Moderately Priced Dwelling Units (MPDUs) Public Benefit Points

- a. The Planning Board may only grant public benefit points for providing more than 15% of the residential units as MPDUs under Chapter 25A.
- b. The Planning Board may grant MPDU public benefit points for providing more than 15% MPDUs at the rate of 15 points for every 1% of the number of units in the project above 15%. Any fraction of 1% increase in MPDUs entitles the applicant to an

equal fraction of 15 points. For points to be awarded, at least one more MPDU than would be required at 15% must be provided.

c. For a project providing more than 15% MPDUs, one less public benefit point category than required under Section 8.4.1.B.8 must be satisfied.

d. For a project providing at least 20% MPDUs, other public benefit point categories are not required except for: 1) Exceptional Design, and 2) Energy Conservation and Generation in the High-Performance Area.

2. Public Benefit Points

The requirements for public benefit points for development projects that qualify for an exemption under Section 4.7.1.D are established by Division 8.4, except as provided in Section 4.9.2.C.3. concerning MPDUs and as follows:

a. The Planning Board must not grant any public benefit points for transit proximity under Section 8.4.3.B.

b. Park Impact Payment

i. If a Park Impact Payment is not required under Section 4.9.2.C.2.b.ii and the applicant makes a payment, the Planning Board may grant one point for every \$5,000 payment up to 20 public benefit points.

ii. If a Park Impact Payment is required under Section 4.9.2.C.2.b.ii, the Planning Board may grant public benefit points only if the Park Impact Payment exceeds the minimum required. The number of public benefit points that the Planning Board may grant is determined by dividing the amount of the payment greater than the

required payment by the required payment, and multiplying this result by 100.

iii. The maximum number of points from a Park Impact Payment is 30.

c. Within the High-Performance Area designated in the Bethesda Downtown Plan, the Planning Board must determine that the development achieves 15 public benefit points from Energy Conservation and Generation under Section 8.4.3.F.3.

d. If the applicant reaches an agreement with the Department of Housing and Community Affairs to retain or provide affordable housing rents for dwelling units located anywhere in the Overlay zone area, the Planning Board may grant 6 public benefit points for every 1% of units in the project included in the rental agreement. Any fraction of 1% increase in the number of units covered by the agreement entitles the applicant to an equal fraction of 6 points. For this purpose, affordable housing is defined as rents that are affordable to a household with a household income of 80% of Area Median Income (AMI) or below, for at least 20 years. The agreement with the Department of Housing and Community Affairs may include limits on the income of residents for the affordable dwelling units.

e. If an applicant reaches an agreement with the Department of Housing and Community Affairs and another property owner for the use of an off-site existing dwelling, within the Bethesda Downtown Area as an MPDU, the Planning Board may grant 15 public benefit points for every 1% of MPDU units in the project

included in the MPDU agreement above the minimum required 15% MPDUs.

- f. The Planning Board must determine that the development achieves at least 10 points for exceptional design under Section 8.4.3.E.2. The maximum number of public benefit points for exceptional design is 30. The Planning Board must appoint a Design Advisory Panel composed of relevant independent professionals, including at least one resident of Bethesda, and consider the comments from that panel on all projects before making their determination concerning exceptional design points.
- g. In addition to the other adjustment for maximum public benefit points made in this subsection, the number of maximum allowed public benefit points in the following categories are increased to the number of points indicated:

<u>Minimum Parking</u>	<u>20</u>
<u>Through Block Connection</u>	<u>30</u>
<u>Streetscape Improvement</u>	<u>30</u>
<u>Dwelling Unit Mix</u>	<u>30</u>
<u>Architectural Elevations</u>	<u>30</u>
<u>Exceptional Design</u>	<u>30</u>
<u>Public Open Space</u>	<u>30</u>
<u>Public Art</u>	<u>20</u>
<u>Tower Setback</u>	<u>20</u>
<u>Cool Roof</u>	<u>15</u>

<u>Energy Conservation</u>	<u>25</u>
<u>Vegetated Area</u>	<u>15</u>
<u>Vegetated Roof</u>	<u>20</u>

h. For the Public Art Public Benefit under Section 4.7.3.E.5, the fee may also be accepted by the Bethesda Urban Partnership, the Bethesda Arts & Entertainment District, or other civic arts organization accepted by the Planning Board.

3. FAR Averaging (Density transfers)

Additional public benefit points above the minimum number are not required for FAR Averaging.

B. Downtown Silver Spring (DSS) Overlay Zone Public Benefit Points

The requirements for public benefit points for development projects that qualify for an exemption under Section 4.7.1.D are established by Division 59.8.4, and as follows:

1. The Planning Board must not grant any public benefit points for transit proximity under Section 8.4.3.B
2. The Planning Board must determine that the development achieves 10 points for the exceptional design public benefit under Section 8.4.3.E.2. The Planning Board must appoint a Design Advisory Panel composed of independent professionals with relevant design experience and expertise, representing the diversity of the community, including at least one resident of Silver Spring. The Planning Board must consider the comments from the Design Advisory Panel on all projects before making its determination concerning exceptional design points.

C. Germantown Transit Mixed Use (GTMU) Overlay Zone Public Benefit Points

Optional method development under the CR zone and the GTMU Overlay zone must provide public benefits under Section 8.4.3.F.1.a except that the applicant must purchase BLT easements, or make payments to the ALPF in an amount equal to 50% of the incentive density floor area.

D. Great Seneca Life Sciences (GSLs) Overlay Zone Public Benefit Points

1. All optional method development applications within the GSLs Overlay Zone for development projects that qualify for an exemption under Section 4.7.1.D must earn incentive density for any requested density above 0.5 FAR subject to the provisions of Section 8.4.4.D. and are not responsible for providing public benefits under Section 4.7, Optional Method Public Benefits. Incentive density is the term used to describe any density above 0.5 FAR including any mapped density or additional density allowed by the GSLs Overlay Zone.

2. General Provisions

i. In determining how much incentive density a development application must achieve, applications must round up to the next nearest 0.25 FAR increment.

ii. Incentive density must be earned by providing public benefits. The public benefits are divided into one of 4 tiers in Sections 8.4.4.D.1.b. through 8.4.4.D.1.e., based on how much FAR of incentive density an applicant is permitted for providing that public benefit.

iii. Development applications may provide any combination of public benefits to achieve the necessary incentive density for their project.

- iv. If an application provides a Tier 4 benefit, no other public benefits are required for that application.
- v. If a specific public benefit is recommended for a property in the master plan, the applicant must provide that specific public benefit, unless the Planning Board finds that providing or maintaining the recommended benefit is infeasible or that the benefit is no longer in the public interest.

3. Tier 1 Benefits

The following public benefits are worth 0.25 FAR of incentive density:

- i. Provide 20% GFA as a Residential use when the underlying zone is LSC.
- ii. Provide the minimum required number of MPDUs plus 2.5%.
- iii. Design and construct offsite pedestrian and bicycle facilities for a minimum of 750 linear feet.
- iv. Contribute funding for offsite portions of one of the following, at a rate of \$0.30 per GFA of the subject development application:
 - (a) Key West Avenue Promenade
 - (b) Great Seneca Greenway
 - (c) LSC Loop Trail
 - (d) Streetscape improvements along a public street within the overlay zone
- v. Construct an offsite portion of the LSC Loop Trail for a minimum length of 2,500 linear feet.
- vi. Provide offsite streetscape improvements along a public street within the overlay zone including seating, paving, street tree

planting, landscaping, and lighting, for at least 5,000 linear feet based on the applicable streetscape standards of the master plan.

vii. Provide a minimum of 10,000 square feet of flexible, step-up space for life science startups.

viii. Achieve a minimum 10% mixed-use development, ensuring uses from at least two different use groups are provided, each comprising a minimum of 10% of the total GFA, as determined at the time of sketch plan.

ix. Improve a minimum of 0.25 acres of an existing park or public open space within the GSLS Overlay Zone area with amenities designed to encourage use by people of all ages, cultural backgrounds, and abilities such as, but not limited to, color contrast applications on poles and pavement, accessible bathrooms, mobility device accessible play equipment, sensory playground equipment, movable seating, and art, displays, statues, and signs that recognize local history and community members.

x. Implement at least 3 of the following design excellence strategies or achieve the International WELL Building Institute's WELL Core Bronze certification for the project:

(a) Designing a building with a clear architectural base, middle, and top. The base is defined as the first one or two floors of the building; the top is defined as the uppermost one or two floors of the building; and the middle is everything between the base and the top.

(b) Providing human-scaled architectural elements at the building's base fronting all streets and public open spaces.

Human-scaled architectural elements include clearly marked entryways into ground-floor uses, awnings, canopies, transparency, storefronts, façade lighting, signage, and decorative enhancements.

(c) Providing direct entry to all ground floor residential units fronting a street or public open space.

(d) Adjusting the building massing and façade design to create street-oriented development. The building massing should parallel the street, with the building base creating a continuous frontage with a minimum of 60% transparency. The building middle and top façade must be designed with windows, balconies, and terraces on any elevation along a street.

(e) Lining at least 75% of the ground floor along all streets and public open spaces with active uses such as retail, residential units, offices, lobbies, and amenity spaces. Ground floor entrances into the building must be no further than every 100 feet.

(f) Placing all onsite parking below ground grade or wrapping all structured parking with leasable GFA like residential or commercial floor spaces.

(g) Designing the footprint, massing, and building façades to respond to solar orientation and local climate to minimize energy use, maximize daylight exposure and incorporate passive heating, cooling, and ventilation.

(h) Reducing the floor plate for the top 2 floors by at least 20% to create terraces and an interesting skyline.

(i) Designing all structured parking to be adaptable for alternative uses in the future by creating flat plate parking floors with a minimum floor to ceiling clearance of 10 feet, accessed through a speed-ramp.

xi. Exceed current county code energy efficiency standards (IgCC and IECC) by a minimum of 10% as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.

xii. Generate one-third of renewable energy onsite or utilize renewable energy from the regional catchment area as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.

xiii. Meet Alternative Compliance Path for Green Code and achieve LEED Silver + 21 points as determined by the Department of Permitting Services Division of Commercial Building Construction by the final use and occupancy permit.

xiv. Design a site that includes 2 of the following sustainable elements:

(a) Two principles of biophilic design from the following list of strategies:

(1) Incorporate environmental features such as sunlight, fresh air, plants, animals, water, native landscapes, natural colors, and natural materials such as wood and stone.

(2) Utilize elements in building design to simulate and mimic shapes and forms found in nature. Examples include using tree-like columns in a building

- interior to support a roof that projects the feeling of a forest canopy; building shapes that simulate the appearance of bird wings; ornamentation suggestive of a natural shape like a crystal or geological feature, or others as approved by the Planning Board.
- (3) Use building and site design to stimulate a variety of senses, simulate the qualities of organic growth, or reflect the processes of aging and the passage of time.
- (4) Use spatial and lighting features that evoke the sense of being in a natural setting considering lighting placement, fixture design, and color temperature.
- (5) Incorporate place-based relationships between buildings and the distinctive geographical, ecological, and cultural characteristics of particular places and localities by incorporating reference to geological and landscape features, the use of local and indigenous materials, and connections to particular historic and cultural traditions.
- (6) Provide an outdoor respite space, part of a garden, or green area that offers restoration through the inclusion of natural sensory experiences and opportunities for quiet reflection and stillness.
- (b) Enhanced green roof with a minimum coverage of 10% of the roof (minimum 6 inches in depth).

(c) Two categories of bird-friendly design as defined in the Bethesda Downtown Plan Design Guidelines.

(d) Pervious pavement for 10% of all paved surfaces as determined by the Department of Permitting Services.

xv. Adaptively reuse at least 10,000 square feet of floor area of an existing building on site.

4. Tier 2 Benefits

The following public benefits are worth 0.50 FAR of incentive density:

i. Provide 30% GFA as a Residential use when the underlying zone is LSC.

ii. Provide the minimum required number of MPDUs plus 5%.

iii. Design and construct offsite streetscape improvements along a public street, including any required pedestrian and bicycle facilities, for a minimum of 1,000 linear feet.

iv. Contribute funding for offsite portions of one of the following, at a rate of \$0.60 per square foot of GFA of the subject development application:

(a) Key West Avenue Promenade

(b) Great Seneca Greenway

(c) LSC Loop Trail

v. Construct an offsite portion of the LSC Loop Trail for a minimum length of 3,500 linear feet.

vi. Provide a minimum of 20,000 square feet of flexible step-up space for life science startups.

vii. Achieve a minimum of 15% mixed-use development, ensuring uses from at least two different use groups are provided, each

comprising a minimum of 15% of the total GFA, as determined at the time of sketch plan.

viii. Exceed the minimum required amount of Public Open Space on site by at least 50%.

ix. Implement at least 5 of the design excellence strategies identified in Section 4.9.12.C.3.b.x above or achieve the International WELL Building Institute's WELL Core Silver certification for the project.

x. Exceed current county code energy efficiency standards (IgCC and IECC) by a minimum of 17.5% as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.

xi. Generate two-thirds of renewable energy onsite or utilize renewable energy from the regional catchment area as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.

xii. Meet Alternative Compliance Path for Green Code and achieve LEED Gold as determined by the Department of Permitting Services Division of Commercial Building Construction by the final use and occupancy permit.

xiii. Design a site that includes three of the following sustainable elements:

(a) Four principles of biophilic design as defined in Section 4.9.12.C.3.b.xiv.

(b) Enhanced green roof with a minimum coverage of 15% of the roof (a minimum of 7 inches in depth).

(c) Three categories of bird friendly design as defined in the Bethesda Downtown Plan Design Guidelines.

(d) Pervious pavement for 25% of all paved surfaces as determined by the Department of Permitting Services.

xiv. Adaptively reuse at least 25,000 square feet of floor area of an existing building on site.

5. Tier 3 Benefits

The following public benefits are worth 1.0 FAR of incentive density:

i. Provide the minimum required number of MPDUs plus 7.5%.

ii. Design and construct offsite streetscape improvements along a public street, including any required pedestrian and bicycle facilities, for a minimum of 2,000 linear feet.

iii. Contribute funding for offsite portions of one of the following, at a rate of \$1.00 per GFA of the subject development application:

(a) Key West Avenue Promenade

(b) Great Seneca Greenway

(c) LSC Loop Trail

iv. Construct an offsite portion of the LSC Loop Trail for a minimum length of 5,000 linear feet.

v. Provide a minimum of 30,000 square feet of flexible, step-up space for life science startups.

vi. Provide a minimum 1.5-acre Major Public Open Space recommended per the master plan as a Privately Owned Public Open Space, with approval on the location and design determined by the Planning Board. The Public Open Space

should comply with the elements listed in the Energizing Public Space Design Guidelines for “Civic Green / Plaza.”

vii. Implement at least 7 of the design excellence strategies identified in Section 4.9.12.C.3.b.x above or achieve the International WELL Building Institute’s WELL Core Gold certification for the project.

viii. Exceed current county code energy efficiency standards (IgCC and IECC) by a minimum of 25% as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.

ix. Generate three-fourths of renewable energy onsite or utilize renewable energy from the regional catchment area as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.

x. Meet Alternative Compliance Path for Green Code and achieve LEED Gold, and one of the following as determined by the Department of Permitting Services Division of Commercial Building Construction by the final use and occupancy permit:

(a) Full electrification

(b) Mass Timber construction

xi. Design a site that includes four of the following sustainable elements:

(a) Six principles of biophilic design as defined in Section 4.9.12.C.3.b.xiv.

(b) Enhanced green roof with a minimum coverage of 25% of the roof (a minimum of 11 inches in depth).

(c) Four categories of bird friendly design as defined in the Bethesda Downtown Plan Design Guidelines.

(d) Pervious pavement for 40% of all paved surfaces as determined by the Department of Permitting Services.

xii. Adaptively reuse at least 75,000 square feet of floor area of an existing building on site.

6. Tier 4 Benefits

If an applicant provides any one Tier 4 Benefit listed below, no additional public benefits are necessary to achieve all allowed incentive density:

i. Provide greater than 25% MPDUs at an average of 60% area median income.

ii. Design and construct offsite streetscape improvements along a public street, including any required pedestrian and bicycle facilities, for a minimum of 5,000 linear feet within the overlay zone area.

iii. Contribute funding for offsite portions of one of the following, at a rate of \$2.00 per GFA of the subject development application:

(a) Key West Avenue Promenade

(b) Great Seneca Greenway

(c) LSC Loop Trail

iv. Provide one of the following transportation connections identified as greatly enhancing the transportation network by the Master Plan:

(a) The street connection, including the LSC Loop Trail, connecting Belward Campus Drive to Decoverly Drive, at the intersection with Great Seneca Highway.

(b) A trail connecting Darnestown Road and Medical Center Drive, located between Shady Grove Road and Great Seneca Highway.

(c) The street connection of Road Z between Broschart Road and Dalmatian Street.

v. Provide a minimum of 40,000 square feet of flexible step-up space for life science startups.

vi. Construct and dedicate or convey to Montgomery Parks a minimum 3-acre park recommended in the Master Plan. Approval of the location and design to be determined by the Planning Board. The park must comply with the elements listed in the Energized Public Spaces Design Guidelines for “Urban Recreational Park.”

vii. Implement all 9 of the design excellence strategies identified in Section 4.9.12.C.3.b.x above or achieve the International WELL Building Institute’s WELL Core Platinum certification for the project.

viii. Construct an energy efficient building with a net-zero rating as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan

ix. Generate 100% of renewable energy onsite or utilize renewable energy from the regional catchment area as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.

- x. Meet the Alternative Compliance Path for Green Code and achieve LEED Platinum as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.
- xi. Design a site that includes the four following sustainable elements:
 - (a) Six principles of biophilic design as defined in Section 4.9.12.C.3.b.xiv.
 - (b) Enhanced green roof with a minimum coverage of 35% of the roof (a minimum of 16 inches in depth).
 - (c) Five categories of bird friendly design as defined in the Bethesda Downtown Plan Design Guidelines.
 - (d) Pervious pavement for 50% of all paved surfaces as determined by the Department of Permitting Services.
- xii. Adaptively reuse at least 100,000 square feet of floor area of an existing building on site.
- xiii. Underground all existing overhead utilities along the site frontage of the subject property, or at another offsite location within the GSLS Overlay Zone, with an estimated cost of at least \$1,000,000.

E. Transferable Development Rights (TDR) Overlay Zone Public Benefit Points

For optional method development, the Planning Board may grant a maximum of 20 public benefit points for TDRs under Section 8.4.3.F.6.

* * *

Sec. 4. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

Sara R. Tenenbaum
Clerk of the Council