

June 10, 2025

Hon. Kate Stewart  
President, Montgomery County Council  
100 Maryland Avenue  
Rockville, MD 20857

**Re: Testimony – ZTA 25-02 - Development Standards – Optional Method Public Benefits**

Dear President Stewart,

I am writing on behalf of the Montgomery Chapter of the Maryland Building Industry Association (MBIA) to express our concerns regarding the Planning Department's proposed revisions to the incentive density system. We urge you not to take up this package of changes and instead direct the Planning Department to consider how the incentive density system can be modified in ways that making development less challenging and expensive – or at a minimum not increase these challenges under the current system – while updating the incentive density rules to better match the priorities of the county.

The Planning Department's comparative assessment of incentive density systems demonstrates that Montgomery County's existing requirements are at least roughly comparable to (though in some cases well in excess of) the rules in other parts of the country. For example, a consultant's analysis used to develop the Planning Department's proposal notes that Austin, Texas, requires developers to provide affordable units in order to qualify for bonus height and density. However, these affordable housing requirements apply only to projects proposing a floor area ratio (FAR) in excess of 8.0, and units that are affordable to households making 80 to 120 percent of median income earn bonus density. In Montgomery County, developers are required to provide 12.5 to 15 percent of all units at prices affordable to households that make between 60 and 80 percent of median incomes, and these units generally do not qualify for bonus density.

Montgomery County does not allow – and the market will not support – development projects at an intensity that would pay for the more expansive set of exactions in the proposed guidelines. In fact, the Planning Department's own analysis shows that in many parts of the county, the more profitable approach for developers is to build projects at densities less than the maximum mapped floor area ratios or even by-right limits. The Planning Department has acknowledged that many applicants are choosing to build by-right projects with floor area ratios under the 1.0 FAR threshold for public benefit requirements; how can public benefits be exacted in exchange for density, when density itself is disincentivized under today's market and policy? MNCPPC's consultant notes that Fairfax County has adopted an incentive system for tax abatements to encourage and make viable more intensive development.

Similarly, the Planning Department's proposal to shore up the agricultural reserve by expanding the number of projects required to purchase building lot terminations (BLTs) and transferrable development rights (TDRs) while eliminating incentive density credit for these purchases is divorced from the Department's analysis of conditions in the local real estate market. The county would be better served by redirecting BLT payments to extinguish TDRs, living up to the promise made to farmers when the agricultural reserve was created without imposing additional burdens on development elsewhere in the county. Many of the ideas developed by the Planning Department in the course of this project reflect thoughtful and creative analysis, and we support rethinking the incentive density system to apply the lessons of the past 15 years in ways that better meet the county's objectives.

Unfortunately, this proposal would have the net effect of making development more difficult and expensive, making it harder to address the county's pressing needs for more housing and a more dynamic economy. There are a number of further concerns around the narrowing of the range of benefits eligible for density credit (e.g., transit proximity and structured parking), compounding and unreasonable requirements on energy efficiency especially in light of the upcoming county BEPS and standard energy code requirements, and about approval of the guidelines ahead of the necessary detail behind public benefits and guideline implementation required for robust industry analysis for impacts to economic development.

We ask that you send the incentive density proposals back to the Planning Department and Board for broader input and collaboration. Should you have any questions or concerns please do not hesitate to reach out to Griffin Benton – [gbenton@marylandbuilders.org](mailto:gbenton@marylandbuilders.org).