NAIOP
COMMERCIAL REAL ESTATE DEVELOPMENT ASSOCIATION
DC|MD CHAPTER

June 5, 2025
Council President Kate Stewart
& Members of the County Council
Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Re: Zoning Text Amendment 25-05
Development Standards – Optional Method Public Benefits

Dear Council President Stewart and Members of the County Council:

On behalf of NAIOP DC/MD, we are writing to provide comments regarding Zoning Text Amendment 25-05, regarding changes to the development standards for optional method public benefits and the corollary incentive density system. NAIOP DC/MD represents hundreds of companies that have been involved in creating the most innovative, sustainable mixed-use developments in Montgomery County and the region. Our members have the breadth of experience of working in multiple jurisdictions.

While ZTA 25-05 represents a thoughtful effort to modernize Montgomery County's public benefit framework, modifications are required to ensure that the legislation does not inadvertently thwart development. The incentive density system is supposed to ensure that larger real estate development projects provide meaningful public benefits in exchange for added height and density. As currently written, the proposed changes raise the cost of optional method projects and lower the size threshold of applicability in cumulatively important ways.

The Planning Department's consultant cites jurisdictions like Austin, Texas for best practices, where affordability requirements apply only to the most intensive development projects (FAR 8.0+), and where units affordable to households earning up to 120% of median income are eligible for bonus density. While Montgomery County has been a leader in requiring 12.5-15% affordable housing units at 60-80% of area median income in new developments (greater than what many other jurisdictions require), it also should lead by incentivizing such development by giving credit for these units (between 12.5-15%) in the incentive density system. In other words, we already require more than many of our peer jurisdictions, yet the current proposals would further increase the ask while offering even less in return. Furthermore, getting the balance right between incentives and costs is especially important in today's market, where many projects are already choosing to proceed at by-right densities below 1.0 FAR. As discussed in more detail below, lowering the incentive density requirements to projects with 0.5 FAR is counterproductive and will make these projects even less likely to be realized.

In further refining the public benefit structure, we would like to first commend Park & Planning Staff for recommending the following proposed elements:

1. Recognition of Existing Obligations. Allowing projects to earn credit for improvements that support master plan goals or fulfill regulatory obligations (e.g., stormwater management, undergrounding utilities, green building compliance).

2. Small Lot Adjustments. Creating a modified system for small parcels with high mapped density appropriately reflects real-world development constraints.

3. Alternative Compliance Mechanism. Introducing flexibility for projects that cannot meet rigid public benefit criteria enhances both fairness and practicality.

4. Grandfathering Provisions. Including a generous transition period helps ensure continuity and predictability in the pipeline of current projects.

While the above are helpful improvements to the incentive density program, *the Council should either revise the pending draft to address the following, or pause adoption to allow the Planning Department to make the following changes:*

1. Proposal to lower the standard method threshold in the CRT Zone to 0.5 is problematic. The current draft recommends triggering optional method of development review at 0.5 FAR. The current trigger in a CRT zone is 1.0 FAR. Requiring increased public benefits and an additional process with a sketch plan for projects in this modest density range introduces unnecessary cost and months of delay, especially for smaller-scale developments like townhouses or other single-family attached housing.

   → Recommendation:

   - Retain 1.0 FAR as the threshold for Standard Method of Developments in the CRT zone.

2. Site Plan Review for EOF Projects > 0.5 FAR. In an office market struggling with vacancy and reinvestment challenges, mandating site plan reviews above 0.5 FAR could deter adaptive reuse or reinvestment.

→ Recommendation:

- Maintain proposal to eliminate Optional Method of development in the EOF zone but only require site plan review in the triggering circumstances listed in 59-7.3.4 (site plan applicability table).

3. Continued BLT Payment Requirement. Although Building Lot Termination (BLT) purchases have been removed from the public benefit point system, they remain a required cost—now without a compensating benefit.

   → Recommendation:

   - Eliminate BLT requirements. Alternatively, eliminate this requirement or reintegrate BLT credits into the benefit framework.

4. The thresholds for qualifying off-site bikeway improvements (e.g., 1,000 linear feet under a $500,000 cap) are inconsistent with typical construction costs (~$750/LF). The length of the bikeway improvements (i.e., 1,000 linear feet) is greater than one would see, even for a project with a large LATR requirement. Additionally, it would be very difficult to identify and feasibly build 1,000 linear feet for such an improvement. Furthermore, the anticipated cost is greater than the range listed in the Zoning Text Amendment.

   → Recommendation:
   - Reduce minimum lengths to 250 to 500 linear feet.

5. The Tier 4 Criteria for Offsite Improvements are too narrow and inconsistent with the improvements outlined in the remainder of the category.

   → Recommendation:

   - Allow features such as fully protected intersections, new traffic signals, or certain lengths of bikeway as eligible Tier 4 benefits.

6. The qualifying square footage in the Neighborhood Services and Mixed-Use category are maxed out at 10,000 SF. Ground floor commercial should not be limited to a maximum of 10,000 SF. This fails to recognize the tremendous public benefit that a larger ground floor and activating commercial spaces can provide the community.

   → Recommendation:

   - Increase the maximum square footage so that it includes larger anchor-type tenants on the ground floor of mixed-use buildings.

7. The Urban Park sizing requirements for Tier 3 and Tier 4 improvements under Great Public Realm are very large and may not capture the tremendous public benefit a slightly smaller space would provide.

   → Recommendation:
   - Reduce the standard to a more realistic 1-acre maximum.

8. Provide public benefits for Projects including 12.5-15% MPDUs. It should be recognized that there is value and significant costs in providing MPDUs on-site.

   → Recommendation:
   - Provide a public benefit for the provision of MPDUs, such as a lower threshold in Tier 1 that covers projects with between 12.5% and 15% MPDUs.

We understand that Park & Planning is currently working on a document that would correlate the old and the new public benefit system, with such document being available at time of ZTA adoption. We have not yet seen this document and suggest that such should be reviewed and vetted thoroughly before ZTA adoption.

In conclusion, ZTA 25-05 contains several promising reforms, and we support revisiting the incentive density framework to align it more closely with today's priorities. However, careful attention should be paid to unintended barriers/costs that may thwart reinvestment, particularly in moderate-density and office zones. As such, we urge the Council to revise the proposal and/or return this proposal to the Planning Department to work further with stakeholders on the matters as discussed herein.

Thank you for your attention to this important matter. We look forward to working with you to craft a system that delivers more housing, more jobs, and more sustainable, inclusive communities.

Respectfully submitted,

Stacy Lee

Stacy Lee
Executive Director
NAIOP DC/MD

cc: Planning Board Chair Artie Harris
Mr. Robert Kronenberg
Ms. Livhu Ndou
Mr. Jason Sartori
Mr. Atul Sharma