

MEMORANDUM

September 21, 2018

TO: Planning, Housing, and Economic Development Committee

FROM: Jeff Zyontz, Senior Legislative Analyst

SUBJECT: Worksession #2 – Zoning Text Amendment 18-06, MPDU – Bonus Density

PURPOSE: Develop recommendations for the Council concerning ZTA 18-06, MPDU – Bonus Density

Background

On September 20, 2018, the Committee agreed with the amendments proposed by Councilmember Floreen that included:

- 1) increased bonus densities above 15% MPDUs in 2 additional steps; the text for each zone would be amended to:

The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the {mapped density or the density allowed under the standard density of the zone} plus an increase of:

 - a. 88% for each .1% increase in MPDUs above 12.5% up to and including 15%;
 - b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%; or
 - c. 30% plus .1% for each .1% increase in MPDUs above 20%.
- 2) deleting the maximum density bonus in all zones;
- 3) allowing public benefit points for all projects with more than 12.5% MPDUs, even when more MPDUs were required by law; and
- 4) under MPDU provision for Living Facilities for Seniors or Persons with Disabilities, to satisfy Chapter 25A standards (alternative payments and alternative locations allowed).

The Committee also agreed to recommend approval of aspects of ZTA 18-06 as introduced:

- allowing a bonus density in lower density zones (R-200, R-90, R-60, R-40, and TLD)
- no additional consideration for building heights abutting single-unit living areas
- basing density on gross acreage (not “usable area”)
- allowing, with the consent of the Department of Housing and Community Affairs, bonus density for off-site MPDUs or alternative payments.

The Committee (2-1, with Councilmember Floreen opposed) did not recommend allowing the MPDU bonus density allowed by ZTA 18-06 in the Bethesda Overlay zone. The Committee wanted to review text to accomplish that objective.

Issues

1) What does the current code say about the Bethesda Overlay zone and MPDU bonus density?

The zones underlying the Bethesda Overlay zone are CR and CRT. There are no “T” designated zones in Bethesda because the current zoning was applied by a recent Sectional Map Amendment. As such, the applicable current MPDU density provisions are Sections 4.7.3.D.6.c.ii and iii:

- ii. *For a project providing less than 15% MPDUs, the gross floor area of any MPDUs provided above 12.5% is exempt from the calculation of FAR.*
- iii. *For a project providing a minimum of 15% MPDUs, the gross floor area of all MPDUs provided is exempt from the calculation of FAR.*

An argument can be made that the Bethesda Overlay zone does not address density limits for MPDUs.

It does say:

In the CR or CRT zone, a development may exceed the mapped FAR on a site if the Planning Board approves a sketch or site plan under Section 7.3.3 or Section 7.3.4 that includes the allocation of gross floor area from Bethesda Overlay Zone (BOZ) Density, or FAR Averaging under Section 4.9.2.C.5.¹

The provision does not state that BOZ density and FAR averaging are the only ways to achieve density above the mapped density. The MPDU provisions in the Bethesda Overlay zone include building height, park impact payments, and public benefit points, **but not density**. Alternatively, the Bethesda Overlay zone does NOT include MPDU density as a reason to exceed mapped density.

Even though ambiguity between the underlying zone and the Overlay zone must be resolved in favor of the Overlay zone², it is a better practice for the Council to resolve the ambiguity.

¹ Section 4.9.2.C.

² Section 4.9.1.C.

2) *How can the code be revised to exclude from applicability to the Bethesda Overlay zone the additional MPDU bonus density allowed by ZTA 18-06?*

There are 2 zone series in the Bethesda Overlay zone; CR and CRT. The density for those zones is in one section of code. The following only show changes from ZTA 18-06 (with the amendment proposed by the Committee). Subsection numbers below the newly-inserted subsection 2 would also need to be revised.

Division 4.5. Commercial/Residential Zones

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Section 4.5.2. Density and Height Allocation

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C. Development with Moderately Priced Dwelling Units

For any application that includes more than 12.5% of the gross residential floor area as Moderately Priced Dwelling Units (MPDUs), qualified under Chapter 25A, the following provisions apply:

1. Except in the Bethesda Overlay Zone, residential density may be increased above the mapped residential FAR by:
 - a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%;
 - b. 22% plus 0.16% for each 0.1% increase in MPDUs above 15% up to and including 20%; or
 - c. 30% plus .1% for each 0.1% increase in MPDUs above 20%.
2. In the Bethesda Overlay Zone, residential density may be increased above the mapped residential FAR by 17.5% plus 0.1% for each 0.1% increase in MPDUs above 17.5%.

This packet contains

ZTA 18-06 as recommended by the Committee September 20

© number

1 – 22

Zoning Text Amendment No.: 18-06
Concerning: MPDU- Bonus Density
Draft No. & Date: 3 - 9/21/18
Introduced:
Public Hearing:
Adopted:
Effective:
Ordinance No.:

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

Lead Sponsor: Councilmember Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- revise or establish Moderately-Priced Dwelling Unit (MPDU) density bonus standards for certain Residential, Commercial/Residential, Employment, and Overlay zones; and
- generally amend provisions concerning MPDUs

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

<u>DIVISION 3.3</u>	<u>"Residential Uses"</u>
<u>Section 3.3.3.</u>	<u>"Group Living"</u>
DIVISION 4.4.	"Residential Zones"
Section 4.4.7.	"Residential - 200 Zone (R-200)"
Section 4.4.8.	"Residential - 90 Zone (R-90)"
Section 4.4.9.	"Residential - 60 Zone (R-60)"
Section 4.4.10.	"Residential - 40 Zone (R-40)"
Section 4.4.11.	"Townhouse Low Density Zone (TLD)"
Section 4.4.12.	"Townhouse Medium Density Zone (TMD)"
Section 4.4.13.	"Townhouse High Density Zone (THD)"
Section 4.4.14.	"Residential Multi-Unit Low Density - 30 Zone (R-30)"
Section 4.4.15.	"Residential Multi-Unit Medium Density - 20 Zone (R-20)"
Section 4.4.16.	"Residential Multi-Unit High Density - 10 Zone (R-10)"
DIVISION 4.5.	"Commercial/Residential Zones"
Section 4.5.2.	"Density and Height Allocation"
Section 4.5.4.	"Optional Method Development"
DIVISION 4.6.	"Employment Zones"
Section 4.6.2.	"Density and Height Allocation"
Section 4.6.4.	"Optional Method Development"
DIVISION 4.7.	"Optional Method Public Benefits"
<u>Section 4.7.1</u>	<u>"General Provisions"</u>
Section 4.7.3.	"Public Benefit Descriptions and Criteria"
DIVISION 4.9.	"Overlay Zones"

Section 4.9.17. "Transferable Development Rights (TDR) Overlay Zone"

EXPLANATION: *Boldface indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-3.3 is amended as follows:

Division 3.3. Residential Uses

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Section 3.3.2. Group Living

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c. Where an Independent Living Facility for Seniors or Persons with Disabilities is allowed as a conditional use, it may be permitted by the Hearing Examiner under all limited use standards, Section 7.3.1, Conditional Use, and the following standards:

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iii. A minimum of 15% of the dwelling units is permanently reserved for households of very low income, or 20% for households of low income, or 30% for households of MPDU income, and otherwise satisfies Chapter 25A. If units are reserved for households of more than one of the specified income levels, the minimum percentage must be determined by agreement with the Department of Housing and Community Affairs under Executive regulations. Income levels are defined in Section 1.4.2, Defined Terms.

Sec. 2. DIVISION 59-4.4 is amended as follows:

Division 4.4. Residential Zones

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Section 4.4.7. Residential - 200 Zone (R-200)

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C. R-200 Zone, Optional Method Development Standards

1. Site	MPDU Development	Cluster Development
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	Detached House	Duplex	Townhouse	Detached House
Dimensions (min)				
Usable area	9 acres			5 acres
Specification for Site under MPDU Development				
a. In an optional method MPDU Development, the maximum percentage of duplex or townhouse building types allowed is 40%. The Planning Board may allow up to 100% duplex or townhouse units if it finds that the proposed development is more desirable from an environmental perspective or that, because of site constraints, the proposed number of MPDUs could not be achieved under the development requirements in Division 4.4 for the required number of detached house dwelling units.				
Specification for Site under Cluster Development				
* * *				
Density (max)				
Density (units/acre [of usable area])	[2.44][[2.66]]See Specification for Density			2
Specification for Density				
The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.7.B.[2]]1 plus an increase of:				
a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%.				
b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or				
c. 30% plus .1% for each .1% increase in MPDUs above 20%.				
[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.7.C.1.]]				

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27 **Section 4.4.8. Residential - 90 Zone (R-90)**

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29 **C. R-90 Zone, Optional Method Development Standards**

1. Site	MPDU Development			Cluster Development		
	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse
Dimensions (min)						
Usable area	5 acres			5 acres		
Specification for Site under MPDU Development						
a. In an optional method MPDU Development, the maximum percentage of duplex or townhouse building types allowed is 50%. The Planning Board may allow up to 100% duplex or townhouse units if it finds that the proposed development is more desirable from an environmental perspective or that, because of site constraints, the proposed number of MPDUs could not be achieved under the development requirements in Division 4.4 for the required number of detached house dwelling units.						
Specification for Site under Cluster Development						
* * *						
Density (max)						
Density (units/acre [of usable area])	[4.39][[5.90]]See Specification for Density			3.6		
Specification for Density						
The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.8.B. [[2]]1 plus an increase of:						
a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%,						
b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or						
c. 30% plus .1% for each .1% increase in MPDUs above 20%.						
[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.8.C.1.]]						

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Section 4.4.9. Residential - 60 Zone (R-60)

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C. R-60 Zone, Optional Method Development Standards

1. Site	MPDU Development			Cluster Development		
	Detached House	Duplex	Townhouse	Detached House	Duplex	Townhouse
Dimensions (min)						
Usable area	3 acres			5 acres		
Specification for Site under MPDU Development						
a. In an optional method MPDU Development, the maximum percentage of duplex or townhouse building types allowed is 60%. The Planning Board may allow up to 100% duplex or townhouse units if it finds that the proposed development is more desirable from an environmental perspective or that, because of site constraints, the proposed number of MPDUs could not be achieved under the development requirements in Division 4.4 for the required number of detached house dwelling units.						
Specification for Site under Cluster Development						
* * *						
Density (max)						
Density (units/acre [of usable area])	[6.1][[8.86]]See Specification for Density			5		
Specification for Density						
The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.9.B. [2] 1 plus an increase of:						
a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%,						
b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or						
c. 30% plus .1% for each .1% increase in MPDUs above 20%.						
[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.9.C.1.]]						

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Section 4.4.10. Residential - 40 Zone (R-40)

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C. R-40 Zone, Optional Method Development Standards

	MPDU Development		
1. Site	Detached House	Duplex	Townhouse
Dimensions (min)			
Usable area	3 acres		
Density (max)			
Density (units/acre [of usable area])	[10.12][[13.29]]See Specification for Density		
<u>Specification for Density</u>			
<u>The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.10.B.2 plus an increase of:</u>			
<u>a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%,</u>			
<u>b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or</u>			
<u>c. 30% plus .1% for each .1% increase in MPDUs above 20%.</u>			
<u>[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.10.C.1.]]</u>			

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Section 4.4.11. Townhouse Low Density Zone (TLD)

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C. TLD Zone, Optional Method Development Standards

1. Site	MPDU Development		
	Detached House	Duplex	Townhouse
Dimensions (min)			
Usable area	20,000 SF		
Density (max)			
Density (units/acre [of usable area])	[9.76][[11.07]] <u>See Specification for Density</u>		
<u>Specification for Density</u>			
<u>The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.11.B.2 plus an increase of:</u>			
<u>a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%,</u>			
<u>b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or</u>			
<u>c. 30% plus .1% for each .1% increase in MPDUs above 20%.</u>			
[[The maximum density allowed under this provision may not exceed the maximum density under			

Sec. 4.4.11.C.1.]]

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Section 4.4.12. Townhouse Medium Density Zone (TMD)

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C. TMD Zone, Optional Method Development Standards

1. Site	MPDU Development		
	Detached House	Duplex	Townhouse
Dimensions (min)			
Usable area	20,000 SF		
Density (max)			
Density (units/acre [of usable area])	[15.25][[14.76]] <u>See Specification for Density</u>		
<u>Specification for Density</u>			
<u>The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.12.B.2 plus an increase of:</u>			
<u>a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%,</u>			
<u>b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or</u>			
<u>c. 30% plus .1% for each .1% increase in MPDUs above 20%.</u>			
<u>[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.12.C.1.]]</u>			

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Section 4.4.13. Townhouse High Density Zone (THD)

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C. THD Zone, Optional Method Development Standards

	MPDU Development		
1. Site	Detached House	Duplex	Townhouse
Dimensions (min)			
Usable area	39,200 SF		
Density (max)			
Density (units/acre [of usable area])	[18.30][[18.32]] <u>See Specification for Density</u>		
<u>Specification for Density</u>			
<u>The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed</u>			

under Sec. 4.4.13.B.2 plus an increase of:

- a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%,
- b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or
- c. 30% plus .1% for each .1% increase in MPDUs above 20%.

[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.13.C.1.]]

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Section 4.4.14. Residential Multi-Unit Low Density - 30 Zone (R-30)

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C. R-30 Zone, Optional Method Development Standards

1. Site	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
Dimensions (min)				
Usable area	11,700 SF			
Density (max)				
Density (units/acre [of usable area])	[17.69]See Specification for Density			
<u>Specification for Density</u>				
<u>The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.14.B.2 plus an increase of:</u>				
<u>a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%,</u>				
<u>b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or</u>				
<u>c. 30% plus .1% for each .1% increase in MPDUs above 20%.</u>				
<u>[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.14.C.1.]]</u>				

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Section 4.4.15. Residential Multi-Unit Medium Density - 20 Zone (R-20)

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C. R-20 Zone, Optional Method Development Standards

1. Site	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
Dimensions (min)				
Usable area	15,600 SF			

Density (max)	
Density (units/acre [of usable area])	[26.47]See Specification for Density
<u>Specification for Density</u>	
The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.15.B.2 plus an increase of:	
a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%.	
b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or	
c. 30% plus .1% for each .1% increase in MPDUs above 20%.	
[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.15.C.1.]]	

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59 **Section 4.4.16. Residential Multi-Unit High Density - 10 Zone (R-10)**

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61 **C. R-10 Zone, Optional Method Development Standards**

1. Site	MPDU Development			
	Detached House	Duplex	Townhouse	Apartment
Dimensions (min)				
Usable area	20,000 SF			
Density (max)				
Density (units/acre [of usable area])	[53.07]See Specification for Density			
<u>Specification for Density</u>				
<u>The density allowed for any application that includes more than 12.5% MPDUs, qualified under Chapter 25A and rounded up to the nearest whole number of units, equals the density allowed under Sec. 4.4.16.B.2 plus an increase of:</u>				
<u>a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%,</u>				
<u>b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or</u>				
<u>c. 30% plus .1% for each .1% increase in MPDUs above 20%.</u>				
<u>[[The maximum density allowed under this provision may not exceed the maximum density under Sec. 4.4.16.C.1.]]</u>				

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63 **Sec. 3. DIVISION 59-4.5 is amended as follows:**

Division 4.5. Commercial/Residential Zones

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Section 4.5.2. Density and Height Allocation

A. Density and Height Limits

1. Density is calculated as an allowed floor area ratio (FAR).
2. Each CRN, CRT, and CR zone classification is followed by a number and a sequence of 3 additional symbols: C, R, and H, each followed by another number where:
 - a. The number following the classification is the maximum total FAR allowed unless additional FAR is allowed under Section 4.5.2.C or Section [4.7.3.D.6.c]4.5.2.D;
 - b. The number following the C is the maximum nonresidential FAR allowed;
 - c. The number following the R is the maximum residential FAR allowed unless additional residential FAR is allowed under Section 4.5.2.C or Section [4.7.3.D.6.c]4.5.2.D; and
 - d. The number following the H is the maximum building height in feet allowed unless additional height is allowed under Section 4.5.2.C, Section [4.7.3.D.6.c]4.5.2.D, or Section 4.5.2.A.2.e.
 - e. With Planning Board approval, any Optional Method project in a CR zone that includes the provision of a major public facility under Section 4.7.3.A may add the height of any floor mostly used for above grade parking to the maximum height otherwise allowed, when the major public facility diminishes the ability of the applicant to provide parking at or below grade.
3. The following limits apply unless additional total FAR, residential FAR, or height is allowed under Section 4.5.2.C, Section

[4.7.3.D.6.c]4.5.2.D, or Section 4.5.2.A.2.e:

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C. Development with Moderately Priced Dwelling Units

For any application that includes more than 12.5% of the gross residential floor area as Moderately Priced Dwelling Units (MPDUs), qualified under Chapter 25A, the following provisions apply:

1. Residential density [[equals]] may be increased above the mapped residential FAR by: [plus an increase of .88% for each .1% increase in MPDUs above 12.5%]
 - a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%;
 - b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%; or
 - c. 30% plus .1% for each .1% increase in MPDUs above 20%.
2. [[The increased residential density under this provision is limited to the first 15% of MPDUs in the project.]] Total density may be increased above the number following the zoning classification on the zoning map by an amount equal to the residential density achieved under Sec. 4.5.2.C.1.
3. Any increase in density allowed under this section must be calculated after the base density of the property has been increased under Sec. 4.5.2.B for development using FAR Averaging.
- [[3]]4. To achieve an increase in density under Section 4.5.2.C, at least one more MPDU than would be required at 12.5% must be provided.
- [[4]]5. The floor area counted as MPDU floor area includes a proportional share of the gross floor area not devoted to residential units.

~~[[5]]~~6. The height limit of the applicable zone and master plan does not apply to the extent required to provide the MPDUs. The additional height is calculated as the floor area provided for MPDUs above 12.5% divided by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet.

[C]D. Special Provisions for "T" Zones Translated from Certain Zones Existing Before October 30, 2014

1. These special provisions apply to certain properties rezoned by District Map Amendment to implement this Chapter and are indicated on the zoning map as the zoning classification followed by a T, such as "CR2.0 C1.5 R1.5 H75 T".
2. For Commercial/Residential-zoned properties designated with a T, the following provisions apply:
 - a. Residential density may be increased above the number following the R on the zoning map in proportion to:
 - i. any MPDU density bonus achieved under Section 4.5.2.C [Chapter 25A for providing more than 12.5% of the residential units as Moderately Priced Dwelling Units (MPDUs), qualified under Chapter 25A]; or
 - ii. any workforce housing floor area that satisfies Chapter 25B; however, the increased residential density under this provision is limited to 10% of the floor area indicated on the zoning map.
 - [b. Total density may be increased above the number following the zoning classification on the zoning map by an amount equal to the residential floor area allowed under Sec 4.5.2.D.2.a.

c. In any case, to achieve a density bonus under Section 4.5.2.C.2, at least one more MPDU than would be required at 12.5% must be provided.]

[d]b. On a property within a designated central business district mapped at a height up to 145 feet, height may be increased above the number following the H on the zoning map by up to 1.5 times if:

i. the height is the minimum necessary for both:

(A) the floor area devoted to a publicly owned or operated facility; plus

(B) the floor area provided for workforce housing units, divided by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet; or

ii. additional height is specifically recommended for the provision of MPDUs above 12.5% in an applicable master plan.

[e]c. Property within a designated central business district and not located in a designated density transfer area[,] is exempt from Section 4.5.2.B.2.d.

[f]d. Height on a portion of a building may be increased above the number following the H on the zoning map so long as the average height of the building is no greater than the maximum height allowed by the mapped zone. Average building height is calculated as the sum of the area of each section of the roof having a different height multiplied by that height, divided by

the total roof area. Height is measured at the midpoint of each roof section along each frontage.

[g]e. Any density or height increases under Section 4.5.2.C or 4.5.2.D requires site plan approval under Section 7.3.4.

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Section 4.5.4. Optional Method Development

The CRT and CR zone allow development under the optional method.

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B. Development Standards

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2. Lot, Density, and Height

a. Lot standards for detached house, duplex, and townhouse building types are determined by the site plan approval process under Section 7.3.4.

b. The maximum total, nonresidential, and residential FARs and the maximum height are established by the mapped zone unless increased under Section 4.5.2.C and Section [4.7.3.D.6.c]4.5.2.D.

c. In the CR zone, a designated historic resource that does not occupy more than 10% of the gross floor area is excluded from the FAR calculation.

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Sec. 4. DIVISION 59-4.6 is amended as follows:

Division 4.6. Employment Zones

* * *

Section 4.6.2. Density and Height Allocation

A. Density and Height Limits

1. Density is calculated as an allowed floor area ratio (FAR).
2. Each GR, NR, LSC, and EOF zone classification is followed by a number and symbol: H, which is followed by another number where:
 - a. The number following the classification is the maximum total FAR allowed unless additional FAR is allowed under Section 4.6.2.C or Section [4.7.3.D.6.c]4.6.2.D; and
 - b. The number following the H is the maximum building height in feet allowed unless additional height is allowed under Section [4.7.3.D.6.c]4.6.2.C.
3. The following limits apply unless additional total FAR, residential FAR, or height is allowed under Section 4.6.2.C and Section [4.7.3.D.6.c]4.6.2.D.

* * *

C. Development with Moderately Priced Dwelling Units

For any application that includes more than 12.5% of the gross residential floor area as Moderately Priced Dwelling Units (MPDUs), qualified under Chapter 25A, the following provisions apply:

1. Residential density [[equals]] may be increased above the mapped residential FAR by: [plus an increase of .88% for each .1% increase in MPDUs above 12.5%]
 - a. .88% for each .1% increase in MPDUs above 12.5% up to and including 15%,
 - b. 22% plus .16% for each .1% increase in MPDUs above 15% up to and including 20%, or
 - c. 30% plus .1% for each .1% increase in MPDUs above 20%.
2. [[The increased residential density under this provision is limited to the first 15% of MPDUs in a project.]] Total density may be increased

above the number following the zoning classification on the zoning map by an amount equal to the residential density achieved under Sec. 4.6.2.C.1.

3. Any increase in density allowed under this section must be calculated after the base density of the property has been increased under Sec. 4.6.2.B for development using FAR Averaging.

~~[[3]]~~4. To achieve an increase in density under Section 4.6.2.C, at least one more MPDU than would be required at 12.5% must be provided.

~~[[4]]~~5. The floor area counted as MPDU floor area includes a proportional share of the gross floor area not devoted to residential units.

~~[[5]]~~6. The height limit of the applicable zone and master plan does not apply to the extent required to provide the MPDUs. The additional height is calculated as the floor area provided for MPDUs above 12.5% divided by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet.

* * *

[C]D. Special Provisions for "T" Zones Translated from Certain Zones Existing Before October 30, 2014

1. These special provisions apply to certain properties rezoned by District Map Amendment to implement this Chapter and are indicated on the zoning map as the zoning classification followed by a T, such as "EOF2.0 H60 T".

2. For Employment-zoned properties designated with a T, the following provisions apply:

- a. [Residential density may be increased above the maximum allowed in the zone in proportion to any MPDU density bonus achieved under Chapter 25A for providing more than 12.5% of

the residential units as Moderately Priced Dwelling Units (MPDUs).

b.] In the LSC zone, to allow construction of all workforce housing units on-site, residential density may be increased by a maximum of 5% and building height may be increased up to a maximum building height of 200 feet. Density and building height may only be increased to the extent required for the number of workforce housing units that are constructed.

[c. In any case, to achieve a density bonus under Section 4.6.2.C.2, at least one more MPDU than would be required at 12.5% must be provided.

d)]b. Any density increase under Section 4.6.2.C requires site plan approval under Section 7.3.4.

* * *

Section 4.6.4. Optional Method Development

The LSC and EOF zone allow development under the optional method.

* * *

B. Development Standards

* * *

2. Lot, Density, and Height

a. Lot standards for detached house, duplex, and townhouse building types are established by the site plan approval process.

b. The maximum total FAR and the maximum height are established by the mapped zone unless increased under Section [4.7.3.D.6.c.]4.6.2.C or Section 4.6.2.D.

c. In the GR, NR, and EOF zones, gross floor area of all Household Living uses is limited to 30% of the gross floor area

on the subject site.

* * *

Sec. 5. DIVISION 59-4.7 is amended as follows:

Division 4.7. Optional Method Public Benefits

* * *

Section 4.7.1. General Provisions

* * *

B. General Public Benefit Considerations

~~[[Granting]]~~ Except for providing MPDUs exceeding 12.5% of a project's dwelling units, granting points as a public benefit for any amenity or project feature otherwise required by law is prohibited. In approving any incentive FAR based on the provision of public benefits, the Planning Board must consider:

* * *

Section 4.7.3. Public Benefit Descriptions and Criteria

* * *

D. Diversity of Uses and Activities

* * *

6. Moderately Priced Dwelling Units: There is no limitation on the number of points for providing more than 12.5% of the residential units as MPDUs as required under Chapter 25A.

[a.] Points are calculated as follows:

[i]a. 12 points are granted for every 1% of MPDUs greater than 12.5%. Any fraction of 1% increase in MPDUs entitles the applicant to an equal fraction of 12 points.

[ii]b. An additional 2 points are granted for every 1% of 2-bedroom

- MPDUs not otherwise required.
- [iii]c. An additional 5 points are granted for every 1% of 3-bedroom MPDUs.
- [iv]d. In any case, for [density and] points to be awarded, at least one more MPDU than would be required at 12.5% must be provided to take advantage of the MPDU public benefit points in any zone.
- [v]e. For a project providing a minimum of 15% MPDUs, one less benefit category than is required under Section 4.5.4.A.2 and Section 4.6.4.A.2 must be satisfied. A project that provides a minimum of 20% MPDUs does not have to satisfy any other benefit category under Section 4.5.4.A.2 and Section 4.6.4.A.2.
- [b. In a zone with a "T" designation, if a project exceeds 12.5% MPDUs, residential density may be increased under Section 4.5.2.C in the Commercial/Residential zones or under Section 4.6.2.C in the Employment zones.
- c. In a zone without a "T" designation:
- i. If a project exceeds 12.5% MPDUs, the height limit of the applicable zone and master plan does not apply to the extent required to provide the MPDUs. The additional height is calculated as the floor area provided for MPDUs above 12.5% divided by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet.
- ii. For a project providing less than 15% MPDUs, the gross floor area of any MPDUs provided above 12.5% is exempt from the calculation of FAR.

- iii. For a project providing a minimum of 15% MPDUs, the gross floor area of all MPDUs provided is exempt from the calculation of FAR.]

* * *

Sec. 6. DIVISION 59-4.9 is amended as follows:

Division 4.9. Overlay Zones

* * *

Section 4.9.17. Transferable Development Rights (TDR) Overlay Zone

* * *

B. Optional Method

1. In General

The TDR Overlay optional method of development permits an increase in the maximum residential density, if the development satisfies the requirements for optional method development using Transferable Development Rights under Section 4.9.17.B.

* * *

d. Development with Moderately Priced Dwelling Units

- i. A property developed under Section 4.9.17.B must satisfy Chapter 25A.
- ii. [A density bonus allowed under Chapter 25A] Any increase in density allowed under the optional method of development for the provision of MPDUs is calculated after the base density of the property has been increased under Section 4.9.17.B through TDRs.
- iii. In a Rural Residential or Residential zone with a TDR density designation of less than three units per acre, development using TDRs and providing MPDUs above

12.5% must follow the requirements under optional
method MPDU Development. Any other optional method
development in a Rural Residential or Residential zone
must satisfy the requirements of Section 4.9.16.B.

* * *

Sec. 7. Effective date. This ordinance becomes effective 20 days after the
date of Council adoption.

This is a correct copy of Council action.

Megan Davey Limarzi, Esq.
Clerk of the Council