



Committee: PHP

Committee Review: At a future date

Staff: Livhu Ndou, Senior Legislative Attorney

Purpose: To receive testimony – no vote expected

AGENDA ITEM #6

January 13, 2026

Public Hearing

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 receive testimony – 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 that 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. 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 and has not yet been updated.
- 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 Planning, Housing, and Parks (PHP) Committee worksession will be scheduled at a later date.

This report contains:

ZTA 25-14, as introduced	© 1
Planning Board Recommendation	© 61
Planning Staff Memorandum	© 63
Climate Assessment	© 77

*The Racial Equity & Social Justice Impact Statement was not available at the time of publication of this staff report. It can be found at the below address when available: [Racial Equity and Social Justice, Economic, and Climate Impact Statements - Office of Legislative Oversight- Montgomery County, Maryland \(montgomerycountymd.gov\)](#)

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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: January 13, 2026
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

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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

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

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

- (a) dedicate land or construct a public facility such as a bus stop, BRT station, or bicycle parking, with an estimated cost greater than or equal to \$100,000 but less than \$300,000;
- (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 \$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 to an identified county CIP project within the same master plan area.

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

- (a) dedicate land or construct a public facility such as a bus stop, BRT station, or bicycle parking, with an estimated cost greater than or equal to \$300,000 but 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.

237 * * *

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.

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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

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- 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.

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

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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.

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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

January 6, 2026

The Honorable Natali Fani-González

President, Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

Subject: Zoning Text Amendment 25-14

BOARD RECOMMENDATION

The Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission met on December 18, 2025, and by a vote of 4:0 (Commissioner Bartley absent) recommended support for ZTA 25-14 with amendments. This ZTA amends five different Overlay Zones that contain references to, or modifications of optional method public benefits. ZTA 25-14 follows the approval and adoption of ZTA 25-05, which replaced Division 4.7. Public Benefits. This ZTA is the final step in implementing the new system for reviewing public benefits.

ZTA 25-14 proposes numerous updates to the code related to public benefits. These updates are necessary for the code to remain consistent with the new Division 4.7. adopted with ZTA 25-05. While the changes look substantial, there are no new policy decisions; the changes proposed are those necessary to retain existing land use policy in the new public benefit system. The specifics of the amendments are discussed in greater detail in the attached Planning Report (Attachment A) and include the following:

- Clarifications to the role of Master Plans, and the public benefits where payment in lieu is available.
- Updates to five Overlay Zones: Bethesda, Downtown Silver Spring, Germantown Transit Mixed Use, Great Seneca Life Science, and Transferable Development Rights.
- The addition of an overlay zone section to Division 8.4. legacy protections for the previous public benefit system.

Additionally, the Board has flagged a couple of items for amendments that are not in the introduced ZTA, including updating the source data for how the biannual adjustment is calculated for payment in lieu, and correcting a couple of identified typos.

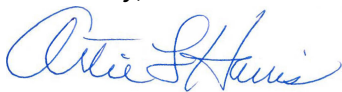
The Planning Board also considered a climate assessment produced by Planning Staff for ZTA 25-14. Because the updated recommendations by this ZTA are technical rather than policy driven, the Board anticipates little to no impact on climate or on the goals of the Climate Action Plan. The transformative policy changes were implemented with ZTA 25-05, and ZTA 25-14 only updates other sections of code to conform with the adopted code language.

The Board appreciates the opportunity to provide comments on ZTA 25-14, supporting the clarifications to the public benefit system, updates to the Overlay Zones, and the additions to the legacy code provisions for public benefits in Division 8.4. If the Council has any questions about the Board's recommendations, they should not hesitate to reach out to Planning Staff.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report, and the foregoing is the recommendation adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission, at its regular meeting held in Wheaton, Maryland, on Thursday, December 18, 2025.

Sincerely,



Artie L. Harris
Chair

Attachments:

- A – Planning Report for ZTA 25-14
- B – Climate Assessment for ZTA 25-14

ZTA 25-14 OPTIONAL METHOD PUBLIC BENEFITS – OVERLAY
ZONES




Description

ZTA 25-14 updates multiple Overlay Zones to align with the recently updated system of calculating public benefits system for optional method of development and ensures continuity for existing public benefits in those zones by including the current provisions in the retained code section of Division 59-8.

ZTA 25-14
Completed: 12-11-25

MCPB
Item No. 12
12-18-25

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ZTA SPONSORS

Sponsors:
Councilmembers Fani-Gonzalez, and
Friedson

INTRODUCTION DATE

October 14, 2025

COUNCIL PUBLIC HEARING DATE

November 18, 2025

REVIEW BASIS

Chapter 59

Summary

- This ZTA amends the following Overlay Zones to ensure they are consistent with the new optional method public benefit system:
 - Bethesda (B)
 - Downtown Silver Spring (DSS)
 - Germantown Transit Mixed Use (GTMU)
 - Great Seneca Life Science (GSLS)
 - Transferable Development Rights (TDR)
- The existing provisions for public benefits within the affected overlay zones are retained in a new Section 59-8.4.4.
- The ZTA also makes minor corrections and clarifications to the optional method public benefit system generally.

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SECTION 1 – BACKGROUND

Rationale For Introduction

Zoning Text Amendment (ZTA) 25-14, Optional Method Public Benefits – Overlay Zones was introduced on December 2, 2025, by the Planning, Housing, and Parks (PHP) Committee members, Councilmembers Fani-Gonzalez, Friedson, and Jawando (Attachment A). The ZTA is scheduled for a Public Hearing on January 13, 2026.

This ZTA is the second and final ZTA necessary to implement the recommendations from the [Incentive Zoning Update](#), which the Board reviewed and supported in June 2024. The first ZTA implementing the Incentive Zoning Update is [ZTA 25-05/Ordinance 20-21](#), which was reviewed by the Board in May 2025 and adopted by the full District Council on July 29, 2025. ZTA 25-05 laid the foundation for the updated public benefits for optional method of development with the following changes to the public benefit methodology:

- Total replacement of public benefit categories and the public benefits within
- New system for calculating necessary public benefits, based on tiers of effort, and earning FAR
- Updating the optional method development threshold in the CRT Zone to 0.5 FAR
- Removing optional method development from the Employment Zones
- Retaining the old methodology for public benefits in Division 59-8.4.

However, ZTA 25-05 did not update any of the Overlay Zones, some of which have provisions that modify the public benefit system for optional method development projects within that Overlay Zone. Planning Staff and Council Staff began collaborating on draft code language during the fall of 2025, which has led to the introduction of ZTA 25-14. This ZTA makes the necessary public benefit updates to five identified Overlay Zones. The ZTA also proposes various minor changes to the language approved in ZTA 25-05 based on experience working on ZTA 25-14, and working on the [Implementation Guidelines](#).

SECTION 2 – ANALYSIS AND RECOMMENDATIONS

ZTA 25-14 contains updates to various sections of code, including within Division 4.7. Optional Method Public Benefits, Division 4.9. Overlay Zones, and Division 8.4. Optional Method Public Benefits (legacy code). The following analysis walks through each section of the ZTA, providing Planning Staff analysis and recommendations.

Division 4.7. Optional Method Public Benefits

The first section of the ZTA contains proposed code refinements to the public benefit system that was adopted as part of ZTA 25-05/Ordinance 20-21.

GENERAL PUBLIC BENEFIT CONSIDERATIONS

The first section of ZTA 25-14 amends the General Public Benefit Considerations, Section 59-4.7.1.B. This section contains information on how the public benefit system should be interpreted, used, and implemented. This section was implemented as part of ZTA 25-05 and staff identified a few minor necessary adjustments. The following are minor updates to specific subsections.

Master Plans

The first revision is to Section 4.7.1.B.7. (lines 6-13), a code provision explaining the role master plans have in the public benefit system. The code allows a master plan to add, prioritize, modify, or prohibit a public benefit, or modify the compliance requirements for achieving certain tiers of effort. For a master plan to implement a change to code, it needs to be reflected in an Overlay Zone. However, an Overlay Zone is not necessary if a master plan is solely expressing priority in public benefits, which would be enforced through the development review and necessary findings for substantial conformance to the master plan. This code section is updated to clarify that adding, modifying, or prohibiting public benefits, or modifying the compliance for tiers, must be reflected in an overlay zone, striking the word ‘prioritizing’ in the statement.

Recommendation: Support the clarifying language.

Construction Costs

This next recommended revision is not part of ZTA 25-14 as introduced, but is a recommended addition from Planning Staff. In Section 4.7.1.B.9, the code discusses how payment in lieu rates will be adjusted for inflation using the Engineering News Record’s Baltimore Construction Cost Index for the adjustment basis. This specific index is what the County’s Department of Finance has historically been using to update existing fee-based programs such as transportation and school impact taxes. More recently, both the Bethesda (B) and the Downtown Silver Spring (DSS) Overlay Zones have included payment options (Bethesda Overlay Zone Density and Downtown Silver Spring Density), which are also biennially adjusted. These Overlay Zones base their adjustments on a published construction cost index, without specifying which specific index should be used. It has been Planning Staff practice to use the Engineering News Record’s Baltimore index for consistency with the county; however, concerns were noted that mandating a specific private publication may be problematic if the private entity were to cease publishing updates. Planning Staff recommends that the public benefits considerations be updated for consistency with the Bethesda and DSS Overlay Zone language, therefore revising subsection 9. As follows:

Payment in lieu rates must be adjusted biennially by the cumulative increase or decrease in a published construction cost index over the prior two calendar years based on the Engineering News-Record's Baltimore Construction Cost Index. Payment in lieu of providing a public benefit may be considered and accepted under the following criteria:

Recommendation: Support updating the payment in lieu adjustment language.

PUBLIC BENEFIT DESCRIPTIONS AND CRITERIA

The next section of the ZTA, from lines 17 – 288, contains a reoccurring revision being recommended for clarity around payment in lieu. Within the public benefit system in Section 4.7.1.B.9, there are five public benefits that are eligible for a payment in lieu:

- Offsite Improvements
- Public Facilities
- Street Grid and Multi-Modal Extensions
- Art and Placemaking
- Great Public Realm

Like all public benefits, within Section 4.7.3. there are detailed descriptions of each public benefit, including the compliance requirements for achieving each tier of effort. For the five public benefits that allow payment in lieu, many tiers included a compliance requirement that began with “contribute a minimum of...”. For better clarity, it is recommended that the word ‘contribute’ be replaced with ‘make a payment in lieu at’. This minor modification more explicitly identifies the specific compliance requirement as one of the few payment in lieu options allowed by Section 4.7.1.B.9.

Recommendation: Support the updated language, replacing ‘contribute’ with ‘make a payment in lieu at’.

Division 4.9. Overlay Zones

The next few sections of the ZTA contain the specific revisions proposed for the five Overlay Zones impacted by the updates to the public benefit system. In updating the Overlay Zones, Planning Staff and Council staff strived to translate the existing public benefit customizations into the new public benefit system as directly as possible without implementing any changes in policy. This resulted in some provisions being removed because they were no longer relevant, some being directly translated from the existing public benefit category into the corresponding new one, and some having unique language proposed to meet the existing intent.

BETHESDA (B)

The Bethesda Overlay Zone (BOZ) contains many modifications to the public benefits system, including benefit prioritization, modified eligible points, and custom criteria and benefits. The analysis below explains the existing modifications made to public benefits, and how that is being translated into the new system.

Moderately Priced Dwelling Units (MPDUs)

The first section of the BOZ with modifications to public benefits is within the Moderately Priced Dwelling Units (MPDUs) section, under the Public Benefit Point subsection 4.9.2.C.3. (lines 309-332). Straightforward amendments proposed by this ZTA include replacing the term ‘public benefit points’ with ‘incentive density’ and updating section references to new public benefits in Section 4.7.

Provision d.ii. (starting on line 314) is a unique public benefit that does not have a direct translation from the old to the new system. The existing language allows for public benefit points to be calculated using a sliding scale formula based on the percent of MPDUs being provided. The new public benefit system has distinct compliance requirements set to distinct tiers of effort and is not set up to provide pro-rata incentive density. The ZTA creates a unique compliance requirement that awards a pro-rata share of incentive density for projects that fall between the specified tiers of effort, retaining the ability to earn incremental benefit for incremental increases in MPDUs.

Also, within the MPDU section, the criteria under d.iii. and d.iv. are removed. These provisions allowed applications providing more than 15% MPDU’s to provide one less public benefit category, and for projects with 20% MPDU’s to provide no additional categories, except for Exceptional Design, and Energy Conservation, and Generation¹. These two criteria are not needed under the new public benefit system because the new public benefit system already provides more incentive density for achieving higher tiers of effort and is not based on a prerequisite of selecting a minimum number of public benefit categories. Other sections of the BOZ are also being updated to capture the area-wide requirements for Exceptional Design, and Energy Conservation, and Generation.

Recommendation: Support the Bethesda Overlay Zone public benefit point criteria for MPDUs.

Public Benefits

The next section of the Bethesda Overlay Zone being amended is the Public Benefits section 4.9.2.4. starting on line 333. The following summarizes the changes being made to each subsection, a – h:

¹ Providing public benefits for Exceptional Design, and for Energy Conservation and Generation are required for any development application within the height incentive area of the BOZ.

- a. The provision is being fully replaced. The ZTA is removing reference to transit proximity, which is no longer a public benefit, and instead using subsection a. to add a statement that public benefits are only required to achieve incentive density, and are not required for any density awarded by making BOZ payments. This clarifying statement is consistent with how the Incentive Density Update has been presented.
- b. This provision spelled out criteria for being awarded public benefit points for making park impact payments (PIPs) either when none are required, or for making a PIP in excess of the requirement. The focus of this public benefit has shifted slightly to allowing a payment toward a Parks CIP rather than a PIP count for incentive density. This slight amendment was requested by Parks Staff to avoid confusion between required PIPs and this voluntary payment.
- c. This provision required all applications in the High-Performance area to exceed building code standards, and has been updated to require meeting Tier 1 under the public benefit Energy Efficiency, which is a comparable public benefit requirement.
- d. This provision granted public benefit points for partnering with the Department of Housing and Community Affairs (DHCA) for providing affordable housing (not MPDUs) within the plan area. The existing formula generates public benefit points at 50% the rate an applicant would receive for providing extra MPDUs. Provision e. below allows a similar agreement for preserving existing affordable housing units with DHCA. The ZTA creates a new Overlay-Zone-specific set of compliance requirements under the MPDU public benefit, requiring twice the number of units to be created or protected in partnership with DHCA to achieve each tier of effort.
- e. The existing e. is removed as it was incorporated with the DHCA affordable housing benefit discussed in d. above. The existing f. is now the new e. This section describes the requirement to achieve exceptional design. The updated provision now references the public benefit Design Excellence and requires a tier 2 level of effort to be achieved, maintaining a similar compliance criterion as the existing requirement of achieving a minimum 10 points in the category.
- f. A new f. is added, capturing a Bethesda Overlay Zone requirement that all new developments must provide for high quality design (Design Excellence) and higher standards of energy efficiency (Energy Efficiency). While previous subsections above capture both of these public benefits separately, this provision specifies that even if an application provides Tier 4 in a category, which normally awards all necessary incentive density, these other two public benefits must still be provided.
- g. The provisions under g. modified the total number of points available for various public benefits. This section is recommended for removal in its entirety. Planning Staff looked at each of the benefits that were modified and found that the existing Overlay Zone does

nothing to change how points were calculated. These benefits generated points based on formulas, and these formulas could generate more points than the maximum the code allowed for. This provision increased the maximum allowed points within the BOZ, but did not adjust the formula or the input criteria. This principle of receiving more points (incentive density) for more input is foundational to the new public benefits system and does not need to be specifically called out in the Bethesda Overlay Zone.

- h. This provision is being removed. It provided an option for paying a fee for public art, which is now a standard option included in the public benefit system.

Recommendation: Support the modifications made to subsections 4.9.2.4.a-h in the Bethesda Overlay Zone.

[FAR Averaging](#)

This last section of the Bethesda Overlay Zone, being amended by this ZTA (lines 428-435), is in the FAR Averaging (Density Transfer) section. The update is a minor language adjustment to remove reference to public benefit ‘points’.

Recommendation: Support the amendment to the language under FAR averaging.

[DOWNTOWN SILVER SPRING \(DSS\)](#)

The next Overlay Zone amended by ZTA 25-14 is the Downtown Silver Spring (DSS) Overlay Zone. This Overlay Zone made reference to or modifications to public benefits in two sections.

[Density](#)

In the section on Development Standards – Density (lines 443-448), the ZTA removes reference to public benefits as a consideration in determining eligibility for Downtown Silver Spring density. DSS density is a type of ‘excel to build’ density, where payments can be made into a fund in exchange for providing density above the mapped. Because public benefits only apply to incentive density (density between the standard method cutoff and the total mapped density), public benefits should not be referenced in the DDS density section.

Recommendation: Support removing public benefits from the DDS density provisions.

[Public Benefits](#)

The other section of the DSS Overlay Zone being amended is the Public Benefits section 4.9.7.C.4. starting on line 451. The following summarizes the changes proposed to each subsection a-c.

- a. The first subsection is a provision prohibiting the Board from granting public benefits for transit proximity. The new public benefit system has removed transit proximity as a category; therefore, this is no longer needed. The ZTA instead adds a code provision clarifying that public benefits are only required to achieve incentive density, and are not required for DDS density, or any other density awarded by Chapter 59.
- b. The next subsection is a requirement that applications achieve a minimum of 10 public benefit points for exceptional design, to be determined by a Design Advisory Panel. The ZTA translates this requirement to achieving a minimum of Tier 2 from Design Excellence based on similar compliance criteria between the two.
- c. The final subsection is a new provision added by the ZTA, ensuring incentive density for the public benefit Great Public Realm is properly applied. In the DSS Overlay Zone, unless specifically identified in the master plan, properties are to make payments to contribute to off-site open space. The new code section removes any incentive to provide on-site open space where it is not identified by the master plan. This section also ensures points are not awarded for making an off-site contribution for open space, unless the contribution exceeds the minimum necessary.

Recommendation: Support the modifications to subsections 4.9.7.C.4.a-c in the DDS Overlay Zone

GERMANTOWN TRANSIT MIXED USE (GTMU)

In the Germantown Transit Mixed Use (GTMU) Overlay Zone, only one section is modified by this ZTA. Starting on line 482 of the ZTA is a major requirement of the GTMU Overlay Zone, requiring applicants to purchase BLT easements or make ALPF payments at a much higher rate (50%) than the county-wide standard. Purchasing BLTs used to be a public benefit in the previous system, and the Overlay Zone references the old public benefit section. With ZTA 25-05, which updated the public benefit system, BLTs/ALPF payments are no longer a public benefit and instead are a requirement of all optional method developments under the Commercial/Residential zones. The GTMU Overlay Zone is updated to require the higher BLTs/ALPF payments based on the C/R zones provisions in Section 4.5.4.A.2.b. The ongoing Germantown Sector Plan Amendment is exploring the BLT requirements among other potential Overlay Zone changes which will be brought before the Board at a future date.

Recommendation: Support the amendment to update the section references for calculating BLTs/ALPF payments to the Commercial/Residential section of the code.

GREAT SENECA LIFE SCIENCES (GSLs)

The next major update with ZTA 25-14 is to the Great Seneca Life Science (GSLs) Overlay Zone. This Overlay Zone was adopted on February 4, 2025, by Ordinance 20-15, implementing ZTA 24-03, complementing the 2024 Great Seneca Plan. This Overlay Zone is unique, because it was written and

adopted concurrently with the writing and review of the new public benefits system. The GSLS Overlay Zone was written to take advantage of the new public benefit system's process and menu of public benefits and in many ways was a test case for the final public benefit system update. Now that ZTA 25-05 has been adopted, much of the existing GSLS Overlay Zone setting forth the public benefits and the compliance requirements for the tiers of effort can be removed. What will remain of the GSLS Overlay Zone are the few modifications to the public benefits, and the compliance criteria required for tiers that were unique and intentional.

[GSLS Overlay Zone Vs Public Benefits Section 59-4.7.](#)

There are a handful of public benefits and public compliance requirements that are included in the GSLS Overlay Zone but were modified before the adoption of ZTA 25-05. These are unique because they were not deliberately modified by the Overlay Zone and instead represent the best practices and recommendations coming from the Incentive Density project at the time. Planning Staff highlights the public benefits that are currently different in the GSLS Overlay Zone, but should utilize the countywide standards located in Section 4.7. rather than retain the current unique attributes.

- Payment in lieu rates (that were not proposed to be modified in tier 1), which were slightly higher in the final public benefits than in the GSLS Overlay Zone.
- Off-site construction of projects under Infrastructure for Compact Growth, and Complete Community Amenities, has had the amount of square or linear feet, and the anticipated cost range for each tier adjusted slightly.
- Green roof requirements under Environmental Resilience and Sustainable Site Design were modified, generally requiring more area at shallower soil depth based on consultations with the Department of Permitting Services.

[Public Benefits Unique to GSLS](#)

The GSLS Overlay Zone made a handful of deliberate changes to the public benefits and the compliance requirements for certain tiers. These modifications are currently integrated within the existing Overlay Zone's list of public benefits and criteria requirements that are proposed for deletion (lines 609 – 947). ZTA 25-14 has pulled out the specific public benefits, tiers, and compliance requirements in the existing Overlay Zone and presents them as specific modifications to the public benefit system located in Section 4.7. of the Zoning Code. Below is a summary of these unique provisions that are being maintained in the GSLS Overlay Zone with this ZTA, under Section 4.9.12.C.3., subsection a. – h. (starting on line 525):

- a. Requires LSC Zone properties to be reviewed as optional method, and to provide public benefits, consistent with the standards of the CR Zone.
- b. Modifies the FAR awarded at each tier of effort, down from the countywide standard. This is a reflection on the larger tract size for most properties in the GSLS Overlay Zone. Small amounts

of FAR can generate a lot of GFA density, which would result in fewer public benefits being provided without this change.

- c. Modifies the fee in lieu payments for tiers 2 and 3, down from the countywide standard, for the same reason the FAR awarded per tier is modified downward in subsection b. above.
- d. Establishes incentives for providing a certain percentage of residential development on properties within the LSC zone.
- e. Lowers the square footage amount of adaptive reuse required for tier 2 and 3 Sustainable Site Design public benefit.
- f. Adding specific infrastructure projects that are identified by the Master Plan for tier 4 under the Offsite Improvements public benefit.
- g. Adding a specific project identified by the Master Plan for tier 4 under the Street Grid and Multi-Modal Extension public benefit.
- h. Adding additional compliance requirement options for tier 1, 2, 3, and 4, for the Neighborhood Services and Mixed Use public benefit, including providing flex step-up space for life science companies, or achieving a certain amount of mixed use development on a site.

Recommendation: Support removing the existing public benefit text from the GSLS Overlay Zone, and replacing it with the condensed list of modifications recommended by the Great Seneca Plan

Other Recommendations

During development of ZTA 25-14, one typo was discovered and corrected in line 494 of the ZTA. The provision intends to lift the 30% residential cap on developments in the LSC Zone; however, the provision inadvertently referenced the GSLS Zone. The ZTA replaces GSLS Zone with LSC Zone to capture the intent of this section.

Recommendation: Support replacing the GSLS Zone with the LSC Zone.

During review of this ZTA, Planning Staff identified an additional typo in the Overlay Zone that was introduced, line 578. “Broschard” Road is incorrectly spelled and should be corrected to “Broschart” Road.

Recommendation: Update Broschard Road to say Broschart Road.

TRANSFERABLE DEVELOPMENT RIGHTS (TDR)

The final Overlay Zone amended with ZTA 25-14 is the Transferable Development Rights (TDR) Overlay Zone. In section 4.9.18.3.b. Calculation of TDRs Required in the Commercial/Residential or Employment Zones (lines 979-981), the code allows the Board to grant up to 20 public benefit points

for providing TDRs. This public benefit was removed as part of the public benefit update; therefore, this subsection is being removed.

Recommendation: Support removing the provision allowing the Board to grant public benefit points for TDRs.

Division 8.4. Optional Method Public Benefits (Legacy Code)

Division 8.4. Optional Method Public Benefits is a new section of code that was added to Article 8 as part of ZTA 25-05. Article 8 is a legacy Article where old zones and zoning provisions from the code in effect up until October 29, 2014, that were not officially rolled into the current code are located. As part of the updated public benefits system, legacy protections were added that allow applications already approved or under review at the time of this transition to still use the old public benefit system. The old system of public benefits was moved from Division 4.7. to Division 8.4. to retain the language for these legacy protected applications.

This ZTA, 25-14, is adding a new section 8.4.4. (lines 987 – 1429) where the existing provisions from the five Overlay Zones being amended will be retained. The formatting is not perfectly carried forward because many of the public benefit provisions were integrated with other code sections in the Overlay Zones, and only public benefit references were moved to Section 8.4.4. However, all the necessary language to continue using the legacy Overlay Zone public benefits is retained.

GENERAL PUBLIC BENEFIT CONSIDERATIONS

The first amendment in the ZTA is in Section 8.4.1. General Provisions. As part of the overhaul of public benefits, the threshold of density that separates a development application from standard method to optional method was modified, lowering the CRT Zone threshold from 1.0 FAR down to 0.5 FAR. After adoption of ZTA 25-05, it became apparent that the old optional method thresholds were not included in Section 8.4.1. Lines 1005 – 1007 add the previous threshold table from the Commercial/Residential Zones, for legacy purposes.

Recommendation: Support the addition of the old optional method thresholds from the Commercial/Residential Zone to Section 8.4.1.

OVERLAY ZONES

The final section amended by ZTA 25-14 is the addition of new Section 8.4.4, covering lines 1010 - 1453. This section is specific to Overlay Zones and retains the existing code provisions that are being deleted or updated through ZTA 25-14. This will enable applicants with existing approvals or with applications submitted and pending Board approval to still use the previous public benefit system, as modified by the overlay zones. While the formatting within each Overlay Zone is not identical, the text of each subsection is copied exactly as it exists in the code today.

Recommendation: Support the addition of Section 8.4.4. retaining the existing system of public benefit modifications within the five Overlay Zones being modified by ZTA 25-14.

SECTION 3 – CLIMATE ASSESSMENT

Bill 3-22, passed by the County Council on July 12, 2022, requires the Planning Board to prepare a climate assessment for each Zoning Text Amendment, Master Plan, and Master Plan Amendment, effective March 1, 2023. Each Climate Assessment must include the potential positive or negative effects a ZTA may have on climate change (including greenhouse gas emissions) and on community resilience and adaptive capacity. The climate impact assessment for ZTA 25-14 is attached in Attachment B.

Planning Staff anticipates that the proposed changes to existing zoning regulations proposed in ZTA 25-14 will have no impact on the county's goals of addressing GHG emissions, carbon sequestration, or ensuring community resilience and adaptive capacity. ZTA 25-14 updates provisions in certain Overlay Zones to be consistent with the new public benefits policy and does not propose any policy changes.

SECTION 4 – CONCLUSION

Planning Staff recommends that the Planning Board transmit comments supporting ZTA 25-14, with the minor amendments proposed by Planning Staff being less specific about the type of publication to calculate changes in construction cost index from and correcting the spelling of Broschart Road.

SECTION 5 – ATTACHMENTS

Attachment A: Zoning Text Amendment 25-13 Intro Packet

Attachment B: Climate Assessment 25-14



CLIMATE ASSESSMENT FOR ZONING TEXT AMENDMENT 25-14, OPTIONAL METHOD PUBLIC BENEFITS – OVERLAY ZONES

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the Climate Assessments is to evaluate the anticipated impact of master plans and zoning text amendments (ZTAs) on the county's contribution to addressing climate change. These assessments will provide the County Council with a better understanding of the potential climate impacts and implications of proposed master plans and ZTAs at the county level. The scope of the Climate Assessments is limited to addressing climate change, specifically the effect of land use recommendations in master plans and ZTAs on greenhouse gas (GHG) emissions and sequestration, and how actions proposed by master plans and ZTAs could improve the county's adaptive capacity to climate change and increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed master plans and ZTAs may impact GHG emissions and community resilience.

SUMMARY

The Montgomery County Planning Board anticipates that the proposed changes to existing zoning regulations proposed in ZTA 25-14 will have no impact on the county's goals of addressing GHG emissions, carbon sequestration, or ensuring community resilience and adaptive capacity. ZTA 25-14 updates provisions in certain Overlay Zones to be consistent with the new public benefits policy and does not propose any policy changes.

BACKGROUND AND PURPOSE OF ZTA 25-14

ZTA 25-14 proposes updates to the Montgomery County Zoning Ordinance to align existing Overlay Zones with the tiered Optional Method Public Benefits system adopted under ZTA 25-05. These updates include revisions to terminology, relocation of certain overlay zone-specific provisions to a new section guaranteeing legacy protection, and removal of outdated references to the former public benefit point system. The amendment does not affect land use, building design or performance, transportation activity, or any other factors that would influence greenhouse gas emissions, carbon sequestration, or community resilience. Its purpose is solely to provide consistency between the overlay zone provisions and the new public benefits framework.

VARIABLES THAT COULD AFFECT THE ASSESSMENT

Climate-related variables include the various GHG reduction, sequestration, resilience, and adaptive capacity activities in the climate assessment checklists (Tables 1 and 8) contained in the *Climate Assessment Recommendations for Master Plans and Zoning Text Amendments in Montgomery County*.

CLIMATE-RELATED VARIABLES

- No Transportation, Building, Energy, or Land Cover and Management variables were identified as impacted.
- No Exposure-Related, Sensitivity-Related, or Adaptive Capacity factors were identified as impacted.

ANTICIPATED IMPACTS

Based on the climate assessment checklists and the scope of ZTA 25-14, there are no anticipated impacts on GHG emissions, carbon sequestration, community resilience, or adaptive capacity. The amendment is administrative in nature and does not alter development standards, land use patterns, or practices that influence climate outcomes.

RELATIONSHIP TO GREENHOUSE GAS REDUCTION AND SEQUESTRATION ACTIONS CONTAINED IN THE MONTGOMERY COUNTY CLIMATE ACTION PLAN (CAP)

ZTA 25-14 does not relate directly to any greenhouse gas reduction or sequestration actions contained in the CAP.

RECOMMENDED AMENDMENTS

The Climate Assessment Act requires the Planning Board to offer appropriate recommendations such as amendments to the proposed ZTA 25-14, or other mitigating measures that could help counter any identified negative impacts through this Climate Assessment. Given that no climate impacts were identified, there are no recommended amendments or mitigation measures associated with ZTA 25-14.

SOURCES OF INFORMATION, ASSUMPTIONS, AND METHODOLOGIES USED

The climate assessment for ZTA 25-14 was prepared using the methodology for ZTAs contained within the *Climate Assessment Recommendations for Master Plans and Zoning Text Amendments in Montgomery County, December 1, 2022*.