

Ordinance No.: 20-31  
Zoning Text Amendment No.: 25-14  
Concerning: Optional Method Public Benefits – Overlay Zones  
Revised: 3/16/2026 Draft No.: 2  
Introduced: December 2, 2025  
Public Hearing: January 13, 2026  
Adopted: March 24, 2026  
Effective: April 13, 2026

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

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Lead Sponsor: Planning, Housing, and Parks Committee

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**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”
Section 8.4.4	“Overlay Zones”

**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:*



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**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;

- 55 (b) construct offsite bikeways greater than 1,000 linear
- 56 feet, or with an estimated cost greater than or equal
- 57 to \$300,000 but less than \$500,000, consistent with
- 58 the applicable master plan; or
- 59 (c) [contribute] make a payment in lieu at a minimum
- 60 of \$1.00 per square foot of gross floor area proposed
- 61 within a development application to a CIP project
- 62 within the same master plan area.
- 63 iii. Tier 3 must provide at least one of the following:
- 64 (a) offsite streetscape improvements greater than 5,000
- 65 square feet, or with an estimated cost greater than or
- 66 equal to \$500,000 but less than \$1,000,000, that are
- 67 consistent with County guidelines or master plan
- 68 recommendations;
- 69 (b) construct offsite bikeways greater than 1,800 linear
- 70 feet, or with an estimated cost greater than or equal
- 71 to \$500,000 but less than \$1,000,000, that are
- 72 consistent with the applicable master plan;
- 73 (c) [contribute] make a payment in lieu at a minimum
- 74 \$2.00 per square foot of gross floor area proposed
- 75 within a development application to a CIP project
- 76 within the same master plan area; or
- 77 (d) construct or upgrade an offsite stormwater
- 78 management facility with an estimated cost greater
- 79 than or equal to \$500,000 but less than \$1,000,000.
- 80 iv. Tier 4 must provide an offsite major transportation
- 81 improvement, a major improvement or reinforcement to

82 runoff conveyance or storage, or a stormwater treatment  
83 facility with an estimated cost greater than \$1,000,000.  
84 This Tier 4 improvement must be recommended in the  
85 relevant master plan.

86 **b. Public Facilities**

87 A development application that provides space for, or constructs,  
88 Public Facilities such as bus stops, bus stations, bicycle parking and  
89 storage, utility boxes, public parking, and major facilities such as police  
90 or fire stations is eligible for incentive density. Public Facilities such as  
91 libraries, community centers, or park spaces are covered under [Section  
92 59.4.7.3.B.2.] Section 4.7.3.B.2. Public Facilities are often identified  
93 and prioritized by applicable master plans.

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

- 95 (a) dedicate land or construct a public facility such as a
- 96 bus stop, BRT station, or bicycle parking, with an
- 97 estimated cost greater than or equal to \$100,000 but
- 98 less than \$300,000;
- 99 (b) underground or locate within a building existing
- 100 electric transformers and other utility boxes located
- 101 along a site frontage with an estimated cost greater
- 102 than or equal to \$100,000 but less than \$300,000; or
- 103 (c) [contribute] make a payment in lieu at a minimum
- 104 of \$0.33 per square foot of gross floor area proposed
- 105 within a development application to an identified
- 106 county CIP project within the same master plan
- 107 area.

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

- 109 (a) dedicate land or construct a public facility such as a
- 110 bus stop, BRT station, or bicycle parking, with an
- 111 estimated cost greater than or equal to \$300,000 but
- 112 less than \$500,000;
- 113 (b) underground, or locate within a building, existing
- 114 electric transformers and other utility boxes located
- 115 along a site frontage with an estimated cost greater
- 116 than or equal to \$300,000 but less than \$500,000; or
- 117 (c) [contribute] make a payment in lieu at a minimum
- 118 of \$1.00 per square foot of gross floor area proposed
- 119 within a development application to an identified
- 120 county CIP project within the same master plan
- 121 area.
- 122 iii. Tier 3 must provide at least one of the following:
- 123 (a) dedicate land or construct a public facility such as a
- 124 BRT station, or enhance an existing light rail or
- 125 metro rail station with an estimated cost greater than
- 126 or equal to \$500,000 but less than \$1,000,000;
- 127 (b) underground existing overhead utilities along a site
- 128 frontage, or another location offsite within the
- 129 master plan area, with an estimated cost greater than
- 130 or equal to \$500,000 but less than \$1,000,000; or
- 131 (c) [contribute] make a payment in lieu at a minimum
- 132 of \$2.00 per square foot of gross floor area proposed
- 133 within a development application to an identified
- 134 county CIP project within the same master plan
- 135 area.

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- 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%.

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- 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 feet in length or with an estimated cost greater than or equal to \$300,000 but less than \$500,000;
  - (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 to a CIP project within the master plan area; or
  - (c) build at least one new through street that bisects an existing block as recommended by an applicable master plan or meets the intersection spacing standards in Chapter 50 of the County Code. The street must meet the preferred standards of the Complete Streets Design Guide.
- iii. Tier 3 must provide at least one of the following:
  - (a) construct a publicly accessible trail greater than or equal to 6,000 linear feet in length or with an estimated cost greater than or equal to \$500,000 but less than \$1,000,000; or
  - (b) design a development site providing at least 2 new street connections, or future street connections such as a stub road, with an adjacent property as recommended by an applicable master plan or meeting the intersection spacing standards in Chapter 50 of the County Code. The streets must

189 meet the preferred design standards of the Complete  
190 Streets Design Guide.

191 iv. Tier 4 must construct a transportation connection  
192 identified by a master plan over an environmentally  
193 sensitive area or across a major arterial highway that will  
194 contribute to the bike, pedestrian, or transit network in the  
195 area with an estimated cost greater than \$1,000,000.

196 **2. Complete Community Amenities**

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

200 **a. Art and Placemaking**

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

209 i. Tier 1 must provide at least one of the following:  
210 (a) provide artistic elements or treatments to the façade  
211 of buildings or parking garages, or freestanding  
212 within the streetscape that enhances the public  
213 realm;

- 214 (b) provide, at least monthly, recurring and publicly
- 215 accessible programming in an open space for a
- 216 minimum of 12 months of operation; or
- 217 (c) [contribute] make a payment in lieu at a minimum
- 218 of \$0.33 per square foot of gross floor area proposed
- 219 within a development application for the purpose of
- 220 providing and maintaining public art.
- 221 ii. Tier 2 must provide at least one of the following:
- 222 (a) install public art approved by the Art Review Panel,
- 223 or partner with an Urban District, public agency,
- 224 arts nonprofit, or Regional Services Center to install
- 225 public art facing or accessible to the public;
- 226 (b) provide, at least monthly, recurring and publicly
- 227 accessible programming in an open space for a
- 228 minimum of 36 months; or
- 229 (c) [contribute] make a payment in lieu at a minimum
- 230 of \$1.00 per square foot of gross floor for the
- 231 purpose of providing and maintaining public art.
- 232 iii. Tier 3 must provide at least one of the following:
- 233 (a) at least 5% of all units in a development application
- 234 are restricted to artist housing, or as live/work units
- 235 for artists earning 70% or less AMI, in addition to
- 236 any required MPDUs; or
- 237 (b) [contribute] make a payment in lieu at a minimum
- 238 of \$2.00 per square foot of gross floor area proposed
- 239 within a development application for the purpose of
- 240 providing and maintaining public art.

241 iv. Tier 4 must provide a major public artist space such as a  
242 community theater, an art gallery, or a performance venue  
243 at least 20,000 square feet in size either onsite or within  
244 the same master plan area.

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246 **c. Great Public Realm**

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

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

253 (a) intergenerational amenities and inclusive design  
254 features over at least 0.25 acres of the required  
255 onsite public open space with an estimated cost  
256 greater than or equal to \$100,000 but less than  
257 \$300,000;

258 (b) improve an existing park or privately-owned public  
259 open space with intergenerational amenities and  
260 inclusive design features over at least 0.25 acres  
261 with an estimated cost greater than or equal to  
262 \$100,000 but less than \$300,000; or

263 (c) [contribute] make a payment in lieu at a minimum  
264 of \$0.33 per square foot of gross floor area proposed  
265 within a development application for creating or  
266 improving public spaces as recommended by an  
267 applicable master plan.

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- 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

295 Recreational Park, as described in the Energized Public  
296 Spaces Design Guidelines.

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

299 **Division 4.9. Overlay Zones**

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301 **Section 4.9.2. Bethesda (B) Overlay Zone**

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303 **C. Development Standards**

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305 **3. Moderately Priced Dwelling Units (MPDUs)**

306 **a. General Requirement**

307 For any development application that includes 20 or more residential  
308 dwelling units, the Planning Board may only approve the application if  
309 the development provides at least 15% MPDUs under the provisions of  
310 Chapter 25A. The provisions of Section 4.9.2.C.3.b through Section  
311 4.9.2.C.3.d apply to any development application that is required to  
312 provide a minimum 15% MPDUs and includes family-sized MPDUs  
313 that exceed the minimum number required under Chapter 25A or  
314 deeply affordable MPDUs as defined by the Department of Housing  
315 and Community Affairs.

316 \* \* \*

317 **d. Public Benefit Points**

318 i. The Planning Board may only grant [public benefit points]  
319 incentive density from the public benefit MPDUs under  
320 Section 4.7.3.A.1.a for providing more than 15% of the  
321 residential units as MPDUs under Chapter 25A.

- 322 ii. The Planning Board may grant [MPDU public benefit
- 323 points] incentive density from the public benefit MPDUs
- 324 under Section 4.7.3.A.1.a between the tiers at a pro-rata
- 325 rate of FAR for providing more than 15% MPDUs by
- 326 either providing the MPDUs on site, or for the protection
- 327 of an existing off-site dwelling unit with an MPDU
- 328 agreement with DHCA [at the rate of 15 points for every
- 329 1% of the number of units in the project above 15%. Any
- 330 fraction of 1% increase in MPDUs entitles the applicant to
- 331 an equal fraction of 15 points]. For [points] incentive
- 332 density to be awarded, at least one more MPDU than
- 333 would be required at 15% must be provided.
- 334 [iii. For a project providing more than 15% MPDUs, one less
- 335 public benefit point category than required under
- 336 Section 4.5.4.A.2 must be satisfied.]
- 337 [iv. For a project providing at least 20% MPDUs, other public
- 338 benefit point categories are not required except for: 1)
- 339 Exceptional Design, and 2) Energy Conservation and
- 340 Generation in the High-Performance Area.]

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

342 The requirements for providing public [benefit points] benefits to

343 achieve incentive density are established by Division 4.7, except as

344 provided in Section 4.9.2.C.3. and as follows:

- 345 a. [The Planning Board must not grant any public benefit points for
- 346 transit proximity under Section 59.4.7.3.B.] Providing public
- 347 benefits under Division 4.7. is only required to achieve incentive
- 348 density requested by a development application. Public benefits

349 are not required for any BOZ density purchased by or awarded  
350 to a development.

351 b. Park [Impact] CIP Payment

352 [i. If a Park Impact Payment is not required under Section  
353 59.4.9.2.C.2.b.ii and the applicant makes a payment, the  
354 Planning Board may grant one point for every \$5,000  
355 payment up to 20 public benefit points.]

356 [ii. If a Park Impact Payment is required under Section  
357 59.4.9.2.C.2.b.ii, the Planning Board may grant public  
358 benefit points only if the Park Impact Payment exceeds the  
359 minimum required. The number of public benefit points  
360 that the Planning Board may grant is deter- mined by  
361 dividing the amount of the payment greater than the  
362 required payment by the required payment, and  
363 multiplying this result by 100.] An applicant may receive  
364 incentive density from the public benefit Great Public  
365 Realm under Section 4.7.3.B.2.c. by making a payment in  
366 lieu contribution toward a Montgomery Parks CIP within  
367 the Bethesda Overlay Zone based on the gross floor area  
368 of the proposed development.

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

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

376 d. If the applicant reaches an agreement with the Department of  
 377 Housing and Community Affairs to retain or provide affordable  
 378 housing rents for dwelling units located anywhere in the Overlay  
 379 zone area, the Planning Board may grant [6 public benefit points  
 380 for every 1% of units in the project included in the rental  
 381 agreement. Any fraction of 1% increase in the number of units  
 382 covered by the agreement entitles the applicant to an equal  
 383 fraction of 6 points.] incentive density under the public benefit  
 384 MPDUs under Section 4.7.3.A.1.a. for providing affordable  
 385 housing units covered by a rental agreement with the Department  
 386 of Housing and Community Affairs based on the following  
 387 modified tiers:

- 388 i. Tier 1 must provide or retain affordable housing units  
 389 greater than or equal to 5% and less than 10% of the  
 390 applications total number of dwelling units;
- 391 ii. Tier 2 must provide or retain affordable housing units  
 392 greater than or equal to 10% and less than 15% of the  
 393 applications total number of dwelling units;
- 394 iii. Tier 3 must provide or retain affordable housing units  
 395 greater than or equal to 15% and less than 20% of the  
 396 applications total number of dwelling units; and
- 397 iv. Tier 4 must provide or retain affordable housing units  
 398 greater than or equal to 20% of the applications total  
 399 number of dwelling units.

400 For this purpose, affordable housing is defined as rents that are  
 401 affordable to a household with a household income of 80%  
 402 [percent] of Area Median Income (AMI) or below, for at least 20

403 years. The agreement with [the Department of Housing and  
 404 Community Affairs] DHCA may include limits on the income of  
 405 residents for the affordable dwelling units.

406 [e. If an applicant reaches an agreement with the Department of  
 407 Housing and Community Affairs and another property owner for  
 408 the use of an off-site existing dwelling, within the Bethesda  
 409 Downtown Area as an MPDU, the Planning Board may grant 15  
 410 public benefit points for every 1% of MPDU units in the project  
 411 included in the MPDU agreement above the minimum required  
 412 15% MPDUs.]

413 [f]e. The Planning Board must determine that the development  
 414 achieves [at least 10 points for exceptional design under Section  
 415 59.4.7.3.E.4. The maximum number of public benefit points for  
 416 exceptional design is 30] a minimum of Tier 2 from the public  
 417 benefit Design Excellence under Section 4.7.3.B.2.d. The  
 418 Planning Board must appoint a Design Advisory Panel  
 419 composed of relevant independent professionals, including at  
 420 least one resident of Bethesda, and consider the comments from  
 421 that panel on all projects before making their determination  
 422 concerning exceptional design points.

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

427 [g. In addition to the other adjustment for maximum public benefit  
 428 points made in this Section 4.9.2.C.4., the number of maximum

429 allowed public benefit points in the following categories are  
430 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]

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

436 **5. FAR Averaging (Density transfers)**

437 a. Any gross floor area allowed by the underlying zone may be  
438 transferred to any site in the Bethesda Downtown Plan.

439 b. Any requirements for additional [Additional] public benefits  
440 [benefit points] above the minimum [number] necessary are not  
441 required for FAR Averaging.

442 c. Gross floor area increased above mapped density because of  
443 FAR Averaging is not required to make a Park Impact Payment.

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445 **Section 4.9.7. Downtown Silver Spring (DSS) Overlay Zone**

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447 **C. Development Standards**

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449 **2. Density**

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

457 \* \* \*

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

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

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

465 are not required for any DSS density purchased by or awarded to  
466 a development.

467 b. The Planning Board must determine that the development  
468 achieves [10 points for the exceptional design public benefit  
469 under Section 59.4.7.3.E.4.] a minimum of Tier 2 from the public  
470 benefit Design Excellence under Section 4.7.3.B.2.d. The  
471 Planning Board must appoint a Design Advisory Panel  
472 composed of independent professionals with relevant design  
473 experience and expertise, representing the diversity of the  
474 community, including at least one resident of Silver Spring. The  
475 Planning Board must consider the comments from the Design  
476 Advisory Panel on all projects before making its determination  
477 concerning [exceptional design points] incentive density for  
478 Design Excellence.

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

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

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490 **D. Optional Method**

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

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

497 \* \* \*

498 **C. Development Standards**

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500 **2. Density**

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502 b. The limits in the [GSLs] LSC zone that cap residential uses at  
503 30% [percent] of gross floor area and retail at 15% [percent] of  
504 gross floor area do not apply.

505 \* \* \*

506 **3. Public Benefits**

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

513 **[a. General Provisions**

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

- 517                   ii.     Incentive density must be earned by providing public
- 518                             benefits. The public benefits are divided into one of four
- 519                             tiers in Sections 4.9.12.C.3.b. through 4.9.12.C.3.e, based
- 520                             on how much FAR of incentive density an applicant is
- 521                             permitted for providing that public benefit.
- 522                   iii.     Development applications may provide any combination
- 523                             of public benefits to achieve the necessary incentive
- 524                             density for their project.
- 525                   iv.     If an application provides a Tier 4 benefit, no other public
- 526                             benefits are required for that application.
- 527                   v.     If a specific public benefit is recommended for a property
- 528                             in the master plan, the applicant must provide that specific
- 529                             public benefit, unless the Planning Board finds that
- 530                             providing or maintaining the recommended benefit is
- 531                             infeasible or that the benefit is no longer in the public
- 532                             interest.]

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

- 535                   a.     Properties in the LSC Zone that are reviewed as optional method
- 536                             developments are required to provide public benefits under
- 537                             Division 4.7. to earn incentive density.
- 538                   b.     The incentive density awarded for achieving each public benefit
- 539                             tier is as follows:
  - 540                             i.     Tier 1 public benefits are eligible for a maximum 0.25
  - 541                                     FAR of incentive density;
  - 542                             ii.    Tier 2 public benefits are eligible for a maximum 0.5 FAR
  - 543                                     of incentive density;

544 iii. Tier 3 public benefits are eligible for a maximum 1.0 FAR  
545 of incentive density; and

546 iv. Tier 4 public benefits are eligible to satisfy all requested  
547 incentive density.

548 c. The base payment in lieu rate for any applicable public benefits  
549 as described in Section 4.7.1.B.9. is modified as follows:

550 i. Tier 2 contribution of a minimum of \$0.66 per square foot  
551 of gross floor area; and

552 ii. Tier 3 contribution of a minimum of \$1.00 per square foot  
553 of gross floor area.

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

556 d. Properties in the LSC Zone may receive incentive density for the  
557 public benefits in the Housing for All category under Section  
558 4.7.3.A.1. by providing the following:

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

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

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

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

- 571                   ii.     Tier 3 requires adaptive reuse of 50,000 square feet of
- 572                             existing floor area from an existing building onsite or
- 573                             within the master plan area.
- 574            f.     The public benefit Offsite Improvements under Section
- 575                             4.7.3.B.1.a.iv. includes the following additional standards as Tier
- 576                             4 options:
- 577                   i.     make a contribution of a minimum of \$2.00 per square foot
- 578                             of gross floor area to a CIP project for either the Key West
- 579                             Avenue Promenade, the Great Seneca Greenway, or the
- 580                             LSC Loop Trail; or
- 581                   ii.    construct the following identified offsite transportation
- 582                             improvements:
- 583                             (a)    the street and adjacent LSC Loop Trail connecting
- 584                                     Belward Campus Drive to Decoverly Drive, at the
- 585                                     intersection with Great Seneca Highway; or
- 586                             (b)    Road Z, between [[Broschard]] Broschart Road and
- 587                                     Dalmatian Street.
- 588            g.     Tier 4 public benefits may be awarded for the public benefit
- 589                             Street Grid and Multi-Modal Extensions under Section
- 590                             4.7.3.B.1.c. for constructing a trail connecting Darnestown Road
- 591                             and Medical Center Drive, between Shady Grove Road and Great
- 592                             Seneca Highway.
- 593            h.     The public benefit Neighborhood Services and Mixed Use under
- 594                             Section 4.7.3.B.2.b. includes the following additional uses and
- 595                             standards as options:
- 596                   i.     Tier 1 must:

- 597 (a) provide a minimum of 10,000 square feet of flexible
- 598 step-up space for life science start-ups; or
- 599 (b) achieve a minimum 10% of mixed-use development
- 600 by including uses from at least ~~[[two]]~~ 2 different
- 601 use groups identified by the Use Table under
- 602 Section 3.1.6. Each use shall be a minimum of 10%
- 603 of the gross floor area, as determined at the time of
- 604 Sketch Plan.

605 ii. Tier 2 must:

- 606 (a) provide a minimum of 20,000 square feet of flexible
- 607 step-up space for life science start-ups; or
- 608 (b) achieve a minimum 15% of mixed-use development
- 609 including uses from at least ~~[[two]]~~ 2 different use
- 610 groups identified by the Use Table under Section
- 611 3.1.6. Each use shall be a minimum of 15% of the
- 612 gross floor area, as determined at the time of Sketch
- 613 Plan;

614 iii. Tier 3 must provide a minimum of 30,000 square feet of

615 flexible step-up space for life science start-ups.

616 iv. Tier 4 must provide a minimum of 40,000 square feet of

617 flexible step-up space for life science start-ups.

618 **[b. Tier 1 Benefits**

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

- 620 i. Provide 20 percent GFA as a Residential use when the
- 621 underlying zone is LSC.
- 622 ii. Provide the minimum required number of MPDUs plus 2.5
- 623 percent.

- 624                   iii.    Design and construct offsite pedestrian and bicycle  
625                                    facilities for a minimum of 750 linear feet.
- 626                   iv.    Contribute funding for offsite portions of one of the  
627                                    following, at a rate of \$0.30 per GFA of the subject  
628                                    development application:  
629                                    (a)    Key West Avenue Promenade  
630                                    (b)    Great Seneca Greenway  
631                                    (c)    Life Sciences Center Loop Trail  
632                                    (d)    Streetscape improvements along a public street  
633    within the overlay zone
- 634                   v.     Construct an offsite portion of the Life Sciences Center  
635                                    Loop Trail for a minimum length of 2,500 linear feet.
- 636                   vi.    Provide offsite streetscape improvements along a public  
637                                    street within the overlay zone including seating, paving,  
638                                    street tree planting, landscaping, and lighting, for at least  
639                                    5,000 linear feet based on the applicable streetscape  
640                                    standards of the master plan.
- 641                   vii.   Provide a minimum of 10,000 square feet of flexible, step-  
642                                    up space for life science startups.
- 643                   viii.   Achieve a minimum 10 percent mixed-use development,  
644                                    ensuring uses from at least two different use groups are  
645                                    provided, each comprising a minimum of 10 percent of the  
646                                    total GFA, as determined at the time of sketch plan.
- 647                   ix.    Improve a minimum of 0.25 acres of an existing park or  
648                                    public open space within the GSLS Overlay Zone area  
649                                    with amenities designed to encourage use by people of all  
650                                    ages, cultural backgrounds, and abilities such as, but not

651 limited to, color contrast applications on poles and  
652 pavement, accessible bathrooms, mobility device  
653 accessible play equipment, sensory playground  
654 equipment, movable seating, and art, displays, statues, and  
655 signs that recognize local history and community  
656 members.

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

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

667 (b) Providing human-scaled architectural elements at  
668 the building’s base fronting all streets and public  
669 open spaces. Human-scaled architectural elements  
670 include clearly marked entryways into ground-floor  
671 uses, awnings, canopies, transparency, storefronts,  
672 façade lighting, signage, and decorative  
673 enhancements.

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

676 (d) Adjusting the building massing and façade design  
677 to create street-oriented development. The building

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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.

- 705 xi. Exceed current county code energy efficiency standards  
706 (IgCC and IECC) by a minimum of 10 percent as  
707 determined by the Department of Permitting Services  
708 Division of Commercial Building Construction at site  
709 plan.
- 710 xii. Generate one-third of renewable energy onsite or utilize  
711 renewable energy from the regional catchment area as  
712 determined by the Department of Permitting Services  
713 Division of Commercial Building Construction at site  
714 plan.
- 715 xiii. Meet Alternative Compliance Path for Green Code and  
716 achieve LEED Silver + 21 points as determined by the  
717 Department of Permitting Services Division of  
718 Commercial Building Construction by the final use and  
719 occupancy permit.
- 720 xiv. Design a site that includes 2 of the following sustainable  
721 elements:
- 722 (a) Two principles of biophilic design from the  
723 following list of strategies:
- 724 (1) Incorporate environmental features such as  
725 sunlight, fresh air, plants, animals, water,  
726 native landscapes, natural colors, and natural  
727 materials such as wood and stone.
- 728 (2) Utilize elements in building design to  
729 simulate and mimic shapes and forms found  
730 in nature. Examples include using tree-like  
731 columns in a building interior to support a

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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

758 experiences and opportunities for quiet  
759 reflection and stillness.

760 (b) Enhanced green roof with a minimum coverage of  
761 10 percent of the roof (minimum 6 inches in depth).

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

764 (d) Pervious pavement for 10 percent of all paved  
765 surfaces as determined by the Department of  
766 Permitting Services.

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

769 **[c. Tier 2 Benefits**

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

771 i. Provide 30 percent GFA as a Residential use when the  
772 underlying zone is LSC.

773 ii. Provide the minimum required number of MPDUs plus 5  
774 percent.

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

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

781 (a) Key West Avenue Promenade

782 (b) Great Seneca Greenway

783 (c) Life Sciences Center Loop Trail

- 784 v. Construct an offsite portion of the Life Sciences Center  
785 Loop Trail for a minimum length of 3,500 linear feet.
- 786 vi. Provide a minimum of 20,000 square feet of flexible step-  
787 up space for life science startups.
- 788 vii. Achieve a minimum of 15 percent mixed-use  
789 development, ensuring uses from at least two different use  
790 groups are provided, each comprising a minimum of 15  
791 percent of the total GFA, as determined at the time of  
792 sketch plan.
- 793 viii. Exceed the minimum required amount of Public Open  
794 Space on site by at least 50 percent.
- 795 ix. Implement at least 5 of the design excellence strategies  
796 identified in Section 4.9.12.C.3.b.x above or achieve the  
797 International WELL Building Institute's WELL Core  
798 Silver certification for the project.
- 799 x. Exceed current county code energy efficiency standards  
800 (IgCC and IECC) by a minimum of 17.5 percent as  
801 determined by the Department of Permitting Services  
802 Division of Commercial Building Construction at site  
803 plan.
- 804 xi. Generate two-thirds of renewable energy onsite or utilize  
805 renewable energy from the regional catchment area as  
806 determined by the Department of Permitting Services  
807 Division of Commercial Building Construction at site  
808 plan.
- 809 xii. Meet Alternative Compliance Path for Green Code and  
810 achieve LEED Gold as determined by the Department of

811 Permitting Services Division of Commercial Building  
812 Construction by the final use and occupancy permit.

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

815 (a) 4 principles of biophilic design as defined in Section  
816 4.9.12.C.3.b.xiv.

817 (b) Enhanced green roof with a minimum coverage of  
818 15 percent of the roof (a minimum of 7 inches in  
819 depth).

820 (c) 3 categories of bird friendly design as defined in the  
821 Bethesda Downtown Plan Design Guidelines.

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

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

827 **[d. Tier 3 Benefits**

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

829 i. Provide the minimum required number of MPDUs plus 7.5  
830 percent.

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

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

837 (a) Key West Avenue Promenade

- 838 (b) Great Seneca Greenway
- 839 (c) Life Sciences Center Loop Trail
- 840 iv. Construct an offsite portion of the Life Sciences Center
- 841 Loop Trail for a minimum length of 5,000 linear feet.
- 842 v. Provide a minimum of 30,000 square feet of flexible, step-
- 843 up space for life science startups.
- 844 vi. Provide a minimum 1.5-acre Major Public Open Space
- 845 recommended per the master plan as a Privately Owned
- 846 Public Open Space, with approval on the location and
- 847 design determined by the Planning Board. The Public
- 848 Open Space should comply with the elements listed in the
- 849 Energizing Public Space Design Guidelines for “Civic
- 850 Green / Plaza.”
- 851 vii. Implement at least 7 of the design excellence strategies
- 852 identified in Section 4.9.12.C.3.b.x above or achieve the
- 853 International WELL Building Institute’s WELL Core
- 854 Gold certification for the project.
- 855 viii. Exceed current county code energy efficiency standards
- 856 (IgCC and IECC) by a minimum of 25 percent as
- 857 determined by the Department of Permitting Services
- 858 Division of Commercial Building Construction at site
- 859 plan.
- 860 ix. Generate three-fourths of renewable energy onsite or
- 861 utilize renewable energy from the regional catchment area
- 862 as determined by the Department of Permitting Services
- 863 Division of Commercial Building Construction at site
- 864 plan.

- 865 x. Meet Alternative Compliance Path for Green Code and
- 866 achieve LEED Gold, and one of the following as
- 867 determined by the Department of Permitting Services
- 868 Division of Commercial Building Construction by the
- 869 final use and occupancy permit:
- 870 (a) Full electrification
- 871 (b) Mass Timber construction
- 872 xi. Design a site that includes four of the following
- 873 sustainable elements:
- 874 (a) Six principles of biophilic design as defined in
- 875 Section 4.9.12.C.3.b.xiv.
- 876 (b) Enhanced green roof with a minimum coverage of
- 877 25 percent of the roof (a minimum of 11 inches in
- 878 depth).
- 879 (c) Four categories of bird friendly design as defined in
- 880 the Bethesda Downtown Plan Design Guidelines.
- 881 (d) Pervious pavement for 40 percent of all paved
- 882 surfaces as determined by the Department of
- 883 Permitting Services.
- 884 xii. Adaptively reuse at least 75,000 square feet of floor area
- 885 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:

- 890 i. Provide greater than 25 percent MPDUs at an average of
- 891 60 percent area median income.

- 892                   ii.     Design and construct offsite streetscape improvements
- 893                   along a public street, including any required pedestrian
- 894                   and bicycle facilities, for a minimum of 5,000 linear feet
- 895                   within the overlay zone area.
- 896                   iii.    Contribute funding for offsite portions of one of the
- 897                   following, at a rate of \$2.00 per GFA of the subject
- 898                   development application:
- 899                   (a)    Key West Avenue Promenade
- 900                   (b)    Great Seneca Greenway
- 901                   (c)    Life Sciences Center Loop Trail
- 902                   iv.    Provide one of the following transportation connections
- 903                   identified as greatly enhancing the transportation network
- 904                   by the Master Plan:
- 905                   (a)    The street connection, including the LSC Loop
- 906                   Trail, connecting Belward Campus Drive to
- 907                   Discoverly Drive, at the intersection with Great
- 908                   Seneca Highway.
- 909                   (b)    A trail connecting Darnestown Road and Medical
- 910                   Center Drive, located between Shady Grove Road
- 911                   and Great Seneca Highway.
- 912                   (c)    The street connection of Road Z between Broschart
- 913                   Road and Dalmatian Street.
- 914                   v.     Provide a minimum of 40,000 square feet of flexible step-
- 915                   up space for life science startups.
- 916                   vi.    Construct and dedicate or convey to Montgomery Parks a
- 917                   minimum 3-acre park recommended in the Master Plan.
- 918                   Approval of the location and design to be determined by

919 the Planning Board. The park must comply with the  
920 elements listed in the Energized Public Spaces Design  
921 Guidelines for “Urban Recreational Park.”

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

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

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

935 x. Meet the Alternative Compliance Path for Green Code and  
936 achieve LEED Platinum as determined by the Department  
937 of Permitting Services Division of Commercial Building  
938 Construction at site plan.

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

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

943 (b) Enhanced green roof with a minimum coverage of  
944 35 percent of the roof (a minimum of 16 inches in  
945 depth).

- 946 (c) Five categories of bird friendly design as defined in
- 947 the Bethesda Downtown Plan Design Guidelines.
- 948 (d) Pervious pavement for 50 percent of all paved
- 949 surfaces as determined by the Department of
- 950 Permitting Services.
- 951 xii. Adaptively reuse at least 100,000 square feet of floor area
- 952 of an existing building on site.
- 953 xiii. Underground all existing overhead utilities along the site
- 954 frontage of the subject property, or at another offsite
- 955 location within the GSLS Overlay Zone, with an estimated
- 956 cost of at least \$1,000,000.]

957 **D. Development Procedures**

- 958 1. Except as modified in this subsection, the development procedures of
- 959 the underlying zone apply.
- 960 2. In the GSLS Overlay zone, any development at or over 0.5 FAR is
- 961 considered optional method of development, regardless of the
- 962 underlying zone.
- 963 3. [Except as provided under Section 4.7.3.F.1.b.ii, all] All optional
- 964 method developments in the GSLS Overlay zone must require the
- 965 purchase of Building Lot Termination (BLT) easements or a payment
- 966 into the Agricultural Land Preservation Fund (ALPF) consistent with
- 967 Section 4.5.4.A.2.b.i. [in an amount equal to 7.5 percent of the incentive
- 968 density floor area in lieu of the procedures of Section 4.7.3.F.1.b. One
- 969 BLT is equivalent to 31,500 square feet of incentive density floor area.
- 970 Private BLT easements must be purchased in whole units. Fractions of
- 971 BLT easements must be purchased through the ALPF, based on the
- 972 amount established by Executive Regulation under Chapter 2B.]

973 4. Development is not subject to the parking minimums established in the  
974 vehicle parking spaces table under Section 6.2.4.B.

975 5. Surface vehicle parking is prohibited between a building and a public  
976 or private street, unless prior to February 24, 2025, the parking lot  
977 existed or was included in an approved site plan.

978 \* \* \*

979 **Section 4.9.18. Transferable Development Rights (TDR) Overlay Zone**

980 \* \* \*

981 **B. Optional Method**

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983 **3. Commercial/Residential and Employment Zones**

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

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

991 \* \* \*

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

993 **Division 8.4. Optional Method Public Benefits**

994 **Section 8.4.1. General Provisions**

995 \* \* \*

996 **B. General Public Benefit Considerations**

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

1000 2. In approving any incentive FAR based on the provision of public  
1001 benefits, the Planning Board must consider:

1002 [1]a. the recommendations and objectives of the applicable master  
1003 plan;

1004 [2]b. the Commercial/Residential and Employment Zone Incentive  
1005 Density Implementation Guidelines;

1006 [3]c. any design guidelines adopted for the applicable master plan  
1007 area;

1008 [4]d. the size and configuration of the site;

1009 [5]e. the relationship of the site to adjacent properties;

1010 [6]f. the presence or lack of similar public benefits nearby; and

1011 [7]g. enhancements beyond the elements listed in an individual public  
1012 benefit that increase public access to, or enjoyment of, the  
1013 benefit.

1014 3. In the CRT and CR zones the maximum total standard method FAR for  
1015 any property is the limit indicated in the following table, unless shown  
1016 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>

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1018 \* \* \*

1019 **Section 8.4.4. Overlay Zones**

1020 The following overlay zones have modified public benefits or public benefit  
1021 calculations which are retained below. These provisions may continue to be used as  
1022 allowed by the Public Benefit Procedures and Exemptions under Section 4.7.1.D.

1023 **A. Bethesda (BOZ) Overlay Zone Public Benefit Points**

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**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

1051 Planning Board may grant one point for every \$5,000  
1052 payment up to 20 public benefit points.

1053 ii. If a Park Impact Payment is required under Section  
1054 4.9.2.C.2.b.ii, the Planning Board may grant public benefit  
1055 points only if the Park Impact Payment exceeds the  
1056 minimum required. The number of public benefit points  
1057 that the Planning Board may grant is determined by  
1058 dividing the amount of the payment greater than the  
1059 required payment by the required payment, and  
1060 multiplying this result by 100.

1061 iii. The maximum number of points from a Park Impact  
1062 Payment is 30.

1063 c. Within the High-Performance Area designated in the Bethesda  
1064 Downtown Plan, the Planning Board must determine that the  
1065 development achieves 15 public benefit points from Energy  
1066 Conservation and Generation under Section 8.4.3.F.3.

1067 d. If the applicant reaches an agreement with the Department of  
1068 Housing and Community Affairs to retain or provide affordable  
1069 housing rents for dwelling units located anywhere in the  
1070 [[Overlay]] overlay zone area, the Planning Board may grant 6  
1071 public benefit points for every 1% of units in the project included  
1072 in the rental agreement. Any fraction of 1% increase in the  
1073 number of units covered by the agreement entitles the applicant  
1074 to an equal fraction of 6 points. For this purpose, affordable  
1075 housing is defined as rents that are affordable to a household with  
1076 a household income of 80% of Area Median Income (AMI) or  
1077 below, for at least 20 years. The agreement with the Department

1078 of Housing and Community Affairs may include limits on the  
1079 income of residents for the affordable dwelling units.

1080 e. If an applicant reaches an agreement with the Department of  
1081 Housing and Community Affairs and another property owner for  
1082 the use of an off-site existing dwelling, within the Bethesda  
1083 Downtown Area as an MPDU, the Planning Board may grant 15  
1084 public benefit points for every 1% of MPDU units in the project  
1085 included in the MPDU agreement above the minimum required  
1086 15% MPDUs.

1087 f. The Planning Board must determine that the development  
1088 achieves at least 10 points for exceptional design under Section  
1089 8.4.3.E.2. The maximum number of public benefit points for  
1090 exceptional design is 30. The Planning Board must appoint a  
1091 Design Advisory Panel composed of relevant independent  
1092 professionals, including at least one resident of Bethesda, and  
1093 consider the comments from that panel on all projects before  
1094 making their determination concerning exceptional design  
1095 points.

1096 g. In addition to the other adjustment for maximum public benefit  
1097 points made in this subsection, the number of maximum allowed  
1098 public benefit points in the following categories are increased to  
1099 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>

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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.

1116 The Planning Board must appoint a Design Advisory Panel composed  
1117 of independent professionals with relevant design experience and  
1118 expertise, representing the diversity of the community, including at  
1119 least one resident of Silver Spring. The Planning Board must consider  
1120 the comments from the Design Advisory Panel on all projects before  
1121 making its determination concerning exceptional design points.

1122 **C. Germantown Transit Mixed Use (GTMU) Overlay Zone Public Benefit**  
1123 **Points**

1124 Optional method development under the CR zone and the GTMU Overlay  
1125 zone must provide public benefits under Section 8.4.3.F.1.a except that the  
1126 applicant must purchase BLT easements[[,]] or make payments to the ALPF  
1127 in an amount equal to 50% of the incentive density floor area.

1128 **D. Great Seneca Life Sciences (GSLs) Overlay Zone Public Benefit Points**

1129 1. All optional method development applications within the GSLs  
1130 Overlay Zone for development projects that qualify for an exemption  
1131 under Section 4.7.1.D must earn incentive density for any requested  
1132 density above 0.5 FAR subject to the provisions of Section 8.4.4.D. and  
1133 are not responsible for providing public benefits under Section 4.7,  
1134 Optional Method Public Benefits. Incentive density is the term used to  
1135 describe any density above 0.5 FAR including any mapped density or  
1136 additional density allowed by the GSLs Overlay Zone.

1137 **2. General Provisions**

1138 i. In determining how much incentive density a development  
1139 application must achieve, applications must round up to the next  
1140 nearest 0.25 FAR increment.

1141 ii. Incentive density must be earned by providing public benefits.  
1142 The public benefits are divided into one of 4 tiers in

1143 Sections 8.4.4.D.1.b. through 8.4.4.D.1.e., based on how much  
1144 FAR of incentive density an applicant is permitted for providing  
1145 that public benefit.

1146 iii. Development applications may provide any combination of  
1147 public benefits to achieve the necessary incentive density for  
1148 their project.

1149 iv. If an application provides a Tier 4 benefit, no other public  
1150 benefits are required for that application.

1151 v. If a specific public benefit is recommended for a property in the  
1152 master plan, the applicant must provide that specific public  
1153 benefit, unless the Planning Board finds that providing or  
1154 maintaining the recommended benefit is infeasible or that the  
1155 benefit is no longer in the public interest.

1156 **3. Tier 1 Benefits**

1157 The following public benefits are worth 0.25 FAR of incentive density:

1158 i. Provide 20% GFA as a Residential use when the underlying zone  
1159 is LSC.

1160 ii. Provide the minimum required number of MPDUs plus 2.5%.

1161 iii. Design and construct offsite pedestrian and bicycle facilities for  
1162 a minimum of 750 linear feet.

1163 iv. Contribute funding for offsite portions of one of the following,  
1164 at a rate of \$0.30 per GFA of the subject development  
1165 application:

1166 (a) Key West Avenue Promenade

1167 (b) Great Seneca Greenway

1168 (c) LSC Loop Trail

- 1169                    (d) Streetscape improvements along a public street within the
- 1170                                    overlay zone
- 1171                    v. Construct an offsite portion of the LSC Loop Trail for a
- 1172                                    minimum length of 2,500 linear feet.
- 1173                    vi. Provide offsite streetscape improvements along a public street
- 1174                                    within the overlay zone including seating, paving, street tree
- 1175                                    planting, landscaping, and lighting, for at least 5,000 linear feet
- 1176                                    based on the applicable streetscape standards of the master plan.
- 1177                    vii. Provide a minimum of 10,000 square feet of flexible, step-up
- 1178                                    space for life science startups.
- 1179                    viii. Achieve a minimum 10% mixed-use development, ensuring uses
- 1180                                    from at least ~~[[two]]~~ 2 different use groups are provided, each
- 1181                                    comprising a minimum of 10% of the total GFA, as determined
- 1182                                    at the time of sketch plan.
- 1183                    ix. Improve a minimum of 0.25 acres of an existing park or public
- 1184                                    open space within the GSLS Overlay Zone area with amenities
- 1185                                    designed to encourage use by people of all ages, cultural
- 1186                                    backgrounds, and abilities such as, but not limited to, color
- 1187                                    contrast applications on poles and pavement, accessible
- 1188                                    bathrooms, mobility device accessible play equipment, sensory
- 1189                                    playground equipment, movable seating, and art, displays,
- 1190                                    statues, and signs that recognize local history and community
- 1191                                    members.
- 1192                    x. Implement at least 3 of the following design excellence strategies
- 1193                                    or achieve the International WELL Building Institute’s WELL
- 1194                                    Core Bronze certification for the project:

- 1195 (a) Designing a building with a clear architectural base,  
1196 middle, and top. The base is defined as the first one or  
1197 [[two]] 2 floors of the building; the top is defined as the  
1198 uppermost one or [[two]] 2 floors of the building; and the  
1199 middle is everything between the base and the top.
- 1200 (b) Providing human-scaled architectural elements at the  
1201 building's base fronting all streets and public open spaces.  
1202 Human-scaled architectural elements include clearly  
1203 marked entryways into ground-floor uses, awnings,  
1204 canopies, transparency, storefronts, façade lighting,  
1205 signage, and decorative enhancements.
- 1206 (c) Providing direct entry to all ground floor residential units  
1207 fronting a street or public open space.
- 1208 (d) Adjusting the building massing and façade design to create  
1209 street-oriented development. The building massing should  
1210 parallel the street, with the building base creating a  
1211 continuous frontage with a minimum of 60%  
1212 transparency. The building middle and top façade must be  
1213 designed with windows, balconies, and terraces on any  
1214 elevation along a street.
- 1215 (e) Lining at least 75% of the ground floor along all streets  
1216 and public open spaces with active uses such as retail,  
1217 residential units, offices, lobbies, and amenity spaces.  
1218 Ground floor entrances into the building must be no  
1219 further than every 100 feet.

- 1220 (f) Placing all onsite parking below ground grade or wrapping
- 1221 all structured parking with leasable GFA like residential
- 1222 or commercial floor spaces.
- 1223 (g) Designing the footprint, massing, and building façades to
- 1224 respond to solar orientation and local climate to minimize
- 1225 energy use, maximize daylight exposure and incorporate
- 1226 passive heating, cooling, and ventilation.
- 1227 (h) Reducing the floor plate for the top 2 floors by at least 20%
- 1228 to create terraces and an interesting skyline.
- 1229 (i) Designing all structured parking to be adaptable for
- 1230 alternative uses in the future by creating flat plate parking
- 1231 floors with a minimum floor to ceiling clearance of 10 feet,
- 1232 accessed through a speed-ramp.
- 1233 xi. Exceed current county code energy efficiency standards (IgCC
- 1234 and IECC) by a minimum of 10% as determined by the
- 1235 Department of Permitting Services Division of Commercial
- 1236 Building Construction at site plan.
- 1237 xii. Generate one-third of renewable energy onsite or utilize
- 1238 renewable energy from the regional catchment area as
- 1239 determined by the Department of Permitting Services Division
- 1240 of Commercial Building Construction at site plan.
- 1241 xiii. Meet Alternative Compliance Path for Green Code and achieve
- 1242 LEED Silver + 21 points as determined by the Department of
- 1243 Permitting Services Division of Commercial Building
- 1244 Construction by the final use and occupancy permit.
- 1245 xiv. Design a site that includes 2 of the following sustainable
- 1246 elements:

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- (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

1274 geological and landscape features, the use of local  
1275 and indigenous materials, and connections to  
1276 particular historic and cultural traditions.

1277 (6) Provide an outdoor respite space, part of a garden,  
1278 or green area that offers restoration through the  
1279 inclusion of natural sensory experiences and  
1280 opportunities for quiet reflection and stillness.

1281 (b) Enhanced green roof with a minimum coverage of 10% of  
1282 the roof (minimum 6 inches in depth).

1283 (c) Two categories of bird-friendly design as defined in the  
1284 Bethesda Downtown Plan Design Guidelines.

1285 (d) Pervious pavement for 10% of all paved surfaces as  
1286 determined by the Department of Permitting Services.

1287 xv. Adaptively reuse at least 10,000 square feet of floor area of an  
1288 existing building on site.

1289 **4. Tier 2 Benefits**

1290 The following public benefits are worth 0.50 FAR of incentive density:

1291 i. Provide 30% GFA as a Residential use when the underlying zone  
1292 is LSC.

1293 ii. Provide the minimum required number of MPDUs plus 5%.

1294 iii. Design and construct offsite streetscape improvements along a  
1295 public street, including any required pedestrian and bicycle  
1296 facilities, for a minimum of 1,000 linear feet.

1297 iv. Contribute funding for offsite portions of one of the following,  
1298 at a rate of \$0.60 per square foot of GFA of the subject  
1299 development application:

1300 (a) Key West Avenue Promenade

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- (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]]~~ 2 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

1327 Services Division of Commercial Building Construction by the  
1328 final use and occupancy permit.

1329 xiii. Design a site that includes ~~[[three]]~~ 3 of the following sustainable  
1330 elements:

1331 (a) Four principles of biophilic design as defined in  
1332 Section 4.9.12.C.3.b.xiv.

1333 (b) Enhanced green roof with a minimum coverage of 15% of  
1334 the roof (a minimum of 7 inches in depth).

1335 (c) Three categories of bird friendly design as defined in the  
1336 Bethesda Downtown Plan Design Guidelines.

1337 (d) Pervious pavement for 25% of all paved surfaces as  
1338 determined by the Department of Permitting Services.

1339 xiv. Adaptively reuse at least 25,000 square feet of floor area of an  
1340 existing building on site.

1341 **5. Tier 3 Benefits**

1342 The following public benefits are worth 1.0 FAR of incentive density:

1343 i. Provide the minimum required number of MPDUs plus 7.5%.

1344 ii. Design and construct offsite streetscape improvements along a  
1345 public street, including any required pedestrian and bicycle  
1346 facilities, for a minimum of 2,000 linear feet.

1347 iii. Contribute funding for offsite portions of one of the following,  
1348 at a rate of \$1.00 per GFA of the subject development  
1349 application:

1350 (a) Key West Avenue Promenade

1351 (b) Great Seneca Greenway

1352 (c) LSC Loop Trail

- 1353            iv. Construct an offsite portion of the LSC Loop Trail for a
- 1354                    minimum length of 5,000 linear feet.
- 1355            v. Provide a minimum of 30,000 square feet of flexible, step-up
- 1356                    space for life science startups.
- 1357            vi. Provide a minimum 1.5-acre Major Public Open Space
- 1358                    recommended per the master plan as a Privately Owned Public
- 1359                    Open Space, with approval on the location and design
- 1360                    determined by the Planning Board. The Public Open Space
- 1361                    should comply with the elements listed in the Energizing Public
- 1362                    Space Design Guidelines for “Civic Green / Plaza.”
- 1363            vii. Implement at least 7 of the design excellence strategies identified
- 1364                    in Section 4.9.12.C.3.b.x above or achieve the International
- 1365                    WELL Building Institute’s WELL Core Gold certification for
- 1366                    the project.
- 1367            viii. Exceed current county code energy efficiency standards (IgCC
- 1368                    and IECC) by a minimum of 25% as determined by the
- 1369                    Department of Permitting Services Division of Commercial
- 1370                    Building Construction at site plan.
- 1371            ix. Generate three-fourths of renewable energy onsite or utilize
- 1372                    renewable energy from the regional catchment area as
- 1373                    determined by the Department of Permitting Services Division
- 1374                    of Commercial Building Construction at site plan.
- 1375            x. Meet Alternative Compliance Path for Green Code and achieve
- 1376                    LEED Gold, and one of the following as determined by the
- 1377                    Department of Permitting Services Division of Commercial
- 1378                    Building Construction by the final use and occupancy permit:
- 1379                    (a) Full electrification

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- (b) Mass Timber construction
- xi. Design a site that includes ~~[[four]]~~ 4 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

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- (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.

- 1432 viii. Construct an energy efficient building with a net-zero rating as  
 1433 determined by the Department of Permitting Services Division  
 1434 of Commercial Building Construction at site plan
- 1435 ix. Generate 100% of renewable energy onsite or utilize renewable  
 1436 energy from the regional catchment area as determined by the  
 1437 Department of Permitting Services Division of Commercial  
 1438 Building Construction at site plan.
- 1439 x. Meet the Alternative Compliance Path for Green Code and  
 1440 achieve LEED Platinum as determined by the Department of  
 1441 Permitting Services Division of Commercial Building  
 1442 Construction at site plan.
- 1443 xi. Design a site that includes the ~~four~~ 4 following sustainable  
 1444 elements:
- 1445 (a) Six principles of biophilic design as defined in  
 1446 Section 4.9.12.C.3.b.xiv.
- 1447 (b) Enhanced green roof with a minimum coverage of 35% of  
 1448 the roof (a minimum of 16 inches in depth).
- 1449 (c) Five categories of bird friendly design as defined in the  
 1450 Bethesda Downtown Plan Design Guidelines.
- 1451 (d) Pervious pavement for 50% of all paved surfaces as  
 1452 determined by the Department of Permitting Services.
- 1453 xii. Adaptively reuse at least 100,000 square feet of floor area of an  
 1454 existing building on site.
- 1455 xiii. Underground all existing overhead utilities along the site  
 1456 frontage of the subject property, or at another offsite location  
 1457 within the GSLS Overlay Zone, with an estimated cost of at least  
 1458 \$1,000,000.

1459 **E. Transferable Development Rights (TDR) Overlay Zone Public Benefit**  
1460 **Points**

1461 For optional method development, the Planning Board may grant a maximum  
1462 of 20 public benefit points for TDRs under Section 8.4.3.F.6.

1463 \* \* \*

1464 **Sec. 4. Effective date.** This ordinance becomes effective 20 days after the  
1465 date of Council adoption.

This is a correct copy of Council action.



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Sara R. Tenenbaum  
Clerk of the Council