



**Committee:** PHP  
**Committee Review:** Completed  
**Staff:** Livhu Ndou, Legislative Attorney  
**Purpose:** Final action – vote expected  
**Keywords:** #MixedUse #MPDU #RegulatoryApprovals  
#AffordableHousing

AGENDA ITEMS #4A&4B  
July 18, 2023  
**Action**

## SUBJECT

Zoning Text Amendment (ZTA) 23-02, Regulatory Approvals - Mixed-Use Housing Community

Subdivision Regulation Amendment (SRA) 23-01, Administrative Subdivision - Mixed-Use Housing Community

Lead Sponsors: Councilmembers Sayles and Friedson

Co-Sponsors: Councilmembers Luedtke, Stewart, and Council President Glass

## INVITED ATTENDEES

- Tanya Stern, Director, Planning Department
- Robert Kronenberg, Deputy Director, Planning Department
- Jason Sartori, Chief, Countywide Planning & Policy, Planning Department
- Benjamin Berbert, Planner III, Countywide Planning & Policy, Planning Department
- Lisa Govoni, Planner IV, Countywide Planning & Policy, Planning Department

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

The Planning, Housing & Parks (PHP) Committee recommends approval of ZTA 23-02 and SRA 23-01 with amendments.

## DESCRIPTION/ISSUE

ZTA 23-02 will define a Mixed-Use Housing Community and provide an expedited approval process for a Mixed-Use Housing Community plan. SRA 23-01 will create an administrative subdivision process for a Mixed-Use Housing Community plan.

## SUMMARY OF KEY DISCUSSION POINTS

- ZTA 23-02, Regulatory Approvals - Mixed-Use Housing Community, will create an expedited approval process for projects that contain a specified percentage of affordable housing as well as 2 commercial uses.
- SRA 23-01 will create an administrative subdivision process for a Mixed-Use Housing Community plan to ensure that the timelines are compatible in the event subdivision is necessary.
- The PHP Committee (3-0) recommended changing “commercial” to “non-residential” and amending the affordability thresholds. The PHP Committee (2-0-1) recommended renaming the use and recommended (2-1) making non-residential an option instead of a requirement.

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**M E M O R A N D U M**

July 13, 2023

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Zoning Text Amendment (ZTA) 23-02, Regulatory Approvals - Mixed-Use Housing Community  
Subdivision Regulation Amendment (SRA) 23-01, Administrative Subdivision - Mixed-Use Housing Community

PURPOSE: Action

**PHP Committee (3-0) recommends approval with amendments**

**INVITED ATTENDEES**

- Artie Harris, Chair, Planning Board
- Tanya Stern, Director, Planning Department
- Robert Kronenberg, Deputy Director, Planning Department
- Jason Sartori, Chief, Countywide Planning & Policy, Planning Department
- Benjamin Berbert, Planner III, Countywide Planning & Policy, Planning Department
- Lisa Govoni, Planner IV, Countywide Planning & Policy, Planning Department

**INTRODUCTION**

Zoning Text Amendment (ZTA) 23-02, Regulatory Approvals - Mixed-Use Housing Community and Subdivision Regulation Amendment (SRA) 23-01, Administrative Subdivision - Mixed-Use Housing Community, lead sponsors Councilmembers Sayles and Friedson, co-sponsors Councilmembers Luedtke, Stewart, and Council President Glass, was introduced on March 28, 2023.

ZTA 23-02 will define a Mixed-Use Housing Community and provide an expedited approval process for a Mixed-Use Housing Community plan. SRA 23-01 will create an administrative subdivision process for a Mixed-Use Housing Community plan.

## PUBLIC HEARINGS

Public hearings for the ZTA and SRA were held on May 2, 2023. The Council heard from two speakers – the Planning Board and the Montgomery Housing Partnership. Both testified in support. The Council also received written testimony in support of the ZTA.<sup>1</sup> The testimony suggested amendments which will be discussed further below.

### SUMMARY OF IMPACT STATEMENTS

#### Climate Assessment

The Planning Board anticipates that ZTA 23-02 will have insignificant to no impact on the County's climate goals, since the ZTA does not change current zoning or zoning densities and development would still need to meet underlying zoning requirements, including allowed uses and development and building standards.

#### Racial Equity & Social Justice Impact Statement

The Office of Legislative Oversight (OLO) anticipates that ZTA 23-02 will have a favorable impact on racial equity and social justice in the County if it increases the number of affordable housing units in the County. However, OLO notes that it cannot discern whether reducing the administrative review time for the affordable housing projects covered by ZTA 23-02 will be sufficient incentive to increase the production of affordable housing in the County.

### BACKGROUND

ZTA 23-02 will create an expedited approval process for a Mixed-Use Housing Community plan, similar to the regulatory approval processes for a Signature Business Headquarters plan and a Biohealth Priority Campus plan. As introduced, a Mixed-Use Housing Community would be defined as:

- at least 150,000 square feet of new commercial and residential floor area;
- containing Multi-Unit Living under Section 3.3.1.E and at least 2 commercial uses;
- with 30 or more dwelling units; and either:
  - 50% of the units satisfying the requirements for an MPDU in Chapter 25A or a DHCA equivalent; or
  - 35% of the units satisfying the requirements for an MPDU in Chapter 25A or a DHCA equivalent with 15% of the total units affordable to a household with a household income of 30% percent of Area Median Income (AMI) or below for at least 30 years.

Other provisions include:

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<sup>1</sup> Written testimony can be found here:  
<https://www.montgomerycountymd.gov/COUNCIL/OnDemand/testimony/20230502/item4.html>

- a waiver of the parking requirement if within ½ mile of a red policy area or a planned or existing Bus Rapid Transit route;
- the Planning Board’s ability to grant an exception to the commercial requirement if certain conditions are met; and
- allowing the use in all zones where Multi-Unit Living is currently allowed, with commercial uses already allowed in the underlying zone.

SRA 23-01 will add a Mixed-Use Housing Community plan to the list of administrative subdivision plans in Chapter 50, Subdivision of Land. This will ensure that in the event subdivision is required the timelines for review will be compatible. Of note, Administrative Subdivisions have a 90-day review period. This contrasts with the 60- to 65-day period under the ZTA. However, Planning Staff notes that the longer review period is necessary because many of the threshold reviews require outside agency review and involve utilities and infrastructure, such as adequate public facilities and site access.

### **COMMITTEE RECOMMENDATION**

The Planning, Housing & Parks (PHP) Committee held a worksession on ZTA 23-02 and SRA 23-01 on June 12, 2023. The Committee considered several amendments, the majority of which were from stakeholders and the Planning Board, regarding the commercial requirement, waiver provisions, and the affordability thresholds. The PHP Committee (3-0) recommended approval of ZTA 23-02 and SRA 23-01.

#### **1. Should there be a commercial requirement?**

The intent of ZTA 23-02 and SRA 23-01 is to encourage mixed-use development with affordable housing. Consistent with Thrive Montgomery 2050, the ZTA and SRA aim to expand commercial options in underserved areas, resulting in high-quality mixed-use communities. However, both the Planning Board and submitted testimony questioned the requirement for two commercial uses.

According to Planning Staff, while walkable mixed-use communities have been a major policy priority of the Department, combining commercial uses with affordable housing has proven difficult.<sup>2</sup> Because commercial space is underwritten by the residential space, this additional cost burden can be prohibitive for affordable housing projects. In addition, affordable housing projects are not often located in vibrant mixed-use centers because of the cost of land in those areas. Planning predicts that almost all future applicants would request the waiver of commercial space that is provided in ZTA 23-02. Included in this packet is a table of affordable housing projects in the County, provided by Planning Staff. As can be seen from the table, only a few include commercial space, and all are in either the Silver Spring Central Business District (CBD) or near the Shady Grove Metro station.

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<sup>2</sup> This packet includes the Planning Department’s 2021 Montgomery County Mixed-Use Development Study, which can also be found here: [https://montgomeryplanning.org/wp-content/uploads/2021/07/Montgomery-County-Mixed-Use-Study-7-12-21\\_FINAL.pdf](https://montgomeryplanning.org/wp-content/uploads/2021/07/Montgomery-County-Mixed-Use-Study-7-12-21_FINAL.pdf)

**The PHP Committee (3-0) made the following recommendation:**

- ***Change “commercial” to “non-residential” to broaden the possible uses***  
There are uses that may be easier to achieve and equally desirable that are not commercial. For example, day cares, educational facilities, and cultural institutions are under “Civic and Institutional” in the Zoning Ordinance, not Commercial. This change from “commercial” to “non-residential” will allow those other uses.

**The PHP Committee (2-1) made the following recommendation:**

- ***Make non-residential use an option, but not a requirement***  
This will allow developers to include commercial uses, but not require it.

COUNCILMEMBER JAWANDO AMENDMENTS:

- ***Only require non-residential uses in the Commercial/Residential and Employment zones and not in the residential multi-unit zones***  
ZTA 23-02 only allows uses that are allowed in the underlying zone. The Commercial/Residential and Employment zones offer a wide range of commercial and other non-residential uses. The residential multi-unit zones have some non-residential uses, but very limited commercial uses. Therefore, enforcing the non-residential requirement in the residential multi-unit zones could result in fewer projects taking advantage of this ZTA to create commercial spaces. This amendment would require at least 2 non-residential uses in the Commercial/Residential and Employment zones, where there are more options, and make non-residential uses optional in those zones where the list of options is shorter.
- ***Clarify that the application must provide space for at least two uses***  
ZTA 23-02 as introduced required “a legally binding commitment or other evidence accepted by the Planning Director that the Mixed-Use Housing Community will meet the requirements.” Planning Staff requested additional language clarifying how an applicant would demonstrate they have the required commercial uses. This amendment would require the applicant to provide space for two non-residential uses, rather than evidence of the uses themselves.
- ***Clarify the standards for the waiver requirement***  
The Planning Board recommended more quantifiable standards to grant a waiver, as well as sufficient time to review a waiver request. Councilmember Jawando’s amendment removes the commercial requirement in the Commercial/Residential or Employment zones if the project: a) maximizes the residential density on the site, b) is located within ¼ mile of an existing non-residential use, and c) has a ground floor that can accommodate future non-residential retrofitting. In addition, rather than a waiver to be granted by the Board, non-residential space will not be required if all 3 factors are met. This eliminates the need to add additional review time.

## 2. Should the affordability threshold be lowered?

Currently, 12.5 to 15% of all units in residential projects of 20 or more dwelling units must be in the MPDU program. MPDU units are intended to be affordable to households making 65-70% of Area Median Income (AMI), although Planning reports that a third of all MPDU's are affordable to households at or below 50% AMI.<sup>3</sup> But many of the County's affordable housing projects are Low-Income Housing Tax Credit (LIHTC). LIHTC is designed to subsidize either 30% or 70% of the low-income unit costs in a project. There are two types of LIHTC credits: a 9% tax credit (for the 70% subsidy) and a 4% tax credit (for the 30% subsidy). The 9% tax credit is for new construction or substantial rehabilitation without any additional subsidies, while the 4% tax credit is for new construction that uses additional subsidies or properties acquired for rehabilitation. LIHTC credits are allocated by state and local housing agencies. The Planning Board expressed a concern that the affordability threshold in ZTA 23-02 as introduced was set too high and is too limiting to be effective. Lastly, ZTA 23-02 is for new development, which also factors into the cost for developers.

**The PHP Committee (3-0) recommended including multiple affordability thresholds for the applicant to choose from. All these affordability thresholds use the term “under a government regulation or binding agreement that limits the price charged for at least 30 years” to include MPDUs along with other federal or state affordable housing programs, such as LIHTC. The 4 thresholds chosen by the PHP Committee are:**

- **50% of the units affordable to 60% or less AMI**
  - “at least 50% of the units built under a government regulation or binding agreement that limits the price charged for at least 30 years and affordable to households earning 60 percent or less of Area Median Income (AMI)”
- **10% of units affordable to 30% or less AMI, and 20% of units affordable to MPDU levels<sup>4</sup>**
  - “at least 30% of the units built under a government regulation or binding agreement that limits the price charged for at least 30 years with at least 10% of the total units affordable to households earning 30% percent of Area Median Income (AMI) or below and at least 20% of the total units affordable to households earning incomes eligible for the MPDU program in Chapter 25A”
- **20% of units affordable to 50% or less AMI, and 10% affordable to MPDU levels**
  - “at least 30% of the units built under a government regulation or binding agreement that limits the price charged for at least 30 years with at least 20% of the total units affordable to households earning 50% percent of Area Median Income (AMI) or below and at least 10% of the total units affordable to households earning incomes eligible for the MPDU program in Chapter 25A”

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<sup>3</sup> “AMI” stands for “Area Median Income.” Current AMI for a family of four is \$152,100. So, for example, 60% at or below AMI would be \$91,260. In addition, keep in mind that the median is not the same as the mean (average).

<sup>4</sup> For new MPDU tenants, the maximum annual household income for a garden apartment is set at 65% AMI; and the maximum household income for a high-rise apartment is set at 70% AMI.

- **any 9% LIHTC project**<sup>5</sup>
  - “the project receives an award of 9% Low-Income Housing Tax Credits (LIHTC) from the Maryland Department of Housing and Community Development (DHCD)”

**3. Should the use be renamed?**

Since the Committee chose to make the non-residential use optional, the Committee recommended renaming the use to better reflect the requirements and avoid confusing applicants or the public.

**The PHP Committee (2-0-1) recommended renaming the use “Mixed-Income Housing Community.” Councilmember Jawando abstained since his amendment would retain the non-residential requirement in certain zones.**

**Council Staff notes that any change to the name should also be made in SRA 23-01.**

<u>This packet contains:</u>	<u>Circle #</u>
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<sup>5</sup> The 9% LIHTC tax credit is for the 70% subsidy. The federal government allocates 9% LIHTC authority to each state on a per-capita basis. Montgomery County on average gets only one 9% LIHTC project a year.



Ordinance No.: \_\_\_\_\_  
Zoning Text Amendment No.: 23-02  
Concerning: Regulatory Approvals –  
[[Mixed-Use]] Mixed-  
Income Housing  
Community  
Revised: 6/15/2023 Draft No.: 3  
Introduced: March 28, 2023  
Public Hearing: May 2, 2023  
Adopted: \_\_\_\_\_  
Effective: \_\_\_\_\_

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

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Lead Sponsors: Councilmembers Sayles and Friedson  
Co-Sponsors: Councilmembers Luedtke, Stewart, and Council President Glass

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- (1) Define a ~~[[Mixed-Use]]~~ Income Housing Community;
- (2) Provide an expedited approval process for a ~~[[Mixed-Use]]~~ Mixed-Income Housing Community plan; and
- (3) generally amend the development standards for mixed-use properties.

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

Division 1.4.	“Defined Terms”
Section 1.4.2.	“Specific Terms and Phrases Defined”
Division 3.1.	“Use Table”
Section 3.1.6.	“Use Table”
Division 4.4.	“Residential Zones”
Section 4.4.2.	“Optional Method Development”
Division 4.5.	“Commercial/Residential Zones”
Section 4.5.4.	“Optional Method Development”
Division 7.3.	“Regulatory Approvals”
Section 7.3.3.	“Sketch Plan”
Division 7.5.	“Notice Standards”
Section 7.5.1.	“Noticed Required”

And by adding the following sections:

Section 3.3.4.           “~~[[Mixed-Use]]~~ Mixed-Income Housing Community”  
Section 7.3.7.           “~~[[Mixed-Use]]~~ Mixed-Income Housing Community”

**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:*







42 with at least 20% of the total units affordable to households earning  
 43 50% percent of Area Median Income (AMI) or below and at least  
 44 10% of the total units affordable to households earning incomes  
 45 eligible for the MPDU program in Chapter 25A; or  
 46 4. the project receives an award of 9% Low-Income Housing Tax  
 47 Credits (LIHTC) from the Maryland Department of Housing and  
 48 Community Development (DHCD).

49 **B. Exemptions**

- 50 1. A sketch plan and a site plan are not required for a [[Mixed-Use]]  
 51 Mixed-Income Housing Community if the Planning Board approves a  
 52 [[Mixed-Use]] Mixed-Income Housing Community plan under  
 53 Section 7.3.7.
- 54 2. After a [[Mixed-Use]] Mixed-Income Housing Community is  
 55 approved, subsequent additions or expansions of the [[Mixed-Use]]  
 56 Mixed-Income Housing Community building or buildings, in any size  
 57 or amount, will be processed under Section 7.3.7 as amendments. The  
 58 plan, as amended, must still qualify as a [[Mixed-Use]] Mixed-Income  
 59 Housing Community plan under Section 3.3.4.A.
- 60 3. No off-street parking is required for a [[Mixed-Use]] Mixed-Income  
 61 Housing Community that is located on property:
- 62 a. within a red policy area including contiguous properties  
 63 separated from a red policy area only by a public right-of-way;  
 64 or
- 65 b. within ½ mile of a planned or existing Bus Rapid Transit route  
 66 including the Corridor Connectors.
- 67 [[4. The Planning Board may grant a waiver of the commercial use  
 68 requirement if:

- 69 a. the maximum residential density allowed is used; and
- 70 b. the commercial space requirement would result in particular or
- 71 unusual practical difficulty, exceptional or undue hardship, or
- 72 significant economic burden.]]

73 \* \* \*

74 **Sec. 4. Division 59-4.4 is amended as follows:**

75 **Division 4.4. Residential Zones**

76 \* \* \*

77 **Section 4.4.2. Optional Method Development**

78 \* \* \*

79 **A. Optional Method MPDU Development**

80 \* \* \*

81 **1. Development Approval Procedure**

82 Site plan approval under Section 7.3.4 is required unless a [[Mixed-Use]]  
83 Mixed-Income Housing Community plan is approved under Section 7.3.7.

84 \* \* \*

85 **Sec. 5. DIVISION 59-4.5 is amended as follows:**

86 **Division 4.5. Commercial/Residential Zones**

87 \* \* \*

88 **Section 4.5.4. Optional Method Development**

89 The CRT and CR zones allow development under the optional method.

90 **A. General Requirements**

91 **1. Procedure for Approval**

92 A sketch plan must be approved under Section 7.3.3, unless a  
93 Signature Business Headquarters plan is approved under Section  
94 7.3.5, [or] a Biohealth Priority Campus plan is approved under  
95 Section 7.3.6, or a [[Mixed-Use]] Mixed-Income Housing Community

96 plan is approved under Section 7.3.7. A site plan must be approved  
97 under Section 7.3.4 for any development on a property with an  
98 approved sketch plan.

99 \* \* \*

100 **Sec. 6. DIVISION 59-4.6 is amended as follows:**

101 **Division 4.6. Employment Zones**

102 **Section 4.6.4. Optional Method Development**

103 The LSC and EOF zones allow development under the optional method.

104 **A. General Requirements**

105 **1. Procedure for Approval**

106 A sketch plan must be approved under Section 7.3.3, unless a  
107 Signature Business Headquarters plan is approved under Section  
108 7.3.5, [or] a Biohealth Priority Campus plan [must be] is approved  
109 under Section 7.3.6, or a ~~[[Mixed-Use]]~~ Mixed-Income Housing  
110 Community plan is approved under Section 7.3.7. A site plan must be  
111 approved under Section 7.3.4 for any development on a property with  
112 an approved sketch plan.

113 \* \* \*

114 **Sec. 7. DIVISION 59-7.3 is amended as follows:**

115 **Division 7.3. Regulatory Approvals**

116 \* \* \*

117 **Section 7.3.3. Sketch Plan**

118 **A. Applicability and Description**

119 1. Development under optional method in the CRT, CR, EOF, or LSC  
120 zone requires approval of a sketch plan, unless the development is  
121 approved as a Signature Business Headquarters plan under Section  
122 7.3.5, [or] a Biohealth Priority Campus plan under Section 7.3.6[.], or



123 a [[Mixed-Use]] Mixed-Income Housing Community plan under  
124 Section 7.3.7.

125 \* \* \*

126 **Section 7.3.7. [[Mixed-Use]] Mixed-Income Housing Community Plan**

127 **A. Applicability and Description**

128 A [[Mixed-Use]] Mixed-Income Housing Community plan provides a  
129 detailed overview of a proposed [[Mixed-Use]] Mixed-Income Housing  
130 Community]]. A [[Mixed-Use]] Mixed-Income Housing Community plan  
131 review will be used to determine if the proposed development satisfies  
132 current laws, regulations, and this Chapter, and substantially conforms with  
133 the intent of the applicable master plan and approved guidelines.

134 **B. Application Requirements**

135 1. Ownership

136 a. An applicant must own the subject property or be authorized by  
137 the owner to file the application.

138 b. If any land or right-of-way encompassed by a [[Mixed-Use]]  
139 Mixed-Income Housing Community plan application is owned  
140 or controlled by the State, County, or any other entity or  
141 agency, a written agreement or authorization from that entity or  
142 agency must be submitted with the [[Mixed-Use]] Mixed-  
143 Income Housing Community plan application.

144 2. A [[Mixed-Use]] Mixed-Income Housing Community plan  
145 application must include:

146 a. a legally binding commitment or other evidence accepted by the  
147 Planning Director that the [[Mixed-Use]] Mixed-Income  
148 Housing Community will meet the requirements of Section  
149 3.3.4;

- 150            b. an application form and fees required by the Planning Director;
- 151            c. a vicinity map at 1" = 200", and a site map showing existing
- 152            buildings, structures, circulation routes, significant natural
- 153            features, historic resources, and zoning and legal descriptions
- 154            on the proposed development site and within 500 feet of the
- 155            perimeter boundary;
- 156            d. a list of abutting and confronting property owners in the State
- 157            tax records;
- 158            e. a list of any civic, homeowners, and renters associations that
- 159            are registered with the Planning Department and located within
- 160            ½ mile of the site;
- 161            f. documentation of property interest in the proposed development
- 162            site under Section 7.3.7.B.1 and, if applicant is not the property
- 163            owner, documentation from the property owner authorizing the
- 164            application;
- 165            g. a statement of justification outlining how the proposed
- 166            development satisfies the standards and criteria required to
- 167            grant the application;
- 168            h. verification that the applicant has posted notice on the property,
- 169            notified affected properties, and held a pre-submittal
- 170            community meeting that followed the Planning Department's
- 171            Administrative Procedures for Development Review process;
- 172            i. a Traffic Statement or Study accepted by the Planning Director,
- 173            if not submitted with a previous or concurrent application;
- 174            j. environmental documentation or exemption for:
  - 175            i. an approved Natural Resources Inventory/Forest Stand
  - 176            Delineation;

- 177                   ii.     a Stormwater Management Concept Plan application or,  
 178                                 if required, a Water Quality Plan application; and  
 179                   iii.     a final Forest Conservation Plan application;  
 180                   k.     existing and proposed dry and wet utility plan;  
 181                   l.     plans of proposed development showing:  
 182                                 i.     use, ground-floor layout, building footprints, massing,  
 183   and heights of all on-site buildings and structures, and  
 184   approximate footprints and height for buildings located  
 185   on abutting and confronting lots;  
 186                                 ii.     required open spaces and recreational amenities;  
 187                                 iii.     detailed layout and dimensions for all sidewalks, trails,  
 188   paths, roadways, parking, loading, and bicycle storage  
 189   areas;  
 190                                 iv.     grading;  
 191                                 v.     landscaping and lighting; and  
 192                   m.     a development program and inspection schedule detailing the  
 193                                 construction schedule for the project.  
 194                   3.     The applicant must submit an initial application to the Planning  
 195                                 Director for approval of completeness. The Planning Director must  
 196                                 review the application for completeness within 3 business days after  
 197                                 receipt. An application is incomplete if any required element is  
 198                                 missing or is facially defective, e.g., a drawing that is not to scale or  
 199                                 lacks proper signatures. The assessment of completeness must not  
 200                                 address the merits of the application.  
 201                   4.     The applicant must submit any required revisions to the Planning  
 202                                 Director. The Planning Director must review the revised application  
 203                                 for completeness within 2 business days after receipt.

204           5.     Once the Planning Director verifies that the application is complete,  
 205                     the applicant must file the final application with the Planning  
 206                     Director, who will accept the application and establish a hearing date  
 207                     under Section 7.3.7.C.

208           6.     Public notice is required under Division 7.5.

209     **C.    Hearing Date**

210     The Planning Board must schedule a public hearing to begin 60 to 65 days after the  
 211     date an application is accepted. If the next regularly scheduled hearing date would  
 212     fall after the 60- or 65-day period due to a holiday or recess, then the next regularly  
 213     scheduled hearing date should be used. The applicant may request an extension  
 214     with Planning Director approval. Any extension of the public hearing must be  
 215     noticed on the hearing agenda with the new public hearing date indicated.

216     **D.    Review and Recommendation**

217           1.     State and County Agencies

218                     a.     Reviewing State and County agencies and utilities must submit  
 219                             comments within 15 days after the date an application is  
 220                             accepted. If no comments are submitted within that time, the  
 221                             reviewing agency or utility’s portion of the application is  
 222                             deemed approved.

223                     b.     The applicant must submit revised drawings to address the  
 224                             comments a minimum of 25 days before the date of the hearing.  
 225                             The Planning Director may extend the deadline if the applicant  
 226                             submits a written request within 5 days after the revised  
 227                             drawings were due.

228           2.     Planning Director

229                     The Planning Director must publish a report and recommendation a  
 230                     minimum of 10 days before the Planning Board hearing.

231           3.     Withdrawal of an Application  
232                 The Planning Board must send a notice to all parties entitled to notice  
233                 of the hearing when an applicant withdraws an application for a  
234                 [[Mixed-Use]] Mixed-Income Housing Community plan.

235     **E. Necessary Findings**

236     To approve a [[Mixed-Use]] Mixed-Income Housing Community plan, the  
237     Planning Board must find that the proposed development:

- 238           1.     satisfies any previous approval that applies to the site, unless exempt  
239                 under Section 3.3.4 or amended;
- 240           2.     satisfies the applicable use and development standards and general  
241                 requirements of this Chapter;
- 242           3.     satisfies the applicable requirements of Chapter 19 and Chapter 22A;
- 243           4.     provides safe, well-integrated parking, circulation patterns, building  
244                 massing, and site amenities;
- 245           5.     substantially conforms with the intent of the applicable master plan,  
246                 existing and approved or pending adjacent development, the  
247                 requirements of this Chapter, and any guidelines approved by the  
248                 Planning Board that implement the applicable plan;
- 249           6.     if on a property in a master plan area that requires staging based on  
250                 Non-Auto Driver Mode Share (NADMS), is exempt from the staging  
251                 requirement if:
  - 252                 a.     the applicant agrees to enter into a Transportation Demand  
253                         Management plan that provides an action plan for substantial  
254                         achievement of the applicable NADMS goal;
  - 255                 b.     parking below the minimum required under Section 6.2.4 is  
256                         provided; and

- 257 c. transit, bicycle, and pedestrian infrastructure required by the  
258 applicable stage of the master plan is funded in the Capital  
259 Improvements Program or Consolidated Transportation  
260 Program, or provided by the applicant; and  
261 7. will be served by adequate public services and facilities, including  
262 schools, police and fire protection, water, sanitary sewer, public roads,  
263 storm drainage, and other public facilities.

264 **F. Decision**

- 265 1. The Planning Board must act upon the close of the record of the  
266 public hearing by majority vote of those present to approve, approve  
267 with modifications or conditions, or deny the application. The  
268 Planning Board must issue a resolution reflecting its decision within 7  
269 days of the Planning Board vote.  
270 2. Any party aggrieved by a decision of the Planning Board may file a  
271 petition for judicial review of the decision within 30 days after the  
272 Planning Board's action.  
273 3. Within 30 days of submission, the final [[Mixed-Use]] Mixed-Income  
274 Housing Community plans must be certified by the Planning Director  
275 to confirm that the drawings reflect the Planning Board's approval. If  
276 the certified plans do not address or comply with the Planning Board's  
277 approval, the plans will be rejected with comments for the applicant to  
278 address. If no action is taken by the Planning Director within 30 days,  
279 the plan is deemed approved and certified.

280 **G. Conforming Permits**

281 For any development requiring a [[Mixed-Use]] Mixed-Income Housing  
282 Community plan, DPS must not issue a sediment control permit, building permit,  
283 or use-and-occupancy permit unless the Planning Board has approved a [[Mixed-

284 Use]] Mixed-Income Housing Community plan and a bond has been approved  
 285 under Section 7.3.7.K.4.

286 **H. Duration of Approval**

287 1. A [[Mixed-Use]] Mixed-Income Housing Community plan expires  
 288 unless a certified [[Mixed-Use]] Mixed-Income Housing Community  
 289 plan is approved by the Planning Director within 24 months after the  
 290 date the resolution is mailed.

291 2. A [[Mixed-Use]] Mixed-Income Housing Community plan does not  
 292 become effective until a record plat, if required, is recorded that  
 293 satisfies any approved subdivision plan for the subject property. If no  
 294 record plat is required, then the [[Mixed-Use]] Mixed-Income  
 295 Housing Community plan becomes effective upon certification under  
 296 Section 7.3.7.F.3.

297 3. Development activities under Section 7.3.7 must satisfy the certified  
 298 [[Mixed-Use]] Mixed-Income Housing Community plan and any  
 299 conditions of approval.

300 4. If the Planning Board approves a [[Mixed-Use]] Mixed-Income  
 301 Housing Community plan, the applicant must have a building permit  
 302 application, accepted by DPS, that includes the core and shell of the  
 303 principal building within two years of the date of the Planning  
 304 Board’s resolution. Within two years after DPS accepts the building  
 305 permit application that includes the core and shell of the principal  
 306 building, the applicant must obtain that building permit.

307 5. The deadlines under Section 7.3.7.H may be extended with approval  
 308 of the Planning Board by up to 18 months.

309 6. If an applicant fails to comply with any of the deadlines within this  
 310 section, the [[Mixed-Use]] Mixed-Income Housing Community plan

311 approval shall be revoked. The applicant may request reinstatement of  
 312 a revoked approval within 30 days of revocation. After holding a  
 313 hearing on the reinstatement, the Planning Board may reinstate the  
 314 approval and extend the deadline for good cause shown.

315 **I. Recording Procedures**

316 The certified [[Mixed-Use]] Mixed-Income Housing Community plan and  
 317 Planning Board resolution must be maintained in the permanent files of the  
 318 Planning Department.

319 **J. Amendments**

320 Any property owner may apply for a [[Mixed-Use]] Mixed-Income Housing  
 321 Community plan amendment to change a certified [[Mixed-Use]] Mixed-Income  
 322 Housing Community plan. There are two types of amendments: a major and a  
 323 minor amendment.

324 1. Major Amendment

- 325 a. A major amendment includes any request to:
  - 326 i. increase density or height by more than that allowed
  - 327 under a minor amendment (Section 7.3.7.J.2);
  - 328 ii. decrease open space;
  - 329 iii. deviate from a condition of approval; or
  - 330 iv. alter a basic element of the plan.
- 331 b. Public notice is required under Division 7.5.
- 332 c. A major amendment must follow the same hearing procedures
- 333 and satisfy the same necessary findings as the original [[Mixed-
- 334 Use]] Mixed-Income Housing Community plan.

335 2. Minor Amendment

- 336 a. A minor amendment includes any request to:



- 337 i. increase density by up to 10% or 15,000 square feet,  
338 provided the increase is less than or equal to the total  
339 mapped density, including any density increases or  
340 bonuses;
- 341 ii. increase height by up to 10%, provided the height is less  
342 than or equal to the height and any increases allowed  
343 under Section 3.5.8.D;
- 344 iii. change an ancillary use, a parking or loading area,  
345 landscaping, sidewalk, recreational facility or area,  
346 configuration of open space, or any other plan element  
347 that will have a minimal effect on the overall design,  
348 layout, quality or intent of the plan; or
- 349 iv. a reduction in approved parking to satisfy Article 59-6,  
350 but not any change that prevents circulation on any street  
351 or path.
- 352 b. Public notice is required under Division 7.5.
- 353 c. A minor amendment may be approved by the Planning Director  
354 without a public hearing if no objection to the application is  
355 received within 15 days after the application notice is sent. If an  
356 objection is received within 15 days after the application notice  
357 is sent, and the objection is considered relevant, a public  
358 hearing is required. A public hearing must be held under the  
359 same procedures as an original application.

360 **K. Compliance and Enforcement**

- 361 1. If the Planning Board finds, after holding a public hearing or  
362 designating a hearing officer to hold a public hearing, that a property

- 363 under development is not in compliance with a certified [[Mixed-  
 364 Use]] Mixed-Income Housing Community plan, it may:
- 365 a. impose a civil fine or administrative civil penalty authorized by  
 366 Chapter 50 (Division 50-10.6.D);
  - 367 b. suspend or revoke the non-compliant portion of the [[Mixed-  
 368 Use]] Mixed-Income Housing Community plan approval;
  - 369 c. order a compliance program that would permit the applicant to  
 370 take corrective action to satisfy the certified [[Mixed-Use]]  
 371 Mixed-Income Housing Community plan;
  - 372 d. allow the applicant to propose modifications to the certified  
 373 [[Mixed-Use]] Mixed-Income Housing Community plan; or
  - 374 e. take any combination of these actions.
- 375 2. If the Planning Board or its designee finds that the applicant has failed  
 376 to comply with a compliance program approved under Section  
 377 7.3.7.K.1.c, the Planning Board may, without holding any further  
 378 hearing, take any of the actions identified in Section 7.3.7.K.1.a  
 379 through Section 7.3.7.K.1.e.
- 380 3. If the Planning Board suspends or revokes all or any portion of a  
 381 [[Mixed-Use]] Mixed-Income Housing Community plan, DPS must  
 382 immediately suspend any applicable building permit under which  
 383 construction has not been completed or withhold any applicable use-  
 384 and-occupancy permit, until the Planning Board reinstates the  
 385 applicable portion of the [[Mixed-Use]] Mixed-Income Housing  
 386 Community plan or approves a new plan for the development.
- 387 4. The Planning Board may require the applicant to post a commercially  
 388 acceptable form of surety securing compliance with and full  
 389 implementation of specified features of the certified [[Mixed-Use]]

390 Mixed-Income Housing Community plan in an amount set by the  
391 Planning Board. If such surety is required, DPS must not issue a  
392 building permit or use-and-occupancy permit until such surety is  
393 accepted.

394 \* \* \*

395 **Sec. 8. DIVISION 59-7.5 is amended as follows:**

396 **Division 7.5. Notice Standards**

397 **Section 7.5.1. Notice Required**

398 Notice is required for each application according to the following table:

Application	Newspaper	Pre-Submittal Meeting	Application Sign	Application Notice	Hearing Notice	Resolution Notice	Building Permit Sign Notice	Website Posting
* * *								
<b>Regulatory Approvals</b>								
* * *								
Site Plan		X	X	X	X	X		X
Signature Business Headquarters Plan		X	X	X	X	X		X
Biohealth Priority Campus Plan		X	X	X	X	X		X
<del>[[Mixed-Use]]</del> <u>Mixed-Income Housing Community</u>		<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>		<u>X</u>
* * *								
<b>Amendments to Approvals</b>								
* * *								
Minor Site Plan Amendment				X				X
Major Signature Business Headquarters			X	X	X	X		X

Plan Amendment								
Minor Signature Business Headquarters Plan Amendment				x				
Major Biohealth Priority Campus Plan Amendment			x	x	x	x		x
Minor Biohealth Priority Campus Plan Amendment				x				
Major <del>[[Mixed-Use]] Mixed-Income Housing Community Plan Amendment</del>			<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>		<u>x</u>
Minor <del>[[Mixed-Use]] Mixed-Income Housing Community Plan Amendment</del>				<u>x</u>				

399 **KEY:** x = Required

400

\* \* \*

401           **Sec. 9. Effective date.** This ordinance becomes effective 20 days after the  
402 date of Council adoption.

403           **Sec. 10. Short Title.** This text amendment may be cited as “Opening  
404 Pathways to Economic Necessity (O.P.E.N.)”

Ordinance No.: \_\_\_\_\_  
Subdivision Regulation Amendment No.: 23-01  
Concerning: Administrative Subdivision –  
[[Mixed-Use]] Mixed-Income  
Housing Community  
Revised: 6/21/2023 Draft No.: 2  
Introduced: March 28, 2023  
Public Hearing: May 2, 2023  
Adopted:  
Effective:

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

---

Lead Sponsors: Councilmembers Sayles and Friedson  
Co-Sponsors: Councilmembers Luedtke, Stewart, and Council President Glass

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**AN AMENDMENT to:**

- (1) create an administrative subdivision process for a [[Mixed-Use Housing Community plan;
- (2) and generally amend the subdivision provisions for mixed-uses.

By amending

Montgomery County Code  
Chapter 50. “Subdivision of Land”  
Division 50.6. “Administrative Subdivision Plan”  
Section 50.6.1. “Applicability”

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by introduced Subdivision Regulation Amendment.</i>
[Single boldface brackets]	<i>Deleted from existing law by introduced Subdivision Regulation Amendment.</i>
<u>Double underlining</u>	<i>Added to the Subdivision Regulation Amendment by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the Subdivision Regulation Amendment by amendment.</i>
* * *	<i>Existing law unaffected by Subdivision Regulation Amendment.</i>

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:*



1           **Sec. 1. Chapter 50 is amended as follows:**

2   \*   \*   \*

3           **Division 50.6. Administrative Subdivision Plan**

4   \*   \*   \*

5           **Section 6.1. Applicability**

6           The subdivider may file an administrative subdivision plan application under the  
7           following circumstances. Administrative subdivision plans may only be used to  
8           create lots, as expressly described below.

9   \*   \*   \*

10          G.    Subdivision application for property to be used as a ~~[[Mixed-Use]]~~ Mixed-  
11               Income Housing Community under Section 3.3.4 of the Zoning Ordinance. A  
12               lot created for a ~~[[Mixed-Use]]~~ Mixed-Income Housing Community may be  
13               approved if:

- 14            1.    the Planning Board approves a ~~[[Mixed-Use]]~~ Mixed-Income Housing  
15               Community plan under Section 59-7.3.7, including a finding of  
16               adequate public facilities under the standards of Section 50-4.3.J,  
17               before approval of the plat;
- 18            2.    any required road dedications, or covenants for future dedications, and  
19               associated public utility easements are shown on the record plat;
- 20            3.    forest conservation plan approval, stormwater management, and  
21               environmental protection requirements, if applicable, are satisfied  
22               before approval of the plat; and
- 23            4.    when located in a special protection area, all applicable special  
24               protection area requirements and guidelines are satisfied before  
25               approval of the plat.

**April 25, 2023**

**To:** The Honorable Evan Glass, President  
Montgomery County Council  
Stella B. Werner Council Office Building  
100 Maryland Avenue, Room 501  
Rockville, Maryland 20850

**From:** Montgomery County Planning Board

**Subject:** Zoning Text Amendment No. 23-02 and Subdivision Regulation Amendment No. 23-01

### **BOARD RECOMMENDATION**

The Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission met on April 20, 2023, and by a vote of 4:0 (Vice Chair Piñero absent) recommended support for Zoning Text Amendment (ZTA) 23-02 and Subdivision Regulation Amendment (SRA) 23-01 with comments. This paired ZTA and SRA would establish a new land use and regulatory review plan called a Mixed-Use Housing Community to incentivize the creation of more affordable housing and commercial opportunities through an expedited regulatory review process.

The Planning Board is very supportive of incentivizing the production of more affordable housing and offers some suggestions to improve the ZTA with the intent of maximizing its effectiveness:

- **Affordability Thresholds.** The Board's first recommendation is to modify the new uses affordability threshold requirements. After analyzing past affordable housing projects, it became apparent the affordability requirements may be set too high to be effective. The Board recommends following the three options presented in the Planning Staff report (attachment A), which align the affordability thresholds with existing county programs and better match the levels provided by recent projects. The Board also recommends a fourth option to otherwise allow any project receiving Low Income Housing Tax Credits at the 9 percent level to qualify.
- **Commercial Use Requirements.** Another concern of the Planning Board is the Mixed-Use Housing Community's requirement that projects provide at least two commercial uses. While providing compact, walkable mixed-use communities is a major policy priority of the Board and the Planning Department, the requirement to integrate commercial uses into deeply affordable housing projects is of practical concern. The Planning Department's Mixed Use Housing Study cited many reasons existing mixed-use developments have struggled and found the key to making mixed-use work is to concentrate it in tight, vibrant, walkable settings. Even having mixed-use one block away from a thriving center,

or on a less well traveled street, can be challenging. As such, commercial spaces are often underwritten by the residential space above, which may work for market-rate housing but is a serious additional cost burden for most affordable housing financed projects. The ZTA does provide a waiver the Board may make to exclude the commercial uses, but the waiver as written is very subjective and would be difficult to properly vet in the 60 days allotted. This waiver is likely to be requested by most if not all future applicants. The Board provides the following recommendations about the ZTA's requirement for commercial space, in its preferred order of consideration and importance, noting that if the Council agrees to recommendations 1 or 2, the remaining recommendations are no longer necessary:

1. Make commercial use an option, but not a requirement.
  2. Change "commercial" to "non-residential" to broaden the possible uses.
  3. Only require commercial uses in the CR and Employment zones but not in the residential multi-unit zones.
  4. Modify the waiver to include more quantifiable findings such as proximity to existing mixed-use, or accessibility to high quality transit.
  5. Clarify in line 23 that the application must provide space for at least two uses.
- **Use and Plan Name.** The Board also finds the name 'Mixed-Use Housing Community' to be misleading and recommends changing it to 'Affordable Housing Community'. While mixed-use is a component of this ZTA, it is not what makes the new use unique. It is the high levels of affordable housing that make this use notable. Having a reference in the name to 'mixed-use' may be misleading to other developers looking to develop a mixed-use community but not provide the requisite levels of affordability called for in this ZTA.

In addition to the above recommendations to modify ZTA 23-02, the Board has the following additional comments for the Council to consider during future policy deliberations. First, the Board is concerned by the proliferation of regulatory plan types that extensively do the same thing. The Signature Business Headquarters, Biohealth Priority Campus, and now Mixed-Use Housing Community Plans are all based on the same regulatory code framework and are established for the same goal of expediting the regulatory process. In addition to adding unnecessary bulk to the code, new regulatory plan types create a burden on the internal systems used by the Planning Department and other agencies that are part of the Development Review Committee. Each new plan type requires its own digital workflow in the E-Plans review system, a unique application, and an expansion of the plan database. The Planning Board recommends any future ZTA that seeks to establish an expedited review process for a specific use or uses also consider consolidation of these plan types into one, expedited review plan.

The Planning Board also remains concerned about the possible strain on resources and potential disadvantage placed on other applicants when expedited plans are reviewed. Because the 60-65 day review period provides no room for follow-up comments or negotiation with applicants, it is imperative every potential issue is raised in the initial comments. Multiple agencies, including the Planning Department, Montgomery County Department of Transportation, the Department of

Permitting Services, the State Highway Administration, and others, are part of the Development Review Committee charged with reviewing these applications. Often comments and requests of one agency impact the ability of another agency to complete their review, therefore every county and state agency involved in reviews will need to take extraordinary measures to collaborate as soon as a plan is accepted. Such efforts around one plan could necessitate work on other plans to slow or pause temporarily. This is not a resource issue that can be addressed with adding one or a couple staff at any one agency since multiple agencies, per the Code, are involved in the regulatory process. The Board has no specific recommendation at this time but advises the Council to be aware of these concerns now and in the future while deliberating policy around the regulatory process.

SRA 23-01 was also reviewed by the Planning Board. This process of adding an additional use to the already established Administrative Subdivision process is straightforward and the Board has no comments to offer.

Planning staff, on behalf of the Planning Board, also completed a Climate Assessment for ZTA 23-02 (Attachment B), as required by Bill 3-22, passed by the County Council on July 12, 2022. The assessment anticipates no impacts to the county's efforts on greenhouse gas emissions or sequestration, nor on the adaptive capacity and resilience of the county. If the Council amended the ZTA to allow more commercial uses in the multi-unit residential zones than currently allowed by the underlying zone, there may be a negligible positive impact to greenhouse gases since some residents may be able to walk to commercial uses they cannot walk to currently. But that benefit may be outweighed by increased driving, depending on the ultimate uses.

The Board wants to assure the Council that while it has many recommendations for ZTA 23-02, these recommendations are with the intent to make the ZTA stronger and more effective in incentivizing the production of affordable housing in the county. Planning staff are available and committed to work with the Council as this ZTA moves forward.

#### **CERTIFICATION**

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, at its regular meeting held in Wheaton, Maryland, on Thursday, April 20, 2023.



**Jeff Zyontz**  
Chair

#### Attachments:

- A - Planning Staff Report For ZTA 23-02
- B - Climate assessment For ZTA 23-02



## MIXED USE HOUSING COMMUNITY ZTA 23-02 & SRA 23-01



### Description

This ZTA would establish a new use called Mixed Use Housing Community, allow it as a limited use in certain mixed-use and employment zones, and create a new type of regulatory review application called a Mixed-Use Housing Community Plan. The SRA creates a new type of Administrative Subdivision plan for certain projects that qualify as a Mixed Use Housing Community.

ZTA 23-02 & SRA 23-01  
Completed: 4-13-2023

MCPB  
Item No. 11  
4-20-2023

Montgomery County  
Planning Board  
2425 Reedie Drive, Floor 14  
Wheaton, MD 20902

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### ZTA SPONSORS

Lead Sponsors: Councilmember Sayles and Vice President Friedson

Co-Sponsors: Councilmembers Luedtke, Stewart, and President Glass

### INTRODUCTION DATE

March 28, 2023

### REVIEW BASIS

Chapter 59

Chapter 50

Chapter 25A



### Summary:

- ZTA 23-02, Regulatory Approvals - Mixed-Use Housing Community, will create an expedited approval process for projects that contain a specified percentage of affordable housing as well as two commercial uses.
- SRA 23-01 will create an administrative subdivision process for a Mixed-Use Housing Community Plan to ensure that the timelines are compatible in the event subdivision is necessary.
- Staff has identified recommendations to improve the ZTA, including modifying the required thresholds of affordability, and removing the requirement for including commercial uses as part of the projects.

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## SECTION 1: BACKGROUND

### RATIONALE FOR INTRODUCTION

Zoning Text Amendment (ZTA) 23-02, Regulatory Approvals – Mixed-Use Housing Community, and Subdivision Regulation Amendment (SRA) 23-01, Administrative Subdivision – Mixed-Use Housing Community were both introduced by the District Council on March 28, 2023 (Attachment A). Both items have a tentative Council Public Hearing date of May 2, 2023. The text changes were sponsored by Councilmember Sayles and Vice President Friedson and are co-sponsored by President Glass and Councilmembers Luedtke and Stewart. These two text changes were referenced by the Council during their introduction as part of an initiative called Opening Pathways to Economic Necessity (OPEN).

The intent of these text changes is to incentivize the development of more affordable housing units and more commercial spaces in underserved communities through an expedited regulatory review process for certain projects that help meet these intents. One goal is to incentivize and hasten the production of more affordable housing units. A second goal to expand commercial options in underserved areas is based around the Thrive Montgomery 2050 concept of complete communities. The stated intent is to get more commercial opportunities into residential areas currently not well-served with commercial uses, including creating new high-quality mixed-use communities in more parts of the county.

## SECTION 2: ZTA & SRA AS INTRODUCED

### ZTA NO. 23-02 AS INTRODUCED

The following discussion walks through ZTA 23-02, as it was introduced on March 28<sup>th</sup>, highlighting the code sections that are added or amended by the ZTA. Planning staff notes the framework for this ZTA is substantially similar to ZTA 21-09, Biohealth Priority Campus, which was adopted by Ordinance 19-27 on February 15, 2022. That ZTA, like this one, established a new use and a new regulatory plan type to expedite review of certain life science and biohealth development projects.

### DIVISION 1 GENERAL ZONING PROVISIONS

The first text addition, located in Division 1.4 Defined Terms, line 6, adds the term Mixed-Use Housing Community to the broader list of defined terms and phrases. The definition however directs readers to Section 3.3.4. for the definition.



## DIVISION 3 USES AND USE STANDARDS

Line 14 of the ZTA shows a sub-section of the use table found in Section 3.1.6, where Mixed-Use Housing Community is added to the table and identified as a limited use in all of the Residential Multi-Unit, Commercial/Residential, and Employment Zones.

Starting on line 19 of the ZTA, a new code section, Section 3.3.4. Mixed-Use Housing Community is added as a sub-section to the Residential Uses division. Subsection A defines a Mixed-Use Housing Community as a development of at least 150,000 square feet of new development containing 30 or more dwelling units and at least 2 commercial uses. The residential units must meet one of two criteria for affordability; either 50 percent or more of the dwellings must be an MPDU or equivalent, or at least 35 percent of the units must be an MPDU or equivalent, with at least 15 percent of the total units affordable to households at 30 percent or below the Area Medium Income (AMI) for at least 30 years. Subsection B includes exemptions from Chapter 59, including not requiring a standard sketch and site plan if the project is reviewed as a Mixed-Use Housing Community Plan, a requirement that subsequent amendments to a Mixed-Use Housing Community Plan must continue to be reviewed as a Mixed-Use Housing Community Plan, an exemption from requiring off-street parking for properties within red policy areas or within ½ mile of a Bus Rapid Transit route, and a Planning Board grantable waiver from having to provide the required commercial uses if a development maximizes the site density with residential uses and can prove an unusual practical difficulty, exceptional or undue hardship, or significant economic burden.

## DIVISION 4 DEVELOPMENT STANDARDS

Lines 55 through 91 of the ZTA amend the general development requirements, as applicable, to the Residential, CR, and Employment zones to recognize the Mixed-Use Housing Community Plan as a type of plan that may be reviewed and approved within these zones under certain circumstances.

## DIVISION 7 ADMINISTRATION AND PROCEDURES

The first amendment in Division 7 is under Section 7.3.3. Sketch Plan, and it exempts developments approved as a Mixed-Use Housing Community Plan from having to obtain a Sketch Plan approval.

Starting on line 104 and continuing through line 362 of the ZTA, Section 7.3.7. Mixed-Use Housing Community Plan is added. The Mixed-Use Housing Community Plan section follows the same general sections as the other regulatory plans such as Site Plan, Signature Business Headquarters Plan, and Biohealth Priority Campus Plan. Each section of the Mixed-Use Community Housing Plan is discussed in further detail in the following sections of this report.

## A. Applicability

The Applicability section affirms that Mixed-Use Housing Community Plans are intended for the Mixed-Use Housing Community use, to review and ensure compliances with current laws, regulations, and Chapter 59.

## B. Application Requirements

This section specifies who can file for a Mixed-Use Housing Community Plan and the plan submission requirements. These requirements are identical to the Biohealth Priority Campus Plan and are substantially similar to the Site Plan requirements.

## C. Hearing Date

One of the primary features separating Mixed-Use Housing Community Plans from Site Plans is the hearing date requirements. The ZTA will require a public hearing by the Planning Board 60 to 65 days after an application is accepted, rather than the 120-day requirement associated with Site Plans.

## D. Review and Recommendation

Section D. lays out the timeline of review for Mixed-Use Housing Community Plans, including a requirement that all review agencies provide comments within 15 days of an application being accepted, a requirement for applicants to resubmit revised plans at least 25 days before the Board Hearing, and the requirement for a staff report to be published by the Planning Department a minimum of 10 days before the Planning Board hearing.

## E. Necessary Findings

The findings the Planning Board must make in approving a Mixed-Use Housing Community Plan are provided in Section E. These findings are identical to those in the Biohealth Priority Campus Plan and are substantially similar to the findings of a Site Plan. The differences in findings from a Site Plan include not requiring the Mixed-Use Housing Community to adhere to previous development plans or green area requirements, and not having to find compatibility with surrounding developments. Also, the Mixed-Use Housing Community Plan adds a finding not found in Site Plans allowing a project to break with non-auto driver mode share requirements if an applicant enters into a Transportation Demand Management Plan, provides parking less than the minimum normally required, and provides transit and bicycle infrastructure.

## F. Decision

The Decision section lays out the procedures following the Planning Board hearing on a Mixed-Use Housing Community Plan. The resolution must be mailed within 7 days of the Board hearing, starting a 30-day period for appeal. The Planning Department is also provided 30 days to certify the final submitted plans or reject the plans with comments.

## G. Conforming Permits

Section G is a standard section in all regulatory plans, prohibiting DPS from issuing any permits for a property until all necessary bonds have been approved.

## H. Duration of Approval

The Duration of Approval section lays out the post-Board deadlines and requirements on applicants of Mixed-Use Housing Community Plans. This section requires an applicant to complete the plan certification process within 24 months of the resolution being mailed. Applicants are also required to have a building permit for core and shell of the principal building accepted by DPS within 24 months of the plan being certified and obtain said building permit within an additional 24 months. This is similar to the requirements for Biohealth Priority Campus Plans and is also a requirement found on site plans in the Bethesda Overlay Zone. This section also provides the Board an opportunity to extend any of the above deadlines by up to 18 months. Failure of the applicant to meet these deadlines will result in the plan being revoked.

## I. Recording Procedures

This section requires the Planning Department maintain in permanent files a copy of the resolution for the plan.

## J. Amendments

The Amendment section specifies that amendments to Mixed-Use Community Housing Plans must be reviewed under the same standards as the original plan and spells out what would qualify as a Major or a Minor amendment. Minor amendments can increase density up to 10 percent or 15,000 square feet and may increase height by up to 10 percent, provided that the density and height are allowed in the underlying zone. Minor amendments may also make changes to site elements or reduce parking provided the changes have minimal effect on the plans. Major amendments include anything that does not qualify as a minor, such as larger increases to height and density, decreasing the open space, deviating from a condition of approval or otherwise altering a basic element of the plan.

## K. Compliance and Enforcement

This final section of the Mixed-Use Housing Community Plan is on Compliance and Enforcement. This section is standard across regulatory plans and spells out the enforcement responsibilities and procedures that the Planning Department, and DPS have on Mixed-Use Community Housing Plans.

## Notice Required

The final section amended by the ZTA is the noticing requirements table under section 7.5.1. The Mixed-Use Housing Community plan, and its associated amendments, are added to the table as a type of application, and the appropriate noticing requirements are marked. Noticing for Mixed-Use

Housing Community plans follows that of every other type of plan including pre-submittal meetings, application signs and notice, hearing notice, and resolution notice.

### SRA NO. 23-01 AS INTRODUCED

SRA 23-01 is submitted concurrently with ZTA 23-02, with the intent of streamlining the subdivision process by adding the Mixed-Use Housing Community use to the list of projects that may apply for and be reviewed as an Administrative Subdivision. The specific section is 50.6.1. with a new subsection G. added to the code specific to projects that qualify as a Mixed-Use Housing Community in Chapter 59. There are four requirements that must be satisfied:

1. A finding of adequate public facilities prior to platting,
2. Showing road dedications and public utility easements on plats,
3. Approval of forest conservation, stormwater management, and any other applicable environmental protections prior to platting, and
4. Satisfaction of any special protection area requirements, if applicable.

## SECTION 3: ZTA & SRA ANALYSIS AND RECOMMENDATIONS

### ZTA 23-02 ANALYSIS AND RECOMMENDATIONS

Planning staff commend the ZTA sponsors for the goal of trying to increase the production of affordable housing in the county. However, as introduced, staff would like to raise a few concerns and recommend amendments to the ZTA language. The primary areas of concern are the affordability thresholds, the requirement for commercial spaces, and the creation of a new use type.

#### AFFORDABILITY THRESHOLDS

One of the main features distinct to a Mixed-Use Housing Community is the high level of affordability that projects must meet. This is intentional, providing a benefit of reduced regulatory process to incentivize projects that provide more total affordable units, or more deeply affordable units than seen in typical development. The current law requires 12.5 to 15 percent of all units in residential development projects of 20 or more dwelling units to be in the MPDU program. MPDU units are priced to be affordable to households making between 65 and 70 percent of AMI, although around a third of all MPDUs are affordable to households at or below 50 percent of AMI. The program has been successful in creating thousands of dwelling units below market rate, but the need for affordable housing in the county still exceeds what MPDUs can provide.

As introduced, this ZTA sets the affordability thresholds (Lines 26-31 of the ZTA) for Mixed-Use Housing Communities at either 50 percent of the units satisfying the requirements for an MPDU or DHCA equivalent, or 35 percent of the units satisfying the requirements for an MPDU with 15 percent

of the total units affordable to households with income at 30 percent of the AMI. As stated above, the intent of this new use is to increase total affordable housing production and to provide more dwellings at deeper levels of affordability. The goal is to set an affordability bar that recognizes the level of difficulty entailed with building residential projects with deep levels affordability and/or a large threshold of affordable housing, allowing the few projects a year that provide this level of affordability to benefit from an expedited review.

### Existing Affordable Programs

To determine if the ZTA's affordability thresholds were appropriate, Planning staff compiled a database of recently built or pipeline affordable housing projects in the county (see Attachment C) to determine how many projects and how many dwellings have been built in the past at different thresholds. The project database was compiled using U.S. Department of Housing and Urban Development's (HUD's) [Low-Income Income Housing Tax Credit \(LIHTC\) database](#), Maryland Department of Housing and Community Development's (DHCD's) [list of competitive funding awards](#), Montgomery County Department of Housing and Community Affairs' (DHCA's) affordable housing database, information provided by affordable housing providers and DHCA, CoStar, the Maryland State Department of Assessments and Taxation (SDAT), and Montgomery Planning's Development Application Information Center (DAIC).

Given the deep level of subsidy and high levels of affordability, most of the projects in the database are LIHTC projects. As background, the LIHTC and MPDU programs produce most of the affordable housing in Montgomery County. LIHTC is the largest source of federal support for the creation and preservation of dedicated affordable housing and is administered by state and local housing finance agencies based on regulations issued by the U.S. Treasury Department. The MPDU and LIHTC programs vary in how they are administered, the household income levels served (as a percentage of AMI), and control period as shown in the table below.

Affordable Housing Program	How It Works	Area Median Income (AMI) Served	Control Period
Moderately Priced Dwelling Unit (MPDU)	Montgomery County specific policy; Mandatory set aside of 12.5 to 15 percent of units in new developments greater than 20 units; rental or for-sale units	65 to 70 percent AMI, dependent on construction type	30 years for-sale, 99 years for rental
Low-Income Housing Tax Credit (LIHTC)	Administered by state housing finance agencies; provides funding for the development costs of low-income housing; rental units only	20 percent of the units to households with incomes of 50 percent or less of the AMI or 40 percent of the units to households with incomes of 60 percent or less of the AMI, or tiered income limits serving an average of 60 percent AMI.	In Maryland, the building must remain in compliance and is subject to a covenant to enforce compliance for a minimum of 40 years (15-year compliance period and a 25-year extended use period). <sup>1</sup>

There are two types of LIHTC tax credits—9 percent credits and 4 percent credits—both of which are allocated by state and local housing finance agencies. The 9 percent LIHTC is awarded on a competitive basis in accordance with preferences and priorities laid out in the housing finance agency’s Qualified Allocation Plan. LIHTC is designed to subsidize either 30 percent or 70 percent of the low-income unit costs in a project. The 30 percent subsidy, which is known as a 4 percent tax credit, covers new construction that uses additional subsidies or the acquisition cost of existing buildings. The 70 percent subsidy, or 9 percent tax credit, supports new construction without any additional subsidies. As a result, demand for 9 percent tax credits far surpasses the supply and there is a limit to the amount of 9 percent tax credits allocated each year. Montgomery County averages one 9 percent LIHTC project a year.

In the [Spring 2022 competitive funding round](#), Montgomery Housing Partnership’s (MHP’s) Nebel Street project was selected to receive twinned 9 percent and 4 percent tax credit awards, the only project in Montgomery County to receive such funding in the application round. Given the high threshold of affordability in the proposed text amendment, it is likely only projects that are awarded the 9 percent LIHTC or receive significant subsidy from another source will be able to meet the proposed thresholds of a Mixed-Use Housing Community.

<sup>1</sup> <https://dhcd.maryland.gov/HousingDevelopment/Pages/lihtc/default.aspx>

## ZTA 23-02 Proposed Affordability Thresholds

As proposed, there are two affordability options eligible as a Mixed-Use Housing Community.

1. 50% of the units satisfying the requirements for an MPDU or DHCA equivalent, or
2. 35% of the units satisfying the requirements for an MPDU or DHCA equivalent, and 15% of the total units affordable to households with income at 30% of the AMI.

Option 1 would require 50 percent of the units satisfying the requirements for an MPDU or DHCA equivalent. This would require units in other affordable programs (like LIHTC) to put 50 percent of the units in the MPDU program. All projects, including projects with large percentages of affordable units through other programs such as LIHTC must meet the minimum 12.5 to 15 percent MPDU minimum requirement placing those units into the MPDU program unless the Director of DHCA determines that the affordability term of the other program is equivalent to the MPDU requirement.

DHCA equivalents are units produced under another federal, state or local affordable housing program that are designated as an MPDU. The income limits and other requirements of that particular housing program apply during the compliance period for that program rather than the requirements set for the MPDU program. If the compliance period for that program is shorter than the MPDU control period (which it usually is), the MPDU requirements apply for the remainder of the MPDU control period, unless the Director of DHCA determines that the affordability term of the other program is equivalent to the MPDU requirement.

As evidenced by the chart in Attachment C, designating 50 percent of the units as MPDUs or DHCA equivalent units is a high bar to reach even in projects with a large number of income-restricted units. As noted in the chart above comparing the MPDU and LIHTC program, these programs have differences, with the most notable being the control period. MPDUs have much longer control period (99-years for rental), and the ability to subsidize these units for a much longer term largely depends on the financial viability of the project to further subsidize.

Option 2 would require 35 percent of the units to satisfy the requirements for an MPDU and 15 percent of the total units affordable to households with income at 30 percent of the AMI. There are very few projects that meet this level of affordability. Planning staff supports the intent of having a 30 percent of AMI or lower component, given the need and difficulty of serving lower income households, but would recommend slight modifications to the affordability component to ensure a sufficient quantity of projects can meet that bar.

## Other Affordability Threshold Options

Upon analyzing the staff compiled database on existing and approved affordable housing developments, staff has laid out several options for the Planning Board to consider recommending as potential modifications to the affordability thresholds, better aligning them with the realities of existing and pipeline projects. These options could be taken piecemeal or in totality, however Planning Staff recommend all three options as modified be placed in the final ZTA.

### Modify Option 1.

Option 1 (lines 26-27 of the ZTA) could be modified to align it with the recently passed Bill 26-21, which establishes a 100 percent payment in lieu of taxes (PILOT) for a housing development owned or controlled by the Housing Opportunities Commission (HOC) or a nonprofit housing developer with at least 50 percent of the dwelling units affordable to households earning 60 percent or less of area median income. This provides the same intent of a 50 percent affordability threshold but better aligns the option with LIHTC projects. The new option 1 could read:

1. At least 50% percent of the units must satisfy the requirements for an MPDU in Chapter 25A or a DHCA equivalent are built under a government regulation or binding agreement that limits, for at least 30 years, the price of rent charged making the unit affordable to households earning 60 percent or less of AMI.

Staff notes that the PILOT language in [Bill 26-21](#) has a control period limit for at least 15 years instead of 30, but staff believes that 30 years is still consistent with the additional extended use period for LIHTC projects to allow them to align with this option.

### Modify Option 2.

Staff supports the intent of option 2 (Lines 28-31 of the ZTA) that targets housing for incomes at or below 30 percent of AMI but would recommend slightly lowering the affordability threshold to allow more projects to be able to take advantage of the expedited review. The new option 2 could read:

2. At least 35%30 percent of the units must satisfy the requirements for an MPDU in Chapter 25A or a DHCA equivalent are built under a government regulation or binding agreement that limits, for at least 30 years, the price of rent charged with At least 1510 percent of the total units affordable to households earning 30% percent or less of Area Median Income (AMI) or below for at least 30 years and at least 20 percent of the units affordable to households earning incomes eligible for the Moderately Priced Dwelling Unit (MPDU) program in Chapter 25A.

### Add an option that aligns with the guidelines set out in HOC's Housing Production Fund (HPF).

In this existing program, at least 20 percent of units in a development financed using the HPF must be affordable to households earning 50 percent or less of area median income with at least another 10 percent of units affordable to households earning incomes eligible for the MPDU program. This proposal would either modify one of the two existing options or possibly add a third option, which could read:



3. At least 30 percent of units are built under a government regulation or binding agreement that limits, for at least 30 years, the price of rent charged. 20 percent of the units must be affordable to households earning 50 percent or less of area median income and at least 10 percent of the units must be affordable to households earning incomes eligible for the Moderately Priced Dwelling Unit (MPDU) program.

## COMMERCIAL SPACES

Another requirement of a Mixed-Use Housing Community is providing at least two commercial uses as part of an application. The intent of this requirement is to create more retail opportunities in parts of the county that are currently underserved with retail, and to spur more complete communities, a policy from the recently adopted Thrive Montgomery 2050 General Plan. Planning staff appreciate this ZTA's goals of promoting the complete communities concept from the General Plan and providing more local opportunities for retail. However, staff is concerned the requirement of commercial uses in conjunction with high levels of affordability will make most projects infeasible, and much of the commercial space may be difficult to lease unless the project is immediately adjacent to existing centers of activity.

In review of the ZTA, Planning staff spoke with some of the county's affordable housing providers. Some raised comments about the practical difficulties of providing commercial spaces generally, which are magnified in highly affordable projects. As shown in the table in Attachment C, staff could only find a few affordable housing developments with approved commercial uses. All are located in the Silver Spring CBD or near the Shady Grove Metro station. A few other projects included some amount of non-residential space for religious institutions or recreation centers. The majority were 100 percent residential buildings.

Staff also reviewed the Planning Department's [Mixed-Use Development Study](#) from July 2021. The study had the goal of developing a comprehensive understanding of existing mixed-use projects and included recommendations to support mixed-use development. Key takeaways on ground floor retail in mixed-use projects are summarized on page 12 of the study. These takeaways conclude that:

- New mixed-use buildings have the best chance of success adjacent to existing vibrant projects,
- Fronting on quiet streets or major roadways are seen as negatives for ground floor retail,
- Retail is often underwritten conservatively due to the possibility it will sit vacant, and
- Vacancy is a real issue in poorly positioned mixed-use projects or with developers who do not know the retail or commercial market very well.

These takeaways summarize a lot of Planning staff's concerns with a commercial requirement as part of a deeply affordable project. These types of projects are also unlikely to be adjacent to existing vibrant mixed-use centers because of land values, which would seem to meet the intent of the ZTA by providing more dispersed retail locations but increase the likelihood of the commercial component

failing. A developer providing deep levels of affordability likely has no additional capacity to underwrite vacant commercial space, even with subsidies. Creating more complete communities are a major priority for Planning staff, but the creation or expansion of community centers is likely to be more successful when planned through Master Plan recommendations to create deliberate hubs of residents, commercial and institutional centers, and transportation, rather than piecemeal through a development process such as the Mixed-Use Housing Community process.

The ZTA does include a commercial waiver that the Planning Board may grant, within the exemption section (lines 45-53). Planning staff appreciates the opportunity to waive the commercial requirement but is concerned waivers will be the norm rather than an exception. Most precedent projects staff reviewed have not provided commercial space as part of an affordable housing project and it is likely most if not all future projects will come in seeking a waiver, making the requirement ineffective. Staff is also concerned it will be difficult to complete a waiver review along with the application review within the required 60-day review period. To provide a waiver, the Board must find a “particular or unusual practical difficulty, exceptional or undue hardship, or significant economic burden” to providing the commercial space. Findings like this tend to be very subjective and may require staff or the applicants to conduct a tedious additional review to prove. If there is a waiver process it should have clear requirements that are less subjective to meet. Options include waiving the commercial requirement based on a site’s proximity to existing commercial or non-residential uses, or proximity to transportation infrastructure such as the criteria that allow no parking minimums. Another option could be to have ground floors constructed with future commercial retrofit in mind with higher first floor heights and mechanical systems located in a way to accommodate future commercial retrofits.

Another consideration is the definition of Mixed-Use Housing Community, line 23 of the ZTA, states that the use must provide at least 2 commercial uses **allowed in the underlying zone**. The CR and Employment zones offer a wide range of allowed commercial uses. However, in the residential multi-unit zones, there are very few commercial uses allowed by right and only a small additional amount allowed as limited or conditional use. Commercial uses in the residential multi-unit zones that could sensibly locate in a mixed-use building are limited to medical and dental clinics with up to 4 practitioners. The remaining commercial uses allowed in the residential zones are primarily infrastructure or utility-related uses. There are no commercial conditional uses in the residential multi-unit zones that would be compatible with a mixed-use building type. Replacing the word “commercial” with “non-residential” could help keep these projects ‘mixed-use’ with slightly more flexibility. This minor change would enable other uses such as civic and institutional uses, or recreational uses to qualify. Uses such as a day care, an educational facility, a private service club or organization, religious assembly, and public recreational space fall into these categories. While most of the precedent projects were 100 percent residential, there were a few that contained uses that fell into a broader non-residential qualification. It is staff’s preference to not require commercial or non-residential uses in any circumstance. However, if the commercial use requirements are to remain, one option would be to require commercial uses in the CR and Employment zones but not in the multi-unit residential zones. Another option is to establish a list of allowed commercial uses.

Additionally, the ZTA as introduced is worded to require two commercial uses but does not clearly explain how to find this statement to be true. For example, does the application have to include letters of intent to guarantee that two commercial uses are part of the project, or is designating two spaces for commercial users on the submitted plans adequate?

**Planning staff’s recommendations ordered in priority regarding the requirement of commercial spaces in Mixed-Use Housing Communities are:**

- Make providing on-site commercial spaces an option, but not a requirement.
- Only require commercial uses in the CR and Employment zones but not in the residential multi-unit zones.
- Change “commercial” to “non-residential” to broaden the possible uses.
- Remove the waiver if commercial or non-residential uses are no longer required, or modify the waiver to include more tangible findings that acknowledge the difficulties that will exist for any developer providing high levels of affordable housing and provide a clear metric on which the Planning Board can review the waiver request.
- If commercial or non-residential uses remain a requirement, clarify in line 23 that the application must provide space for at least two uses.

**NEW USE TYPE**

One observation Planning staff has is the new use, Mixed-Use Housing Community is just a combination of two existing uses with certain additional requirements. The primary use is multi-unit living as defined under Section 3.3.1.E. and a variety of commercial uses under Division 3.5 as allowed by the underlying zone.

If commercial uses are removed as a requirement of the Mixed-Use Housing Community, it would be more streamlined if the A. Defined and B. Exemptions sections under proposed Section 3.3.4 became new limited use standards under 3.3.1.E. Multi-Unit Living. The subsection could be modified to say if Multi-Unit Living meets the size requirement (150,000 square feet), contains 30 or more dwelling units, and meets necessary affordability thresholds, it may be reviewed as a Mixed-Use Housing Community Plan under Section 7.3.7. The code in proposed Section 7.3.7.A. Applicability and Description (Starts on line 105) would be modified to say:

A Mixed-Use Housing Community plan provides a detailed overview of ~~a proposed Mixed-Use Housing Community~~ eligible multi-unit living units under section 3.3.1.E.

If the ZTA retains the requirement to provide commercial spaces, the same modifications discussed above could still be made to the section on Multi-Unit Living. Meanwhile, Section 7.3.7.A. Applicability and Description in the Mixed-Use Housing Community Plan could be modified to say:

A Mixed-Use Housing Community plan provides a detailed overview of ~~a proposed Mixed-Use Housing Community~~ eligible multi-unit living units under section 3.3.1.E. in combination with at least two commercial uses from Division 3.5 that are allowed by the underlying zone.

## MISCELLANEOUS

In addition to the primary concerns raised above, Planning staff have identified a few additional minor recommendations for the Board to consider providing the District Council.

### Use Name – Mixed-Use Housing Community

Staff has concerns with the new use and new plan type being focused on the term mixed-use. Even if the commercial requirements remain in the final ZTA, staff recommends changing the name to remove emphasis on the mixed-use component and instead focusing more on the affordable housing aspect. Having a new use identified as a mixed-use community type may imply that this applies to any mixed-use development, when in reality it is the higher affordability thresholds that differentiate these projects from others. Naming the use and plan type along the lines of Affordable or Mixed-Income Communities/Plans is more consistent with what differentiates these plans. Commercial space can still be a requirement under these new plan types if that is desired.

### Proliferation of New Regulatory Plan Types

The Mixed-Use Housing Community Plan proposed by the ZTA is the third such regulatory plan type created by a ZTA in recent years. Each with a primary focus on expediting the development review timeline to save prospective applicants time and money.

- The first expedited regulatory plan created was the Signature Business Headquarters Plan, under Section 7.3.5. This plan was created during the search for Amazon’s HQ2 and was crafted to allow Amazon, or any company meeting employment thresholds looking to establish a new headquarters in Montgomery County, a process with a quicker and more predictable review process.
- More recently, Section 7.3.6. Biohealth Priority Campus Plan was created, based on the Signature Business Headquarters plan, but for certain committed life science and biohealth companies looking to construct new space.
- This ZTA proposes a third plan, the Mixed-Use Housing Community Plan. The Mixed-Use Housing Community Plan is nearly identical to the Biohealth Priority Campus Plan, with the only changes being the Applicability and Description section, and a few embedded section references to the unique use types. The submittal requirements, regulatory deadlines, and amendment and enforcement text are identical.

Having three plan types that essentially perform the same function makes the code unnecessarily bloated. Having an increasing list of plan types also complicates our internal plan review, tracking and management because each plan type requires a unique application, plan numbering convention, and

workflow. If additional uses are considered by the Council for regulatory expedition, staff recommends the future ZTA combine all expedited review plan types into one expedited plan type. The Applicability section can be modified to allow all the uses covered by the three distinct plans, plus any additional uses, to be eligible for the one expedited review plan.

### Expedited Plan Reviews

A concern of Planning staff with this new plan, as with the previous expedited plans, is the constraints and complications staff and other review agencies will face with the shortened periods for intake, plan review, and post-Board plan certification. Staff understands that extended review times may cost applicants unavailable time and money due to engineering and carrying costs and can appreciate wanting to expedite the process for selective economic priorities of the county. To date, no applications have been reviewed as a Signature Business Headquarters or a Biohealth Priority Campus to provide a tangible example of how these reviews will work. Staff's concerns are these expedited reviews may come at a cost to other existing regulatory review projects reviewed under the normal processes and may result in extra post-Board approval work for both the applicant and staff. Expedited plans like Mixed-Use Housing Community Plans must conform to all the same local laws, ordinances and codes and require the same level of coordination between reviewing agencies to ensure proposed plans are approvable. These regulatory plans also have the same public noticing and staff report posting requirements, which shrink the actual length for both staff and applicants to review and correct plans to *under 50 days*. Recommendations from one regulating agency may conflict with recommendations or requirements of another, causing the need to resolve these differences. The expedited review process leaves little time for applicants to reconcile conflicting recommendations or conditions of approval. Ensuring these expedited processes are selective in quantity for projects providing appropriate benefit to the county is essential. As is ensuring the availability of resources and commitments to make these quick reviews successful.

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### SRA 23-01 ANALYSIS AND RECOMMENDATIONS

Planning staff has no substantive comments on the SRA as introduced. The SRA is in keeping with similar SRAs for Signature Business Headquarters and for Biohealth Priority Campuses. The intent is to allow a more expedient review process, to keep the subdivision portion of an application closer in line to the timelines associated with the expedited reviews in Chapter 59. Staff does note that Administrative Subdivisions are regulated by a 90-day review period, not the 60-65 days allowed in Chapter 59 for the Mixed-Use Housing Community Plan. Maintaining this slightly longer review period is critical because many of the threshold reviews such as adequate public facilities, site access, and general service by other utilities and infrastructure is determined through subdivision plans. Administrative Subdivisions undergo the same thorough technical review outlined for all subdivision plans under Chapter 50, but generally allow many of the outside agency approvals to occur after the Planning Board decision because most Administrative Subdivisions are simple and straightforward.

The logo for Montgomery Planning, featuring a blue square icon with a white stylized 'M' and the text 'Montgomery Planning' in a blue sans-serif font.

## CLIMATE ASSESSMENT FOR ZTA 23-02, REGULATORY APPROVALS – MIXED-USE HOUSING COMMUNITIES

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### PURPOSE OF CLIMATE ASSESSMENTS

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

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

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### SUMMARY

ZTA 23-02 defines a Mixed-Use Housing Community and creates an expedited plan approval process for Mixed-Use Housing Community projects. The ZTA establishes a new development review process that expedites the review process for certain mixed-use projects. It does not change current zoning or zoning densities, and any development under this use would still have to meet underlying zoning requirements including allowed uses and any applicable development and building standards. As a result, Montgomery Planning anticipates that ZTA 23-02, as written, will have insignificant to no impact on the county’s goals regarding greenhouse gas emissions and sequestration and on community resilience and adaptive capacity. As it is currently unknown if, where, and to what extent any development under this use will occur, any potential minor positive impacts to greenhouse gas emissions and community adaptive capacity that may result from the co-location of residential and commercial uses are also indeterminate.

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## BACKGROUND AND PURPOSE OF ZTA 23-01

The ZTA was introduced on March 28, 2023, with a companion Subdivision Regulation Amendment (SRA). The purpose of ZTA 23-01 is to incentivize the development of more affordable housing, affordable to more people with lower incomes, and to provide more commercial opportunities to communities that may lack commercial spaces. The ZTA establishes a new use type called the Mixed Use Housing Community, which is a development with 150,000 square feet or more of new development that meets specified affordability thresholds, and provides for two or more new commercial uses. A new regulatory review plan type, the Mixed Use Housing Community Plan, is also established to provide for an expedited review and approval process for Mixed Use Housing Communities.

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## VARIABLES THAT COULD AFFECT THE ASSESSMENT

### CLIMATE-RELATED VARIABLES

#### **Greenhouse Gas-related Variables:**

Transportation-related: Vehicle Miles Traveled (VMT); Number of Trips; and Non-vehicle Modes of Transportation

#### **Adaptive Capacity-Related Variables:**

Change to Accessibility or Prevalence of Local Food Sources and Other Goods; Change to Community Connectivity; and Change in Distribution of Resources and Support

### OTHER VARIABLES

Other variables include the number, location, and extent of future development approvals issued pursuant to the ZTA.

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## ANTICIPATED IMPACTS

### GREENHOUSE GAS EMISSIONS, CARBON SEQUESTRATION, AND DRAWDOWN

The ZTA provides for a combination of existing allowed uses to benefit from an expedited development review process. It does not change current zoning or zoning densities, and any development under this use would still have to meet underlying zoning requirements and all applicable development and building standards. As a result, Montgomery Planning anticipates that ZTA 23-02, as written, will have insignificant to no impact on the county's goals regarding greenhouse gas emissions and sequestration. If the ZTA is amended to allow commercial uses that are not currently allowed in residential multi-unit zones, it could provide small local positive impacts on

greenhouse gas emissions. These positive impacts could result from small decreases in vehicle miles traveled and number of trips, and minor increases in non-vehicle modes of transportation in such areas. But as it is currently unknown if, where, and to what extent any development under this use will occur, any potential minor positive impacts to greenhouse gas emissions that may result, even if the ZTA is amended, are also indeterminate.

#### COMMUNITY RESILIENCE AND ADAPTIVE CAPACITY

Montgomery Planning anticipates that ZTA 23-02 will result in insignificant to no impact on community resilience.

Montgomery Planning anticipates that ZTA 23-02, as written, will have insignificant to no impact on the county's goals regarding greenhouse gas emissions and sequestration. If the ZTA is amended to allow commercial uses to occur in residential zones where they are not currently allowed, small local positive impacts on the adaptive capacity of these communities could result. These positive impacts could result from small increases to accessibility or prevalence of local food sources and other goods, community connectivity, and distribution of resources and support in such areas. But as it is currently unknown if, where, and to what extent any development under this use will occur, any potential minor positive impacts to community adaptive capacity that may result, even if the ZTA is amended, are also indeterminate.

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

ZTA 23-02 does not involve any GHG or sequestration activities that relate to the GHG reduction and sequestration actions from the county's Climate Action Plan.

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#### RECOMMENDED AMENDMENTS

One potential way the ZTA could be amended to provide potential small positive climate-related impacts would be to allow new commercial uses to occur under the Mixed-Use Housing Community use in residential multi-unit zones (where they are not allowed under current zoning). This amendment would make it possible to realize at least some small positive local impacts on the county's goals regarding greenhouse gas emissions and sequestration and on community resilience if future development under this use occurs in these zones. Planning staff recommends this approach unless achieving these slight benefits are held by the Planning Board to be outweighed by other considerations and potential amendments regarding this ZTA.



The ZTA does not offer obvious additional opportunities for enhancing positive climate change-related impacts beyond these potential minor benefits.

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## SOURCES OF INFORMATION, ASSUMPTIONS, AND METHODOLOGIES USED

The climate assessment for ZTA 23-02 was prepared using the methodology (tables 1, 2, and 8, in particular) for ZTAs contained within the [\*Climate Assessment Recommendations for Master Plans and Zoning Text Amendments in Montgomery County, December 1, 2022\*](#).

# Racial Equity and Social Justice (RESJ) Zoning Text Amendment Statement

Office of Legislative Oversight

## ZTA 23-02: REGULATORY APPROVALS - MIXED-USE HOUSING COMMUNITY

### SUMMARY

If Zoning Text Amendment 23-02 increases the supply of affordable housing in the County, the Office of Legislative Oversight (OLO) anticipates that it will favorably impact racial equity and social justice (RESJ) in the County. OLO, however, cannot discern whether this ZTA will increase the supply of affordable housing in the County.

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### PURPOSE OF RESJ STATEMENTS

The purpose of RESJ impact statements for zoning text amendments (ZTAs) is to evaluate the anticipated impact of ZTAs on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, power, and leadership of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.<sup>1</sup> Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.<sup>2</sup>

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### PURPOSE OF ZTA 23-02

The purpose of ZTA 23-02, Regulatory Approvals - Mixed-Use Housing Community, is to increase the number of affordable housing units in the County by expediting the regulatory review process for eligible multi-unit housing communities that include at least two commercial uses. Toward this end, this ZTA would change the Zoning Ordinance as follows:<sup>3</sup>

- Create a new use category for Mixed-Use Housing Community, under Division 3.3. Residential Uses.
- Create a new regulatory review category, Mixed-Use Housing Community under Section 7.3.7, amending Division 59-7.3.
- Define a Mixed-Use Housing Community as:
  - At least 150,000 square feet of new commercial and residential floor area containing Multi-Unit Living under Section 3.3.1.E.
  - At least two commercial uses allowed in the underlying zone with 30 or more dwelling units and either:
    - 50 percent of the units must satisfy the requirements for an MPDU in Chapter 25A or a DHCA equivalent; or
    - 35 percent of the units must satisfy the requirements for an MPDU in Chapter 25A or a DHCA equivalent with 15 percent of the total units affordable to a household with a household income of 30 percent of Area Median Income (AMI) or below for at least 30 years.
- Reduce the regulatory review process from 120 days to 60 days.
- Allow mixed-use housing communities in all zones where multi-unit dwellings are currently allowed.
- Allow a waiver of the parking requirement for a mixed-use housing community if it is located within ½ mile of a red policy area or a planned or existing Bus Rapid Transit route.

ZTA 23-02 was introduced on March 28, 2023. Companion Subdivision Regulation Amendment (SRA) 23-01: Administrative Subdivision-Mixed Use Housing was also introduced on March 28, 2023.

# RESJ Impact Statement

## Zoning Text Amendment 23-02

### HOUSING SECURITY AND RACIAL EQUITY

Historically, government policies have restricted the supply of affordable housing.<sup>4</sup> These include exclusionary zoning, restrictive covenants, redlining, New Deal housing policies, the Federal Housing Administration, and the inequitable implementation of the G.I. Bill. Black, Indigenous, and other People of Color (BIPOC) constituents also continue to experience discrimination in housing due to predatory lending practices and bias in the rental and real estate markets.<sup>5</sup> Collectively, these historical and contemporary racial inequities have fostered two disparate housing systems where:<sup>6</sup>

- Government subsidized White-only enclaves enabled many White families to build home equity and inter-generational wealth; and
- Underinvested BIPOC communities where constituents often paid more for lesser housing and fewer amenities were in turn denied opportunities to build family wealth.

These racial inequities have also fostered racial disparities in wealth. For example, in 2014, White households in the Metropolitan Washington Region had 81 times (\$284,000) the median net wealth of the typical Black household (\$3,500) and 21 times the wealth of the typical Latinx household (\$13,000).<sup>7</sup> Moreover, these racial inequities have fostered racial disparities in housing security in Montgomery County where:

- A majority of Latinx and Black renters (63 percent and 57 percent respectively) were cost-burdened (expending 30 percent or more of income on rent) in 2021, compared to 45 percent of White renters and 38 percent of Asian renters.<sup>8</sup>
- Among COVID-19 rent relief clients that disclosed their race and ethnicity, 51 percent were Black and 56 percent were Latinx compared to Black and Latinx persons each accounting for 20 percent of the County's population.<sup>9,10</sup>
- Among single adults experiencing homelessness in 2021, 56 percent were Black, 33 percent were White, 5 percent were Native American, and 4 percent were Asian or Pacific Islander.<sup>11</sup>
- Among families experiencing homelessness, in 2021, 84 percent were Black, 12 percent were White, and 3 percent were Native American.<sup>12</sup>

**Affordable Housing Supply and Demand.** A review of existing data demonstrates that the demand for affordable housing, especially for the lowest income households, exceeds the supply of affordable housing units in the County. For example, the Montgomery County Planning Department's Housing Needs Assessment Analysis finds that:<sup>13</sup>

- Between 2014 and 2018, the housing supply tightened rapidly for households earning less than 65 percent of Area Median Income (AMI). In 2014 there was a 5,700-unit surplus of housing at 65 percent AMI that receded to 800 units in 2018.
- Every submarket in Montgomery County faced a supply gap for households earning up to 60 percent AMI.
- Submarkets with relatively affordable stock have also faced the most significant pricing pressure, leading to the loss of affordably priced units.

Montgomery County households with lowest incomes also experience highest rates of housing insecurity. For example, more than 20,000 households earning under \$31,000 per year are severely house burdened in 2020 because they spend more than half their incomes on rent.<sup>14</sup> Additionally, 80 percent of County households earning up to \$70,000 per year were housing cost burdened in 2020 because they expended more than 30 percent of their income on housing.<sup>15</sup>

# RESJ Impact Statement

## Zoning Text Amendment 23-02

**Best Practices for Expanding Affordable Rental Housing.** Public funding is essential to the building of affordable housing. Partners for Dignity and Rights, an organization focused on building a broad movement for economic and social rights, identifies three stages of rental housing development that all rely on funding:<sup>16</sup>

- Property acquisition and pre-development that includes site control and calculating the costs and financing for all building stages;
- Construction/Rehabilitation that relies on equity (cash) and debt; and
- Operation that includes paying off loans, maintenance, repair, and creating “reserves” for emergencies.

Partners for Dignity and Rights further note that operational subsidies are key to developing affordable housing, particularly for households with incomes that are less than 30 percent of AMI.<sup>17</sup> To increase the supply of affordable housing units, they recommend the expansion of direct operating subsidies by all levels of government, the expansion of local programs that provide public equity that can reduce the debt that gets carried into operating costs, and other public sector funding to reduce the costs of debt (e.g., government loan guarantees).

The Poverty and Race Research Action Council (PRRAC)<sup>18</sup> and the Grounded Solutions Network also offer several promising practices for increasing the supply of affordable housing based on their reviews of the literature.<sup>19</sup> Like Partners for Dignity and Rights, they also recommend that local governments focus on funding to increase the supply of affordable housing especially for low-and very low-income households. Specific strategies recommended include:

- Acquiring and rehabilitating “at-risk” housing stock;
- Using publicly owned land to facilitate affordable housing; and
- Developing a housing trust fund for public investments in affordable housing.

Additionally, PRRAC and the Ground Solutions Network identify three additional promising practices for increasing affordable housing opportunities for renters:

- Provide for expanded tenants’ rights and services;
- Expand financial assistance programs for renters; and
- Enact tenant option to purchase laws.

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## ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of ZTA 23-02 on racial equity and social justice, OLO considers two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen

**In response to the first question,** OLO considered the demographics of households needing affordable housing. Given higher levels of housing insecurity experienced among Latinx and Black households, both households would be the primary beneficiaries of ZTA 23-02 if it resulted in the production of additional affordable housing units. Yet, OLO cannot determine whether reducing the administrative review time from 120 days to 60 days, in and of itself, would be a sufficient enough incentive to increase the production of affordable housing in the County.

**In response to the second question,** OLO considered the potential impact of ZTA 23-02 on housing disparities in the County. If the ZTA increased the number of affordable housing units in the County, it could narrow racial and social inequities in housing. However, OLO cannot discern whether this ZTA will increase the supply of affordable housing in the County.

# RESJ Impact Statement

## Zoning Text Amendment 23-02

Taken together, OLO finds that if ZTA 23-02 increases the number of affordable housing units in the County, it will favorably impact RESJ in the County. OLO, however, cannot discern whether ZTA 23-02 will increase the number of affordable housing units in the County.

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### RECOMMENDED AMENDMENTS

The Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.<sup>20</sup> OLO finds the RESJ impact of ZTA 23-02 would be favorable if it increased the number of affordable housing units available in the County. As such, OLO does not offer any recommended amendments for this ZTA.

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### CAVEATS

Two caveats to this RESJ impact statement should be noted. First, predicting the impact of zoning text amendments on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement on the proposed zoning text amendment is intended to inform the Council's decision-making process rather than determine it. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the ZTA under consideration.

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### CONTRIBUTIONS

OLO staffer Elsabett Tesfaye, Performance Management and Data Analyst drafted this RESJ impact statement with assistance from Elaine Bonner-Tompkins, Senior Legislative Analyst.

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<sup>1</sup> Definition of racial equity and social justice adopted from "Applying a Racial Equity Lens into Federal Nutrition Programs" by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools <https://www.racialequitytools.org/glossary>

<sup>2</sup> Ibid

<sup>3</sup> Memorandum from Livhu Ndou to Montgomery County Council. March 28, 2023

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230328/20230328\\_4A-4B.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230328/20230328_4A-4B.pdf)

<sup>4</sup> Richard Rothstein, The Color of Law: A Forgotten History of How Government Segregated America, 2017

<sup>5</sup> Keeanga-Yamahatta Taylor, Race for Profit: How Banks and the Real Estate Industry Undermine Black Homeownership, 2019; Urban Institute, Exposing Housing Discrimination, <https://www.urban.org/features/exposing-housing-discrimination>

<sup>6</sup> Melvin Oliver and Thomas Shapiro, "Disrupting the Racial Wealth Gap" Sociology for the Public, May 7, 2019; Kilolo Kijakazi, et. al, The Color of Wealth in the Nation's Capital, November 2016.

[https://www.urban.org/sites/default/files/publication/85341/2000986-2-the-color-of-wealth-in-the-nations-capital\\_8.pdf](https://www.urban.org/sites/default/files/publication/85341/2000986-2-the-color-of-wealth-in-the-nations-capital_8.pdf)

<sup>7</sup> The Color of Wealth, figure 6, Comparison of White and Non-White Household Median Net Worth (dollars).

<sup>8</sup> Table S0201, Selected Population Profile in the United States, 2021 American Community Survey 1-Year Estimates, Census Bureau.

<sup>9</sup> DHHS Pulse Report: COVID-19 Impact and Recovery, Montgomery County Department of Health and Human Services, March 22, 2023. <https://www.montgomerycountymd.gov/covid19/Resources/Files/pulse/DHHS-Pulse-230322.pdf>

<sup>10</sup> United States Census. Quick Facts, Montgomery County, Maryland Population Estimates, July 1, 2022 (V2021) <https://www.census.gov/quickfacts/montgomerycountymaryland>

<sup>11</sup> "Point in Time Survey," Montgomery County Interagency Commission on Homelessness, Accessed December 5, 2022. <https://www.montgomerycountymd.gov/homelessness/numbers.html>

<sup>12</sup> Ibid

<sup>13</sup> Montgomery County Planning Department, 2020. Montgomery County Housing Needs Assessment, July. <https://montgomeryplanning.org/wp-content/uploads/2020/07/MoCo-HNA-July-2020.pdf>

<sup>14</sup> Montgomery County Department of Housing and Community Affairs. 2021. Annual Report for Fiscal Year 2020 and 2021, July 1, 2019 – June 30, 2021. <https://www.montgomerycountymd.gov/DHCA/reports.html>

# RESJ Impact Statement

## Zoning Text Amendment 23-02

<sup>15</sup> Ibid

<sup>16</sup> Peter Sabonis and Zachary Murray, Partners for Dignity and Rights, Creating Community Controlled, Deeply Affordable Housing: A Resource Toolkit for Community Activists and Allied Community-Based Housing Developers, Spring 2021

<https://dignityandrights.org/wp-content/uploads/2021/05/PDR-Housing-Report-Final-R2.pdf>

<sup>17</sup> Ibid

<sup>18</sup> The Poverty & Race Research Action Council (PRRAC) is a civil rights law and policy organization based in Washington, D.C. Our mission is to promote research-based advocacy strategies to address structural inequality and disrupt the systems that disadvantage low-income people of color. PRRAC was founded in 1989-1990.

<https://www.prrac.org/vision/>

<sup>19</sup> Grounded Solutions Network supports strong communities from the ground up. The Organization works nationally, connecting local experts with the networks, knowledge, and support they need. Advocates and help to promote affordable housing solutions that lasts for generation. <https://groundedsolutions.org/about-us>

<sup>20</sup> Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

<https://www.montgomerycountymd.gov/COUNCIL/Resources/Files/RacialEquity/Bill27-19.pdf>

## Recently Built and Pipeline Affordable Housing Projects

Project Name	Project Address	Project City	Year Built	Zone**	Market Type	Commercial (Site Plan Approval)
BUSHEY DRIVE/4010 RANDOLPH*	4010 RANDOLPH ROAD	SILVER SPRING		CRN1.0, C0.5, R1.0, H-65	Market	3,500sf
CHURCHILL SENIOR LIVING PHASE III & IV*	21000 FATHER HURLEY BOULEVARD	GERMANTOWN		CRT2.5, C0.25, R2.5, H-90	Senior	3,000sf
ELIZABETH III (THE LEGGETT) *	1315 APPLE AVE	SILVER SPRING		CR-5.0 C-5.0 R-5.0 H-260	Senior	137,148 (cultural) 5,451 (restaurant)
FENTON SILVER SPRING [AKA] 900 THAYER APTS	8240 FENTON STREET	SILVER SPRING	2019	CR-3.0 C-3.0 R-3.0 H-30	Market	15,020sf (retail) 18,200sf (office)
HOMES AT QUAKER LANE	17330 QUAKER LANE	SANDY SPRING	2020	RE-2	Senior	0sf
KNOWLES MANOR	3906-3910 KNOWLES AVENUE	KENSINGTON	2022	CRT-2.5 C-2.0 R-2.0 H75	Senior	0sf
MOMENTUM AT SHADY GROVE	16011 REDLAND ROAD	ROCKVILLE	2019	CRN-1.0 C-0.0 R-1.0 H-65	Market	0sf
MOUNT JEZREEL SENIOR HOUSING/THE SANCTUARY	420/426 UNIVERSITY BLVD EAST	SILVER SPRING	2018	R-60	Senior	34,090sf (church)
NEBEL SREET APARTMENTS*	OLD GEORGETOWN ROAD/NEBEL STREET	NORTH BETHESDA		CR3.0, C1.5, R2.5, H-200 CR4.0, C2.0, R3.5, H-250	Market	0sf
PARK MONTGOMERY WEST*	8860 PINEY BRANCH ROAD	SILVER SPRING		CRTF1.5, C0.0, R1.5, H-140	Market	0sf
PARK VIEW AT ASPEN HILL (POINTE VIEW)	3136 BEL PRE ROAD	ASPEN HILL	2019	RE-2	Senior	6,500sf (addition to church)
RESIDENCES AT FOREST GLEN*	2106 BELVEDERE BLVD	SILVER SPRING		CRTF1.75, C0.25, R1.5, H70	Market	0sf
RESIDENCES AT THAYER AVENUE	814 THAYER AVENUE	SILVER SPRING	2015	CR-1.5 C-1.5 R-1.5 H-70	Market	0sf
SANDY SPRING VILLAGE*	17810 MEETING HOUSE RD	SANDY SPRING		CRN0.75, C0.75, R0.5, H-45	Senior	0sf
SILVER SPRING LIBRARY RESIDENCES (THE BONIFANT)	929 BONIFANT STREET	SILVER SPRING	2016	CR-3.0 C-3.0 R-3.0 H-130	Senior	9,000sf
SLIGO APARTMENTS*	713-719 SLIGO AVE	SILVER SPRING		CRT0.75, C0.75, R0.25, H-35	Market	0sf
ST. ANNE'S EPISCOPAL CHURCH*	25100 RIDGE ROAD	DAMASCUS		R-200	Senior	0sf
THE LAUREATE	8005 GRAMERCY BLVD	DERWOOD	2023	CRT-1.0 C-0.25 R-0.75 H-90	Market	41,828sf (retail) + 6,859 (other) spread out over entre Shady Grove Station - West Side site plan
THE LINDLEY	8405 CHEVY CHASE LAKE TERRACE	CHEVY CHASE	2018	CRT2.0, C0.25, R2.0, H-100	Market	0sf
VICTORY CROSSING	1090 MILESTONE DRIVE	SILVER SPRING	2018	R-90/TDR	Senior	0sf
VICTORY HAVEN	9606 MAIN ST	DAMASUS	2020	CRT 1.0 C-0.5 R-0.5 H-55T	Senior	0sf
WILLOW MANOR AT FAIRLAND	13605 ROBNEY ROAD	FAIRLAND	2020	R-30	Senior	0sf
WOODFIELD COMMONS	26390 WOODFIELD ROAD	DAMASCUS	2019	CRT-1.5 C-0.5 R-1.0 H-55T	Market	0sf

\*Pipeline and/or Under Construction

\*\* ZTA only applicable in Residential Multi-Unit, Commercial/Residential, and Employment Zones

Project Name	Total Units	Total Income Restricted Units	% Restricted	Units <30% AMI	% Under 30% AMI	Units 40 - 60% AMI	Units 60% - 80% AMI	% of MPDUs or DHCA equivalent
BUSHEY DRIVE/4010 RANDOLPH*	168	168	100%	17	10%	151	0	25.0%
CHURCHILL SENIOR LIVING PHASE III & IV*	280							12.9%
ELIZABETH III (THE LEGGETT) *	267	238	89%	106	45%	14	118	15.4%
FENTON SILVER SPRING [AKA] 900 THAYER APTS	124	124	100%	44	35%	40	40	12.9%
HOMES AT QUAKER LANE	80	72	90%	8	11%	64	0	
KNOWLES MANOR	94	94	100%	10	11%	0	84	30.9%
MOMENTUM AT SHADY GROVE	110	110	100%	7	6%	103	0	14.5%
MOUNT JEZREEL SENIOR HOUSING/THE SANCTUARY	75	67	89%	4	6%	63	0	
NEBEL SREET APARTMENTS*	163	163	100%	17	10%	129	17	25.0%
PARK MONTGOMERY WEST*	217 (141 new, 76 existing)	163	75%	80	49%	83	0	15.5%
PARK VIEW AT ASPEN HILL (POINTE VIEW)	120	110	92%	23	21%	87	0	
RESIDENCES AT FOREST GLEN*	189	166	88%	24	14%	142	0	20.0%
RESIDENCES AT THAYER AVENUE	52	42	81%	10	24%	32	0	80.8%
SANDY SPRING VILLAGE*	56	56	100%	0	0%	56	0	12.5%
SILVER SPRING LIBRARY RESIDENCES (THE BONIFANT)	149	139	93%	15	11%	124	10	
SLIGO APARTMENTS*	98	98	100%	35	36%	50	13	24.5%
ST. ANNE'S EPISCOPAL CHURCH*	76	76	100%	5	7%	68	3	
THE LAUREATE	268	80	30%	0	0%	67	13	25.0%
THE LINDLEY	200	80	40%	0	0%	40	40	15.0%
VICTORY CROSSING	105	95	90%	0	0%	95	0	90.5%
VICTORY HAVEN	72	66	92%	3	5%	63	0	15.0%
WILLOW MANOR AT FAIRLAND	121	66	55%	6	9%	60	0	16.5%
WOODFIELD COMMONS	85	75	88%	9	12%	66	0	12.5%

\*Pipeline and/or Under Construction







USE OR USE GROUP	Definitions and Standards	Ag	Residential														Commercial/Residential			Employment				Industrial						
			Rural Residential				Residential Detached								Residential Townhouse			Residential Multi-Unit			CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM	IH
			AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10											
Charitable, Philanthropic Institution	3.4.2	C	C	C	C	C	C	C	C	L/C	L/C							P	P	P	P	C	P	P						
Cultural Institution	3.4.3			L	L	P		P	P	P	P	P	P	P	P	P	P	L	P	P	P		P	P	P	P	P			
DAY CARE FACILITY	3.4.4																													
Family Day Care (Up to 8 Persons)	3.4.4.C	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
Group Day Care (9 - 12 Persons)	3.4.4.D	L	L	L	L	L	L	L	L	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P	P	P	P			
Day Care Center (13 - 30 Persons)	3.4.4.E	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	P	P	P	P	P	P	P	P	P			
Day Care Center (Over 30 Persons)	3.4.4.F	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	L	L	P	P	P	P	P	P	P	P			
Educational Institution (Private)	3.4.5		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	L	P	P	P	P	P	P	P	L	L			
Hospital	3.4.6					C	C	C	C	C	C	C	C	C	C	C	C		L	P	C		P	C	C	C	C			
Playground, Outdoor Area (Private)	3.4.7			P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P					
Private Club, Service Organization	3.4.8	C	C	C	C	C		C	C	C	C	C	C	C	C	C	C	L	P	P	L		P	L	L	L				
Public Use (Except Utilities)	3.4.9	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
Religious Assembly	3.4.10	L	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
Swimming Pool (Community)	3.4.11		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C				C			C						
<b>COMMERCIAL</b>																														
ANIMAL SERVICES	3.5.1																													
Animal Boarding and Care	3.5.1.B	C	C	C	C	C	C	C	C									L	L	L	L	C			L	L				
Veterinary Office/Hospital	3.5.1.C	C	C	C	C	C	C	C	C	C	C							L	L	L	L	L	L		L	L				
COMMUNICATION FACILITY	3.5.2																													
Cable Communications System	3.5.2.A	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	C	C	C	C			
Media Broadcast Tower	3.5.2.B	C	C	C		C	C	C	C	C	C				C	C	C				C		L	C	C	C	P			
Telecommunications Tower	3.5.2.C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L/C	L	L	L	L/C	L/C	L	L/C	L	L	L			
EATING AND DRINKING	3.5.3																													
Country Inn	3.5.3.A		L/C	L/C		L/C		L/C	L/C																					
Restaurant	3.5.3.B																	L	P	P	P	P	P	P	L	L				
FUNERAL AND INTERMENT SERVICES	3.5.4																													
Cemetery	3.5.4.A	C	C	C	C	C																								
Crematory	3.5.4.B																										C			
Funeral Home, Undertaker	3.5.4.C	C				C		C	C	C									L	L	P			C						

Key: P = Permitted Use L = Limited Use C = Conditional Use Blank Cell = Use Not Allowed

USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential		Residential												Commercial/Residential			Employment				Industrial				
					Residential Detached								Residential Townhouse			Residential Multi-Unit												
					AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	CRT	CR	GR	NR	LSC	EOF
Landscape Contractor	3.5.5	C	C	C	C	C	C	C	C																L	P	P	
LODGING	3.5.6																											
Bed and Breakfast	3.5.6.B	L	L	L	L	L	L	L	L	C	C							L	L		L	L						
Hotel, Motel	3.5.6																		P	P	P		P	P				
MEDICAL AND DENTAL	3.5.7																											
Clinic (Up to 4 Medical Practitioners)	3.5.7.A					L	L	L	L/C	L/C	L/C		L	L	L	L	L	L	P	P	P	P	P	P	P	P	P	
Clinic (More than 4 Medical Practitioners)	3.5.7.B					L	L	L	L	L	L	L	L	L	L	L	L	L	L	P	P	P	P	C	P	P	P	
Medical, Dental Laboratory	3.5.7.C																		P	P	P	P		P	P	P	P	
OFFICE AND PROFESSIONAL	3.5.8																											
Life Sciences	3.5.8.A																							P				
Office	3.5.8.B								C	C	C								P	P	P	P	P	L	P	L	L	
Research and Development	3.5.8.C																			P	P	P		P	L	P	P	
Signature Business Headquarters	3.5.8.D																				L							
Biohealth Priority Campus	3.5.8.E																				L		L	L				
PARKING	3.5.9																											
Structured Parking	3.5.9.B																			P	P	P		P	P	P	P	
Surface Parking for Use Allowed in the Zone	3.5.9.C					L	L	L	L	L	L	L					L	L	L	L	L	L	L	L	L	L	L	
Surface Parking for Commercial Uses in an Historic District	3.5.9.D	L	L			L	L	L	L		C	C					C	C	C									
RECREATION AND ENTERTAINMENT	3.5.10																											
Adult Entertainment	3.5.10.A																					L				L	L	
Campground	3.5.10.B		C				C																					
Conference Center	3.5.10.C																		P	P			P	P		C		
Golf Course, Country Club	3.5.10.D		C	C		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C		C				
Health Clubs and Facilities	3.5.10.E																	L	P	P	P	L	P	P	P	P	P	
Recreation and Entertainment Facility, Indoor (Capacity up to 1,000 Persons)	3.5.10.F		C															C	L/C	P	P	C	C	C	C	P	P	C
Recreation and Entertainment Facility, Outdoor (Capacity up to 1,000 Persons)	3.5.10.G		C				C		C									C	C	P	C	C	C		C	C	C	

Key: P = Permitted Use L = Limited Use C = Conditional Use Blank Cell = Use Not Allowed

USE OR USE GROUP	Definitions and Standards	Ag	Residential														Commercial/Residential			Employment				Industrial					
			Rural Residential				Residential Detached						Residential Townhouse			Residential Multi-Unit			CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM	IH	
			AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20											R-10
Recreation and Entertainment Facility, Major (Capacity over 1,000 Persons)	3.5.10.H						C												C	P		C	C	C			C	C	
Shooting Range (Indoor)	3.5.10.I																										C	C	C
Shooting Range (Outdoor)	3.5.10.J	C	C	C																									
<b>RETAIL SALES AND SERVICE</b>	<b>3.5.11</b>																												
Combination Retail	3.5.11.A																			C	C		C	C					
Retail/Service Establishment (Up to 5,000 SF)	3.5.11.B																L		P	P	P	P	P	L	L	L	L	L	L
Retail/Service Establishment (5,001 - 15,000 SF)	3.5.11.B																L		L	P	P	P	P	L	L	L	L	L	L
Retail/Service Establishment (15,001 - 50,000 SF)	3.5.11.B																		L	P	P	P	P	L	L	L	L	L	L
Retail/Service Establishment (50,001 - 85,000 SF)	3.5.11.B																			L	L	P	P			L	L	L	L
Retail/Service Establishment (85,001-120,000 SF)	3.5.11.B																			L	L	L	L			L	L	L	L
Retail/Service Establishment (120,001 SF and Over)	3.5.11.B																			L	L	C	C			L	L	L	L
Rural Antique Shop	3.5.11.C	C	C	C	C	C		C	C																				
Rural Country Market	3.5.11.D	C	C	C	C	C	C	C	C																				
Vape Shop	3.5.11.E																			L	L	L	L	L	L	L	L	L	L
<b>VEHICLE/EQUIPMENT SALES AND RENTAL</b>	<b>3.5.12</b>																												
Heavy Vehicle Sales and Rental	3.5.12.A																											P	P
Light Vehicle Sales and Rental (Indoor)	3.5.12.B																			L	P	P	L		L	P	P		
Light Vehicle Sales and Rental (Outdoor)	3.5.12.C																			L	P	L	C		L	P	P		
<b>VEHICLE SERVICE</b>	<b>3.5.13</b>																												
Automobile Storage Lot	3.5.13.A																									C			
Car Wash	3.5.13.B																			C							L	L	L
Filling Station	3.5.13.C																			C	C	C	C	C	C	C	C	C	
Repair (Commercial Vehicle)	3.5.13.D																										P	P	P
Repair (Major)	3.5.13.E																			C	C	L		C	L	P	P	P	P
Repair (Minor)	3.5.13.F																			L	L	L	C	C	L	P	P	P	P

**Key:** P = Permitted Use L = Limited Use C = Conditional Use Blank Cell = Use Not Allowed

USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential		Residential												Commercial/Residential			Employment				Industrial				
					Residential Detached								Residential Townhouse			Residential Multi-Unit												
					AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	CRT	CR	GR	NR	LSC	EOF
ACCESSORY COMMERCIAL USES	3.5.14																											
Amateur Radio Facility (Up to 65 Feet in Height)	3.5.14.A	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Amateur Radio Facility (Over 65 Feet in Height)	3.5.14.B	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Antenna on Existing Structure	3.5.14.C	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Commercial Kitchen	3.5.14.D									L	L																	
Drive-Thru	3.5.14.E																		L/C	L/C	L/C	L/C		L/C	L/C	L/C	L/C	L/C
Helistop	3.5.14.F																				C		C	C	C	C	C	C
Lawn Maintenance Service	3.5.14.G	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Live/Work Unit	3.5.14.H																	P	P	P	P	P	P	P	P	P	P	P
TEMPORARY COMMERCIAL USES	3.5.15																											
Construction Administration or Sales Office	3.5.15.A	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Special Event Parking	3.5.15.B					L			L																			
Transitory Use	3.5.15.C	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
<b>INDUSTRIAL</b>																												
Animal Research Facility	3.6.1																						P					
Contractor Storage Yard	3.6.2																									L	P	
Dry Cleaning Facility (Up to 3,000 SF)	3.6.3.A																		L	L	L	L	L		P	P	P	
Dry Cleaning Facility (Over 3,000 SF)	3.6.3.B																								P	P	P	
MANUFACTURING AND PRODUCTION	3.6.4																											
Artisan Manufacturing and Production	3.6.4.A																	P	P	P					P	P		
Heavy Manufacturing and Production	3.6.4.B																										P	
Light Manufacturing and Production	3.6.4.C																	L	L	L				L	P	P	P	
Medical/Scientific Manufacturing and Production	3.6.4.D																		L	P			P	P	P	P		
Mining, Excavation	3.6.5	C	C	C					L/C																		P	

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USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential		Residential												Commercial/Residential			Employment				Industrial					
					Residential Detached								Residential Townhouse			Residential Multi-Unit													
			AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM	IH
TRANSPORTATION	3.6.6																												
Bus, Rail Terminal/Station	3.6.6.A																		L	L	P	P	L	P	P	P	P	P	
Helipad, Heliport	3.6.6.B																				C		C	C	C	C	C	C	
Railroad Tracks	3.6.6.C	P	P	P		P		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Taxi/Limo Facility	3.6.6.D																		L	L	P	P	L			P	P		
UTILITIES	3.6.7																												
Distribution Line (Above Ground)	3.6.7.A	P	P	P	P	L	L	L	L	L	L	L				P	P	P		L	L	P		P	L	P	P	P	
Distribution Line (Below Ground)	3.6.7.B	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Pipeline (Above Ground)	3.6.7.C	C	C	C		C		C	C	C	C	C				C	C	C	C	C	C	P		P	P	C	P	P	
Pipeline (Below Ground)	3.6.7.D	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Public Utility Structure	3.6.7.E	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	L	L	C	C	P	C	C	C	C	C	
WAREHOUSE	3.6.8																												
Freight Movement	3.6.8.A																									P	P	P	
Hazardous Material Storage	3.6.8.B																												
Mineral Storage	3.6.8.C																								L	L	P		
Self-Storage	3.6.8.D																		C	L	L					P	P		
Storage Facility	3.6.8.E																		L	L	L			L	P	P	P		
WASTE-RELATED	3.6.9																												
Landfill, Incinerator, or Transfer Station	3.6.9.A																											C	
Recycling Collection and Processing	3.6.9.B																								L	L	P		
<b>MISCELLANEOUS</b>																													
Noncommercial Kennel	3.7.1	P	P	P	P	P	P	P	P	L	L	L																	
Solar Collection System	3.7.2	L/C	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	
Wildlife, Game Preserve, and Other Conservation Areas	3.7.3	P	P	P																									
ACCESSORY MISCELLANEOUS USES	3.7.4																												
Accessory Structures	3.7.4.A	L	L	L	L	L	L	L	L	L	L	L	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Accessory Use	3.7.4.B	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Security Pavilion	3.7.4.C	L	L	L	L	L		L	L																				

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§ 59.3.1.6

(Legislative History: Ord. No. 18-02, § 1; Ord. No. 18-05, § 1; Ord. No. 18-08, § 2; Ord. No. 18-09, § 1; Ord. No. 18-13, § 1; Ord. No. 18-35, § 1; Ord. No. 18-39, § 2; Ord. No. 18-44, § 1; Ord. No. 18-45, § 2; Ord. No. 18-30, § 2; Ord. No. 18-51, § 2; Ord. No. 18-53, § 1; Ord. No. 19-03, § 1; Ord. No. 19-04, § 1; Ord. No. 19-05, § 1; Ord. No. 19-07, § 1; Ord. No. 19-06, § 2; Ord. No. 19-10, § 2; Ord. No. 19-14, § 1; Ord. No. 19-17, § 1; Ord. No. 19-27, § 2; Ord. No. 19-32, § 1.)



TO: County Council  
FROM: Livhu Ndou, Legislative Attorney  
DATE: July 12, 2023  
SUBJECT: Zoning Text Amendment (ZTA) 23-02, Regulatory Approvals - Mixed-Use Housing Community / Subdivision Regulation Amendment (SRA) 23-01, Administrative Subdivision - Mixed-Use Housing Community

---

Councilmember Jawando proposes the following amendments:

- Require non-residential uses in the CR and Employment family of zones
- Make non-residential uses optional in the Residential Multi-Unit zones
- Clarify that the applicant must provide spaces for the non-residential uses, not the uses itself

**Section 3.3.4. Mixed-Use Housing Community**

**A. Defined**

Mixed-Use Housing Community means at least 150,000 square feet of new [[commercial and residential]] floor area containing Multi-Unit Living under Section 3.3.1.E. [[and]] In Commercial/Residential and Employment zones, a Mixed-Use Housing Community must contain space for at least 2 [[commercial]] non-residential uses allowed in the underlying zone. In Residential Multi-Unit zones, a Mixed-Use Housing Community may contain space for non-residential uses allowed in the underlying zone.

- Allow an applicant to waive the commercial requirement in the Commercial/Residential and Employment zones under certain circumstances
4. [[The Planning Board may grant a waiver of the [[commercial use]] non-residential space requirement]] Non-residential space is not required in the Commercial/Residential or Employment zones if:
- a. the maximum residential density allowed is used; [[and]]
  - b. the project is located within ¼ mile of existing non-residential uses; and
  - c. ground floors are constructed with a floor-to-floor height of at least 15 feet and internal structural systems can accommodate various types of use with only minor modifications.

[[b. the commercial space requirement would result in particular or unusual practical difficulty, exceptional or undue hardship, or significant economic burden.]]



**DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

Marc Elrich  
County Executive

Scott Bruton  
Acting Director

May 16, 2023

**To: Montgomery County Leasing Managers**  
**From: Somer Cross, Manager Affordable Housing Programs Section**  
**Subject: Update on Maximum Income Limits for 2023**

**Maximum Household Income  
To be Eligible for MPDU Rental**

Maximum rental incomes for Moderately Priced Dwelling Unit (MPDU) participants are updated annually when the Department of Housing and Urban Development publishes new Area Median Income (AMI) information. The new AMI rates were published yesterday, and the resulting MPDU maximum incomes are listed below. Please email the MPDU Rental inbox if you have any questions about these new figures – MPDU.Rentals@montgomerycountymd.gov.

**Income Limits:** Total household income must not exceed the current maximum income limits shown below:

Household Size	Garden Apartments		High Rise Apartments (5 stories or more)	
	New Tenants	Renewing Tenants	New Tenants	Renewing Tenants
	Maximum Household Income*	130% of Maximum Household Income**	Maximum Household Income*	130% of Maximum Household Income**
1	\$69,000	\$89,700	\$74,500	\$96,850
2	\$79,000	\$102,700	\$85,000	\$110,500
3	\$89,000	\$115,700	\$96,000	\$124,800
4	\$99,000	\$128,700	\$106,500	\$138,450
5	\$107,000	\$139,100	\$115,000	\$149,500
6	\$114,500	\$148,850	\$123,500	\$160,550

\* Gross annual income from all current sources for all wage earners in the household

\*\* For existing, previously income qualified tenants whose incomes have increased

Affordable Housing                      **Division of Housing**                      Landlord Tenant Affairs                      Multifamily Housing

1401 Rockville Pike, 4th Floor • Rockville, Maryland 20852 • 240-777-0311 • 240-777-3691 FAX • www.montgomerycountymd.gov/dhca





# **MONTGOMERY COUNTY MIXED-USE DEVELOPMENT STUDY**

Summary of Findings  
July 2021

# PROJECT OVERVIEW

HR&A was engaged by the Maryland-National Capital Park and Planning Commission (MNCPPC) Montgomery Planning Department to study mixed-use properties developed in the county in the last decade. This study is intended to develop a comprehensive understanding of existing mixed-use assets and advance recommendations to support a vibrant portfolio of complex mixed-use properties.

This report includes the following sections:

## **I. Executive Summary**

## **II. Overview of Mixed-Use Development in Montgomery County Since 2010**

- HR&A analyzed existing and pipeline mixed-use properties in Montgomery County, exploring trends in retail performance and types of mixed-use. HR&A used the results of this review to develop criteria for successful future mixed-used developments in Montgomery County.

## **III. Comparison of Mixed-Use Development Policies**

- Based on a review of case studies, HR&A reviewed the implications for Montgomery County and how MNCPPC policies could further encourage mixed-use, especially transit-oriented development and more complex forms of mixed-use development.

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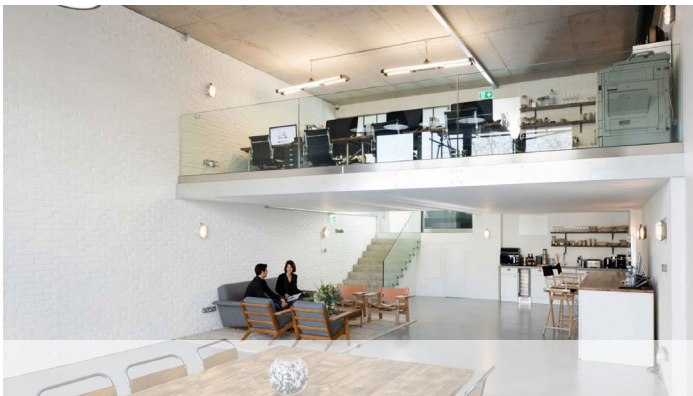
# I. Executive Summary

# EXECUTIVE SUMMARY | Definition

**How do we define mixed-use?** Typically, a project that provides more than one use or purpose within a shared building - housing, office, retail, commercial, recreational, or another use - is considered “mixed-use.” **Traditional mixed-use projects typically have a single primary use paired with ground floor retail.**

**Emerging mixed-use typologies** differ from the primary use/ground floor retail model, often **pairing a typical primary use with a non-retail co-primary, secondary or tertiary use.** Examples of atypical mixed-use include office buildings paired with industrial makerspaces, senior living communities with assisted living services, live-work developments, urban agriculture on building rooftops, and gallery spaces with attached studios.

## Emerging Mixed-Use Typologies:



Examples from left to right: Canalside Studio (San Francisco, CA), Open Works (Baltimore, MD), Up Top Acres (Washington, D.C.)



# EXECUTIVE SUMMARY | Introduction

## Increasing Success of Mixed-Use Development

1. Mixed-use development is a major source of Montgomery County's growth, **constituting nearly half of new commercial and multifamily development** in the county since 2010.
2. Mixed-use development is steadily **growing as a share of total development**, with pipeline projects even more weighted toward mixed-use development than recent development.

## Common Mixed-Use Characteristics

3. Mixed-use buildings are predominantly **anchored by residential**, followed by office, with **ground floor retail generally as the secondary use**.
4. Mixed-use is mainly developed in **already existing commercial nodes** near transit and highly walkable areas, particularly in Bethesda, Rockville, Silver Spring, and the county's other largest communities.

5. Mixed-use projects are **mostly mid-rise** (4-14 floors), with high-rise product mostly limited to Bethesda and Silver Spring.

## Common Mixed-Use Success Factors

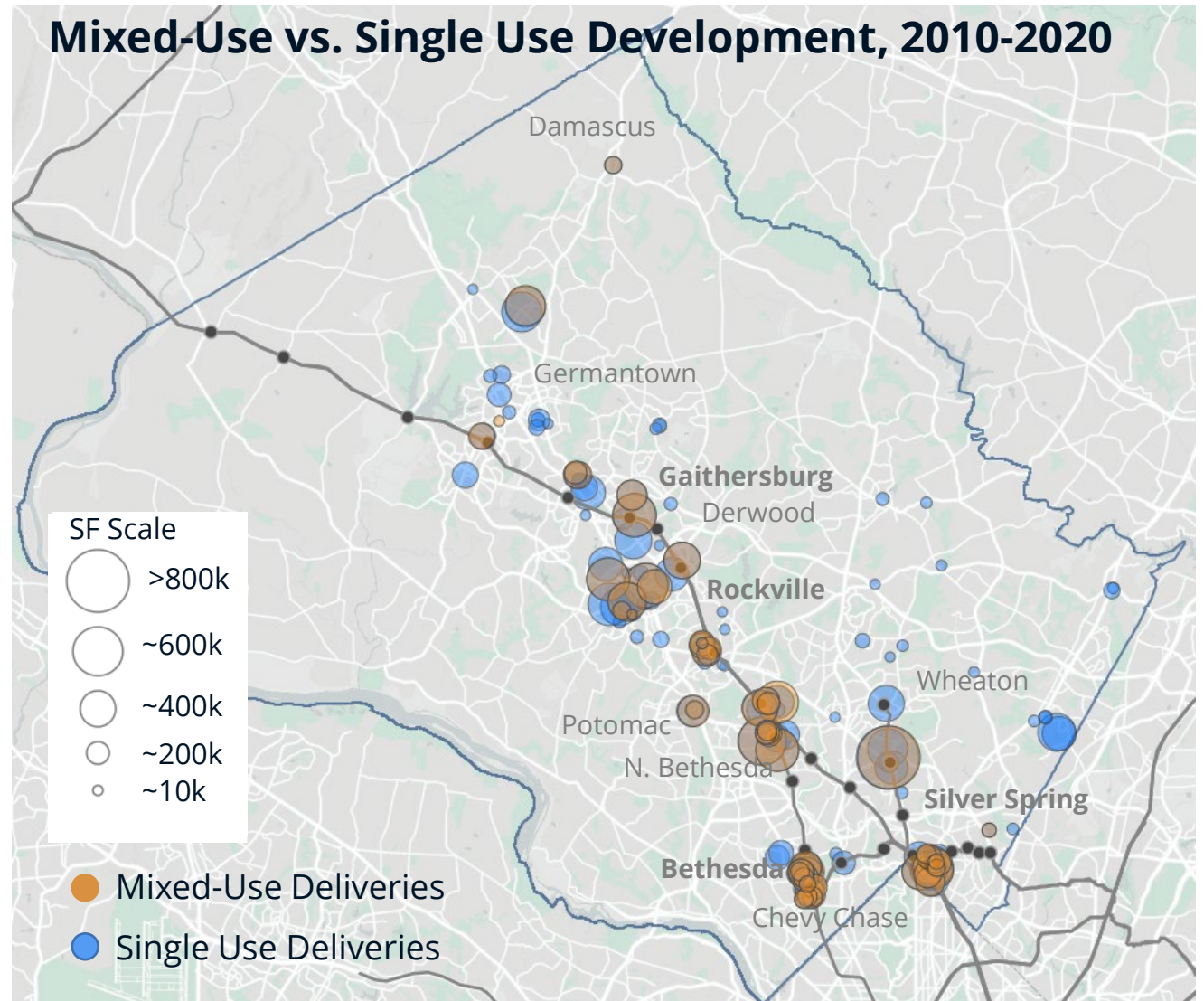
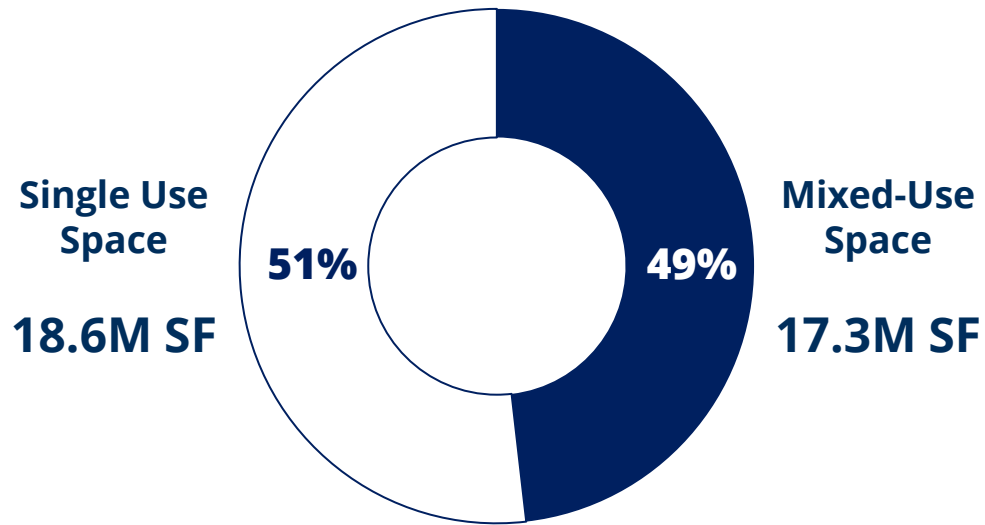
6. Mixed-use development can succeed both by **adding to adjacent authentic/older neighborhoods** and by using **good design and an appealing streetscape** to attract shoppers, workers and residents to a new place.
7. Larger **down-county communities and communities adjacent to rail transit** tend to have **more successful mixed-use projects**, as measured by convenience, walkability and sustainability.
8. Ground floor retail that is **within or adjacent to already-vibrant areas** is much **better positioned for success** than ground floor retail that is more isolated from pedestrians and other retailers or adjacent to major roadways, vacant land or parking.

# EXECUTIVE SUMMARY | Development Overview

Commercial and multifamily development built since 2010 has been split across mixed-use and single use development, with single use developments having a slightly larger share of total development.

## 35.9 Million SF (2010-2020)

Total Multifamily, Retail, Office, and Hospitality Space Delivered Since 2010\*

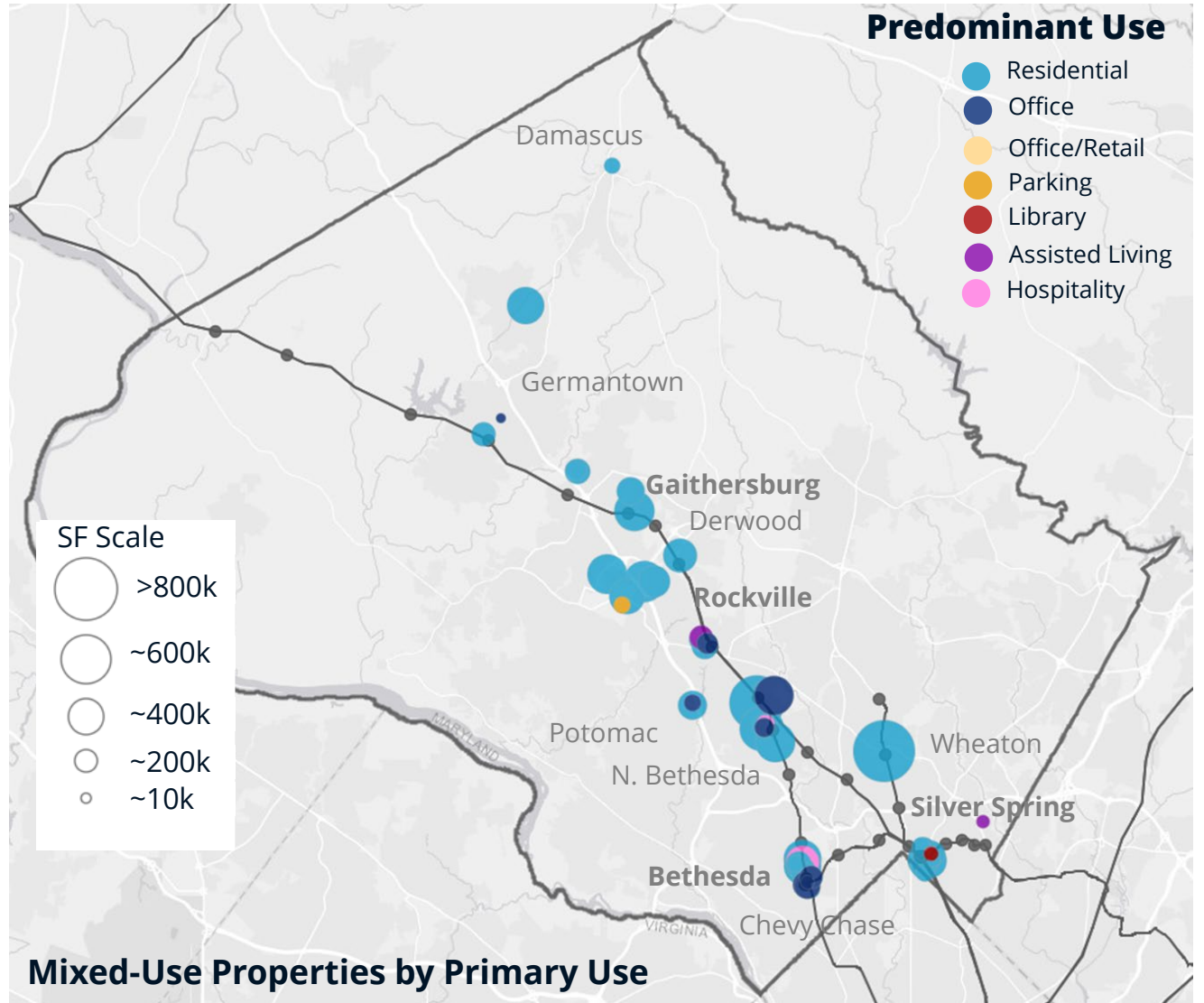
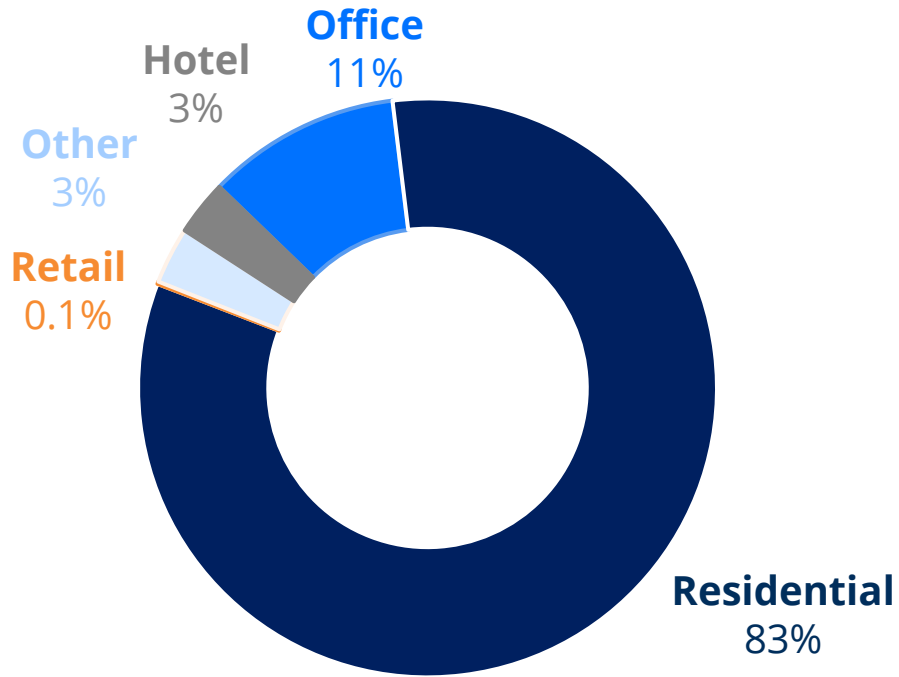


\*Excludes pipeline development projects

# EXECUTIVE SUMMARY | Primary Uses

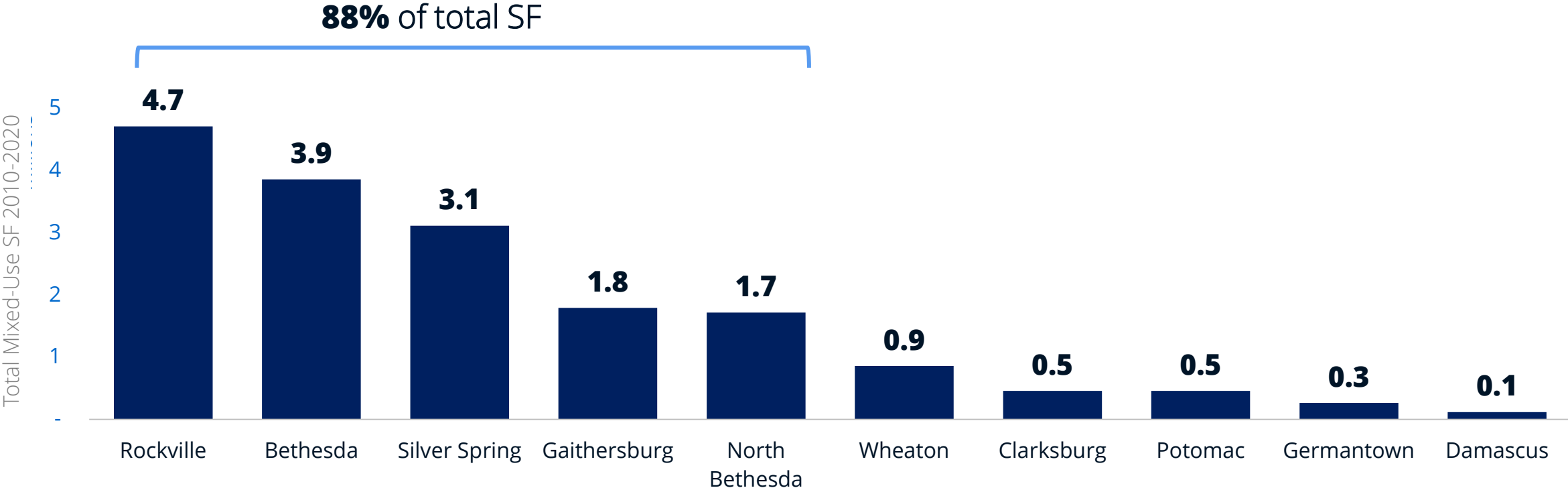
Primary uses within the 61 recent mixed-use projects are **most often residential or office, with retail as the secondary use.**

### Share of SF of Mixed-Use Development 2010-2020 by Primary Use



# EXECUTIVE SUMMARY | Development by Community

Somewhat unsurprisingly, **mixed-use development has been concentrated in the County's most urban areas**, with the vast majority of built square footage located in the five largest communities.

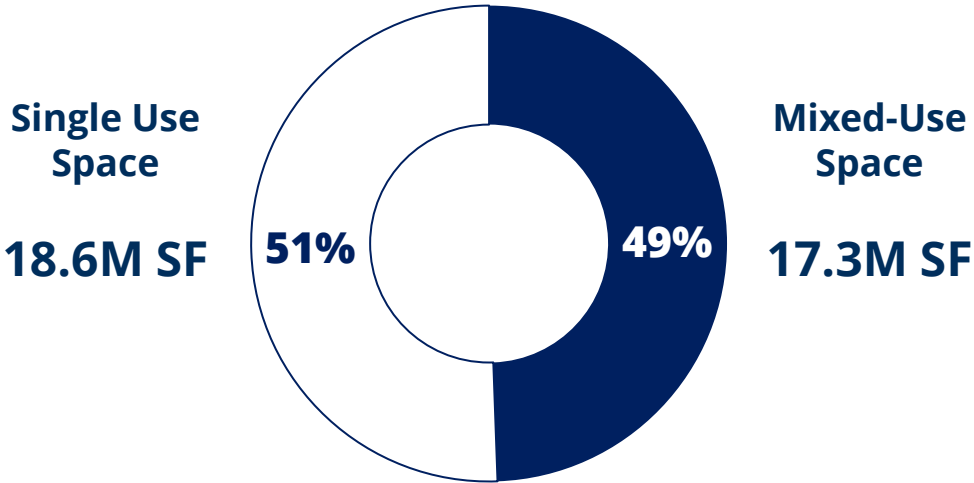


# EXECUTIVE SUMMARY | Development Overview – Recent vs. Pipeline

**Pipeline development**, if fully completed, would **double the amount of both mixed-use and single-use commercial and multifamily square footage in Montgomery County**. Pipeline figures include both projects currently under construction and projects in planning, some of which many not be realized for a long time, if ever. **Pipeline buildings are expected to be mostly mixed-use**, in line with trends from the past decade.

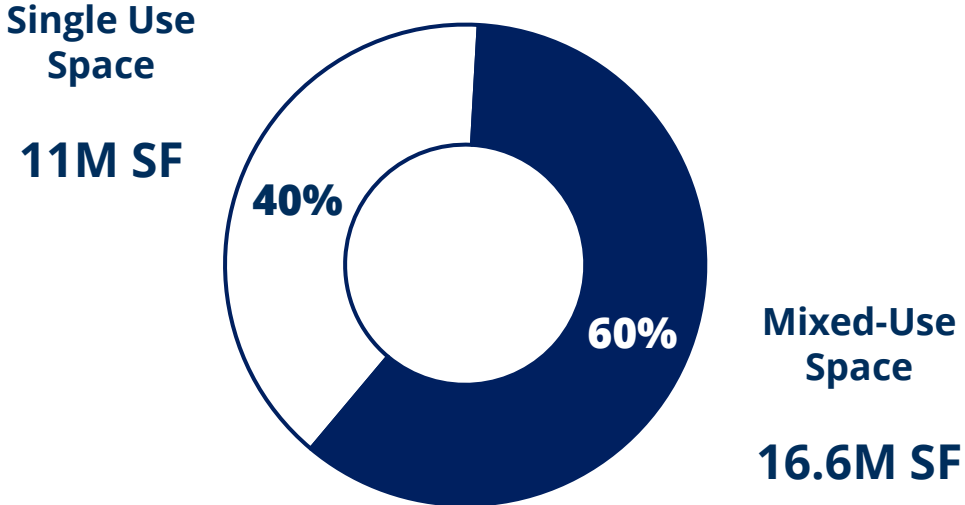
## 35.9 Million SF (2010-2020)

Total Multifamily, Retail, Office, and Hospitality Space Delivered Since 2010\*



## 27.7 Million SF (2021+)

Total Known Multifamily, Retail, Office, and Hospitality Space in the Pipeline\*\*



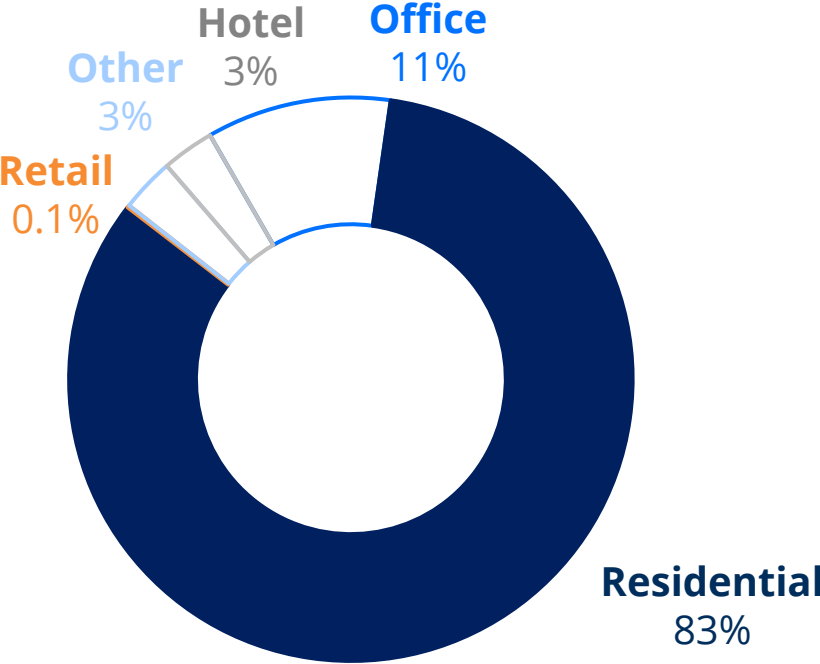
\*Excludes pipeline development projects

\*\*Excludes projects for which a category could not be determined and 6.2M square feet of space whose use is still to be determined

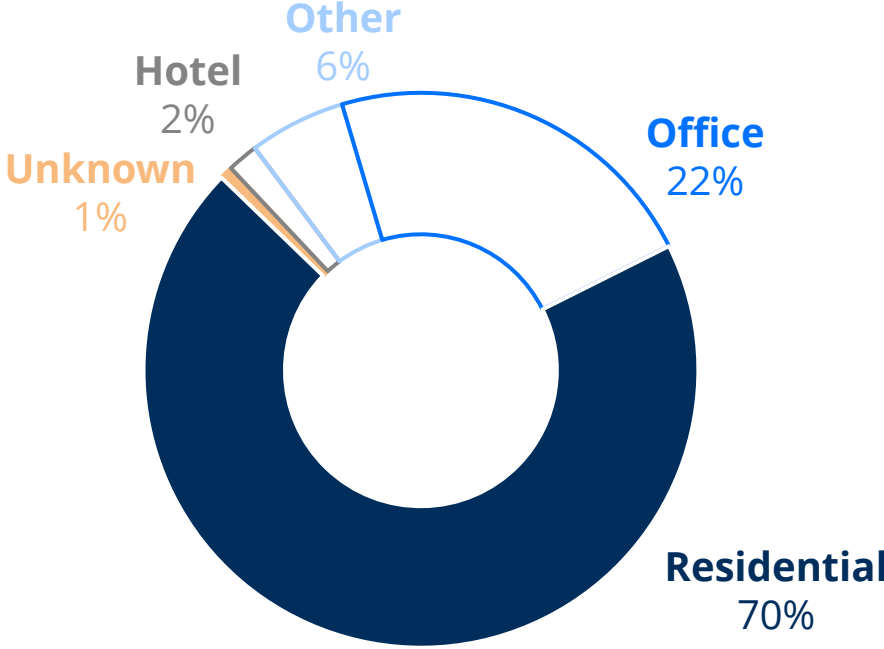
# EXECUTIVE SUMMARY | Primary Uses – Recent Development vs. Pipeline

Pending mixed-use projects are **overwhelming multifamily-anchored**, as was the case for recently built projects. The **share of office-anchored projects in the pipeline is slightly higher** than the share of office-anchored mixed-use square footage delivered during the past decade.

### Share of SF of Mixed-Use Development 2010-2020 by Primary Use



### Share of SF of Mixed-Use Development in the Pipeline by Primary Use



# EXECUTIVE SUMMARY | Ground Floor Retail

Ground floor retail typically thrives in already vibrant areas with substantial foot traffic. As such, a blanket requirement for ground floor retail could result in poor outcomes. The County should consider all types of mixed-use development, including buildings with a variety of ground floor uses.

## Drivers of Success and Failure

- **Mixed-use buildings** within or adjacent to **already-vibrant areas** are much better positioned for **successful ground floor retail**.
- Within vibrant areas, **fronting on quiet back-streets can harm retail prospects** even if vibrant corridors are around the corner.
- **Large, vacant areas and parking lots serve as major impediments** to connectivity and customer attraction and hamper the success of ground-floor retail.
- It is **hard** to make **walkable retail typologies** work on **major auto thoroughfares** that are not comfortably walkable.
- Ground floor retail is frequently **underwritten with very conservative assumptions**, which can have negative implications for project financing.
- Vacant ground floor retail is a **“negative amenity”** that harms other uses within a mixed-use project.

## Policy Considerations

- A **blanket retail requirement** for all types of developers may lead to **poor outcomes** in certain locations (e.g. vacancy) – especially among developers who don’t know retail.
- **Retail** may increasingly act as a **demand driver for residential** – policies should keep this in mind.

## Post-COVID trends and observations

- **Retail** is likely to struggle in broad terms, in line with a pronounced national downturn in the sector. A number of retailers and restaurateurs are likely to go out of business and it may take a long time to fill spaces vacated during the pandemic.
- The pandemic may open up opportunities for more **daytime retail in residential neighborhoods**.
- Increased comfort with remote work may increase the demand for **alternative working spaces** outside the home (e.g. **coffee shops** near housing) post-COVID.

# EXECUTIVE SUMMARY | Policy Comparison vs. Case Studies

Comprehensive and Sector Plans drive growth and are often used to concentrate density in specific areas, usually near transit, where mixed-use development is most likely to occur.

## Best Practices from Case Studies

**Other jurisdictions tend to rely on a combination of more frequent plan updates and site-specific approvals to accommodate shifts in developer demands or policy.**

- Fairfax County's Comprehensive Plan outlines the county's goals and focuses for development across the county, with explicit development plans for Community Revitalization Districts. The Comprehensive Plan is regularly updated and tied to updates to the zoning code.
- In Arlington, Sector Plans identify affordable housing, open space, and historic preservation goals, and specify additional density bonuses to incentivize those goals, but these plans are non-binding.
- Bellevue updates Plans as-needed in high growth areas. For example, light rail is opening in 2023, so the City is redoing planning around station areas to take advantage of those investments.
- Prince George's County adopted a new zoning ordinance as a part of the construction of the Purple Line, which emphasizes the need for high-density, mixed-use developments at the transit stations, and along existing commercial corridors like the Takoma/Langley Crossroads.

### Comprehensive & Sector Plans



# EXECUTIVE SUMMARY | Policy Comparison vs. Case Studies

## Best Practices from Case Studies

### Comprehensive & Sector Plans

- In New York City, Special Zoning districts are used to apply additional zoning requirements to developments that are not otherwise stipulated in the Zoning Resolution. In Hudson Square, this Special Zoning district allows for residential, commercial, and community facility development despite the underlying manufacturing zone. Special Districts allow for flexibility in zoning and development, without requiring a full update to the Zoning Resolution.
- Planned Unit Developments (PUD) are utilized in Washington, D.C., to provide zoning relief. If the DC Zoning Commission believes a project will provide substantial community benefits, it can grant the relief. This process also allows for the community to engage and influence the project in a substantial way, including increasing affordable housing, streetscaping, or requiring additional community benefits.

## Implications for Montgomery County

Montgomery County recently drafted the Thrive Montgomery 2050 to update the 1993 General Plan. The County's Sector Plans and Master Plans for smaller areas, which help drive growth in certain areas, are updated more frequently than the General Plan. In future years, the County could consider more frequent Sector Plan updates on a proactive basis in line with changes in market conditions, transit, etc. in certain neighborhoods and/or additional zoning and density flexibility in Sector Plans to allow for changing conditions over time.

# EXECUTIVE SUMMARY | Policy Comparison vs. Case Studies

Land use requirements and the development review process can drive mixed-use development by encouraging projects that align with market demand, in terms of density and building typology.

## Best Practices from Case Studies

**A review process that offers developers a mix of certainty and flexibility encourages development that aligns with market demand.**

### Land Use

- Arlington has a discretionary review process for re-zoning. While this can be time consuming, especially if the development was not originally in the city's plan, it offers greater flexibility for developers and calibrates to market demand.
- Bellevue has a mix of requirements and discretionary items in the review process, which offers developers both certainty and flexibility when needed.
- Portland, OR allows for more housing units in areas zoned as single-family residential, to encourage a boost in housing supply through the Residential Infill Project.

## Implications for Montgomery County

Currently, Montgomery County allows some discretion throughout the review process through the point-based incentive system. Adoption of a discretionary review process more in line with Arlington and Bellevue could allow a greater degree of flexibility, but might offer less certainty to developers. Additionally, flexibility in density standards, particularly in residential zones, can provide more opportunities for mixed-use development.

# EXECUTIVE SUMMARY | Policy Comparison vs. Case Studies

The amenities in walkable, urban areas – such as those offered by and near mixed-use buildings – should be accessible to all residents.

## Best Practices from Case Studies

### Affordable Housing

**Other jurisdictions have put programs in place that offer incentives in return for building affordable housing units.**

- Los Angeles’ incentive programs allow for additional height and reduce parking minimums if developers include affordable housing within their development.
- Fairfax County mandates a 12% share of affordable housing for the subset of projects that require greater density or a rezoning, lower than Montgomery County’s 12.5-15% target.
- Loudoun County’s Inclusionary Zoning policy encourages deeply affordable units by applying incentives to units affordable to households earning between 30% and 50% of AMI, and Portland, OR’s Residential Infill Project, which allows more units in areas zoned as single family residential in order to boost affordable housing supply.

## Implications for Montgomery County

While the County already generates relatively high affordable unit production compared to the case study areas, there is still a desire to do better. As noted in the Thrive 2050 Plan, there is inadequate housing production and supply compared to the need. Montgomery could explore the viability of policy options that use incentives to further encourage affordable units in a greater variety of locations and serving a wider range of households.

# EXECUTIVE SUMMARY | Policy Comparison vs. Case Studies

Design guidelines contribute to a mixed-use environment by encouraging a sense of place and greater neighborhood connectivity.

## Best Practices from Case Studies

<p><u>Design Standards</u></p>	<p><b>Design guidelines that are grounded in creating a walkable, urban areas can cultivate environments that attract mixed-use development.</b></p> <ul style="list-style-type: none"><li>• Arlington uses “Smart Growth” principles to drive design guidelines.</li><li>• Bellevue has a mix of required and negotiable design guidelines, allowing the City to prioritize their guidelines and ensuring that developers comply with design preferences that are considered a top priority.</li><li>• Fairfax County has Urban Design Guidelines that provide in-depth descriptions and options for what the County envisions for the Community Revitalization Districts.</li></ul>
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## Implications for Montgomery County

Compliance with many of the County’s design guidelines falls under the “optional method” of development, potentially allowing developers to consider choosing between certain County urban design goals and other public benefits. Montgomery County could consider altering its optional method process to make certain high-priority design goals mandatory, regardless of which public benefits developers choose to provide.

# EXECUTIVE SUMMARY | Policy Comparison vs. Case Studies

Open space enhances a mixed-use environment by encouraging a more comfortable transition between indoors and outdoors, which strengthens the viability of ground floor uses.

## Best Practices from Case Studies

<p><u>Open Space</u></p>	<p><b>Other jurisdictions tend to require some public space in mixed-use districts, or in exchange for the density needed to develop a mixed-use building.</b></p> <ul style="list-style-type: none"><li>• Downtown Bellevue allows additional building height if 10% of ground floor is public space.</li><li>• In many mixed-use districts in Arlington, a minimum of 10% of the total site area is required to be landscaped open space.</li></ul>
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## Implications for Montgomery County

Montgomery County’s public space requirements are equal to those in other jurisdictions. Developers can generate points for going above the minimum open space requirements, but they also may choose to focus on other public benefits instead.

# EXECUTIVE SUMMARY | Policy Comparison vs. Case Studies

Montgomery County’s parking requirements are comparable or slightly lower than those of other suburban jurisdictions in the region, depending on the use and location.

Jurisdiction	Base Parking Requirement	Additional Details
Montgomery County	<ul style="list-style-type: none"> <li>• <b>Residential:</b> Minimum <b>1 space</b> per unit</li> <li>• <b>Retail:</b> Minimum <b>3.5 spaces</b> per 1,000 SF of Gross Leasable Area</li> <li>• <b>Office:</b> Minimum <b>2 spaces</b> per 1,000 Gross Floor Area</li> </ul>	<ul style="list-style-type: none"> <li>• In CR zones, up to 10 points for providing fewer than the maximum allowed number of parking spaces.</li> </ul>
Arlington	<ul style="list-style-type: none"> <li>• <b>Residential:</b> Minimum <b>1 space</b> per unit</li> <li>• <b>Commercial:</b> Minimum <b>1 space</b> per 300-580 SF</li> </ul>	<ul style="list-style-type: none"> <li>• In some mixed-use districts, no parking is required for the first 5,000 SF of commercial floor area.</li> <li>• Open for negotiation in site planning process.</li> </ul>
Fairfax County	<ul style="list-style-type: none"> <li>• <b>Residential:</b> <b>1.3 – 1.6 spaces</b> per unit depending on number of bedrooms or distance from Metro Stations.</li> <li>• <b>Retail:</b> <b>1 space</b> per 200 SF of Net Floor Area for the first 1,000 SF &amp; <b>6 spaces</b> for each additional 1,000 SF. Requirement reduced by 20% near Metro Stations.</li> <li>• <b>Office:</b> <b>2 spaces</b> per 1,000 SF for buildings within 0.25 mile of Metro Stations, otherwise <b>2.3 – 3.6 spaces</b> per 1,000 SF</li> </ul>	<ul style="list-style-type: none"> <li>• Parking requirements were updated in 2018 to lower development costs and avoid overparking.</li> </ul>

# EXECUTIVE SUMMARY | Policy Comparison vs. Case Studies

Jurisdictions elsewhere in the country are experimenting with lower parking ratios or even market-driven parking regulations.

Jurisdiction	Base Parking Requirement	Additional Details
Bellevue, WA (Downtown)	<ul style="list-style-type: none"> <li>• <b>Residential:</b> Minimum <b>0 -1.0 spaces</b> per 1,000 NSF depending on zoning</li> <li>• <b>Retail:</b> Minimum <b>3.3 – 4.0 spaces</b> per 1,000 NSF depending on zoning</li> <li>• <b>Office:</b> Minimum <b>2 – 2.7 spaces</b> per 1,000 NSF depending on zoning</li> </ul>	<ul style="list-style-type: none"> <li>• In some areas, the City allows a market driven approach to parking.</li> </ul>
Los Angeles, CA	<ul style="list-style-type: none"> <li>• <b>Residential:</b> Minimum <b>1 – 2 spaces</b> per unit depending on number of bedrooms</li> <li>• <b>Office:</b> Minimum <b>1 space</b> per 400 SF</li> <li>• <b>Retail:</b> Minimum <b>1 space</b> per 250 SF</li> </ul>	<ul style="list-style-type: none"> <li>• Los Angeles has begun to explore policies that reduce parking minimums to encourage more density.</li> </ul>

# EXECUTIVE SUMMARY | Regional Competitiveness Comparison

Local jurisdictions can offer favorable conditions relating to talent acquisition, tax incentives, and accessibility, all of which contribute to attracting the principal anchor uses of mixed-use buildings, office and residential. The County is in a strong position to attract an increasing share of the region’s residential demand, particularly in areas with more amenities and access to the Metro.

## ATTRACTING RESIDENTIAL DEMAND *(Higher, mid, and lower assessments are relative to the region)*

	Montgomery County	Northern Virginia	DC
Housing Costs →	<b>Mid:</b> \$1,765 Median Rent 2019	<b>Higher:</b> \$1,880 Median Rent 2019*	<b>Lower:</b> \$1,541 Median Rent 2019
	<b>Lower:</b> \$485k Median Home Value 2019	<b>Mid:</b> \$566k Median Home Value 2019*	<b>Higher:</b> \$602k Median Home Value 2019
Public Schools →	<b>Stronger:</b> Good public schools (A rating on Niche)	<b>Stronger:</b> Good public schools (A rating on Niche)	<b>Weaker:</b> Average public schools (B- rating on Niche)
Accessibility to Jobs and Amenities →	<b>Mid:</b> 13 Metro Stops and 0 Transfer Stations. Further from regional airports	<b>Higher:</b> 30 Metro Stops, 4 Transfer Stations, and 2 Airports	<b>Higher:</b> 40 Metro Stops and 5 Transfer Stations Accessible to DCA without transfer

\*Northern Virginia includes Arlington, Fairfax County, Loudoun County, and Alexandria. Housing costs are approximate.



# EXECUTIVE SUMMARY | Regional Competitiveness Comparison

Northern Virginia captures an outsized share of the region’s office demand due to the jurisdiction’s economic anchors and regulatory environment, making it less expensive for businesses to locate there. Additionally, the area has created an industry hub around tech. Rather than competition for larger office tenants, the County could leverage shifts in demand due to the pandemic and offer more flexible, co-working office spaces.

## ATTRACTING OFFICE DEMAND *(High, mid, low assessments are relative to the region)*

	Montgomery County	Northern Virginia	DC
Tax Incentives →	<b>Limited:</b> Tax incentives focused on target industries	<b>Strong:</b> Range of tax incentives that are workforce-oriented	<b>Limited:</b> Focused on small businesses & inclusive growth
Financing and Grants →	<b>Strong:</b> Range of financing and grants available	<b>Strong:</b> Variety of financing and grants available to businesses	<b>Limited:</b> Focused on small businesses & inclusive growth
Commercial Property Tax Rate →	<b>Mid:</b> \$1.20 per \$100 in value in 2019	<b>Low:</b> \$1.02 - \$1.15 per \$100 in value in 2019	<b>High:</b> Up to \$1.89 per \$100 in value in 2019
Accessibility to Industry Hubs and Transportation	<b>Mid:</b> 13 metro stops and 0 transfer stations. Further from airports. Hub for life science industry (NIH).	<b>High:</b> 30 metro stops, 4 transfer stations, and 2 airports. Hub for defense (Pentagon, CIA) and tech industries.	<b>High:</b> 40 metro stops and 5 transfer stations; accessible to DCA without transfer. Convenient to most federal agencies.

\*Northern Virginia includes Arlington, Fairfax County, Loudoun County, and Alexandria. Housing costs are approximate.

# EXECUTIVE SUMMARY | Policy Recommendations

Montgomery County is a national leader in planning for affordable housing, open space and other amenities, but could consider adjusting some policies to attract more mixed-use development. Adjusting policies to balance flexibility with minimum requirements, allow for less time-consuming approvals and re-zonings, and increase alignment with evolving market conditions are potential areas for improvement.

- **Consider Minimum Requirements for Densification:** Montgomery County's thoughtful, detailed "optional method" process allows developers a variety of ways to pursue greater density but may have a side effect of ceding control over which public benefits are most emphasized by developers in pursuit of density. The County could consider a system similar to that of Bellevue in which certain public benefits (affordable housing in Bellevue's case) must be achieved as a first priority for all projects seeking incentive density. In Montgomery County, such a policy could vary based on the needs for specific public benefits in different parts of the County.
- **Consider Broader Definition for Active Ground Floors:** References to ground floor retail in various Sector Plans and other planning documents could be broadened beyond ground floor retail to include other active uses, particularly in light of the evolution of the retail market as well as the challenges faced by ground floor retailers occupying storefronts that are not already within active, pedestrian-oriented retail destinations. Bellevue defines retail as just one of many publicly accessible spaces that are open to the public during normal business hours, and applies requirements and incentives to the broader "active use" designation rather than ground floor retail specifically. Downtown Los Angeles, on the other hand, applies a narrow definition of active ground floors focused on retail, and has suffered as a result.

## EXECUTIVE SUMMARY | Policy Recommendations

Montgomery County is a national leader in planning for affordable housing, open space and other amenities, but could consider adjusting some policies to attract more mixed-use development. Adjusting policies to balance flexibility with minimum requirements, allow for less time-consuming approvals and re-zonings, and increase alignment with evolving market conditions are potential areas for improvement.

- **Maintain National Leadership in Promoting Affordable Housing:** Montgomery has a more aggressive and successful affordable housing policy than many other jurisdictions. While this policy imposes greater financial burdens than developers may face in other jurisdictions such as Fairfax County, it advances a critical County goal and developers have been able to accommodate it. Montgomery County can maintain this leadership and continue to advance progress towards addressing the housing gap in the County.
- **Consider Greater Flexibility Between General and Sector Plan Updates:** Other jurisdictions make it somewhat easier for developers to pursue exceptions to pre-determined uses, densities, etc. (e.g. Arlington), and/or update local plans more frequently to account for changing market conditions (e.g. Bellevue, Fairfax), due in part to differences in State laws. Montgomery County should consider ways to make the approvals process for proposals faster and seek strategies to account for changes in market conditions in certain neighborhoods that may occur in between plan updates, while staying within the bounds of Maryland planning regulation.

# EXECUTIVE SUMMARY | Policy Recommendations

The onset of the COVID-19 pandemic has added uncertainty to market dynamics across the country – particularly for commercial uses. The desire for urban workers to limit commuting and continue an amenity-rich lifestyle outside of a central city may lead to more demand for mixed-use development in the suburbs. The pandemic may also shift demand for particular amenities by increasing demand for open space, for example. The County may want to consider additional programs and policies to accommodate potential shifts in the market:

- **Ground Floor Activation Strategies**, such as a public art program to reduce the negative impact of any vacant space, or encouraging a wider range of ground floor uses, including temporary childcare centers, co-working spaces, and colocated public facilities. Ground floor retail, especially in areas with low walkability, should be carefully evaluated, and the County should consider whether a critical mass exists to sustain retail on the ground floor.
- **Funding and Incentive-Based Solutions**, such as continued rental assistance or small business grants. The pandemic can serve as an opportunity to rethink economic development incentives and the industries or use types the County is aiming to attract.
- **Activate Existing Public Spaces** near mixed-use districts by planning events or enhancing the space through the addition of public art, benches, etc. Structural support, like that of BIDs and neighborhood associations, can help further the activation of these spaces.

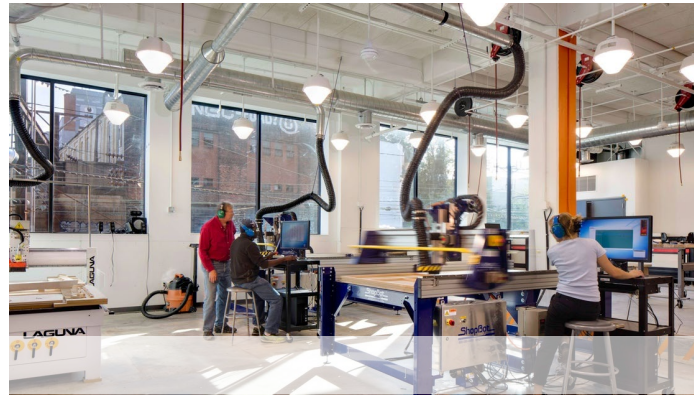
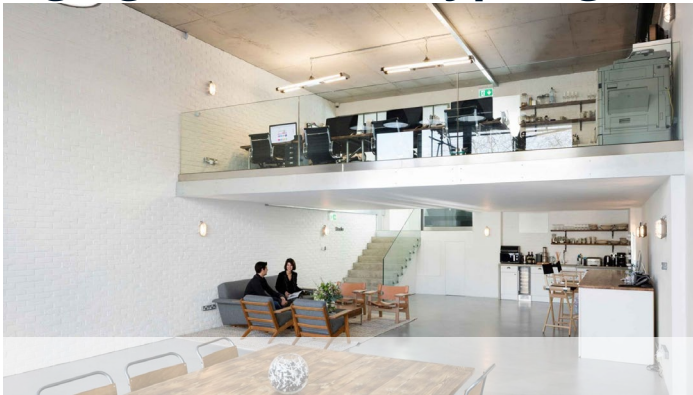
## **II: Mixed-Use Development in Montgomery County**

# MIXED-USE DEVELOPMENT | Definition

**How do we define mixed-use?** Typically, a project that provides more than one use or purpose within a shared building- housing, office, retail, commercial, recreational, or another use - is considered “mixed-use.” **Traditional mixed-use projects typically have a single primary use paired with ground floor retail.**

**Emerging mixed-use typologies** differ from the traditional use/ground floor retail model, often **pairing a typical primary use with a non-retail co-primary, secondary or tertiary use.** Examples of atypical mixed-use include office buildings paired with industrial makerspaces, senior living communities with assisted living services, live-work developments, urban agriculture on building rooftops, and gallery spaces with attached studios.

## Emerging Mixed-Use Typologies:



Examples from left to right: Canalside Studio (San Francisco), Open Works (Baltimore, MD), Up Top Acres (Washington, D.C.)

# MIXED-USE DEVELOPMENT | Introduction

## Increasing Success of Mixed-Use Development

1. Mixed-use development is a major source of Montgomery County's growth, **constituting nearly half of new commercial and multifamily development** in the county since 2010.
2. Mixed-use development is steadily **growing as a share of total development**, with pipeline projects even more weighted toward mixed-use development than recent development.

## Common Mixed-Use Characteristics

1. Mixed-use buildings are predominantly **anchored by residential**, followed by office, with **ground floor retail generally as the secondary use**.
2. Mixed-use is mainly developed in **already existing commercial nodes** near transit and highly walkable areas, particularly in Bethesda, Rockville, Silver Spring, and the county's other largest communities.

3. Mixed-use projects are **mostly mid-rise** (4-14 floors), with high-rise product mostly limited to Bethesda and Silver Spring.

## Common Mixed-Use Success Factors

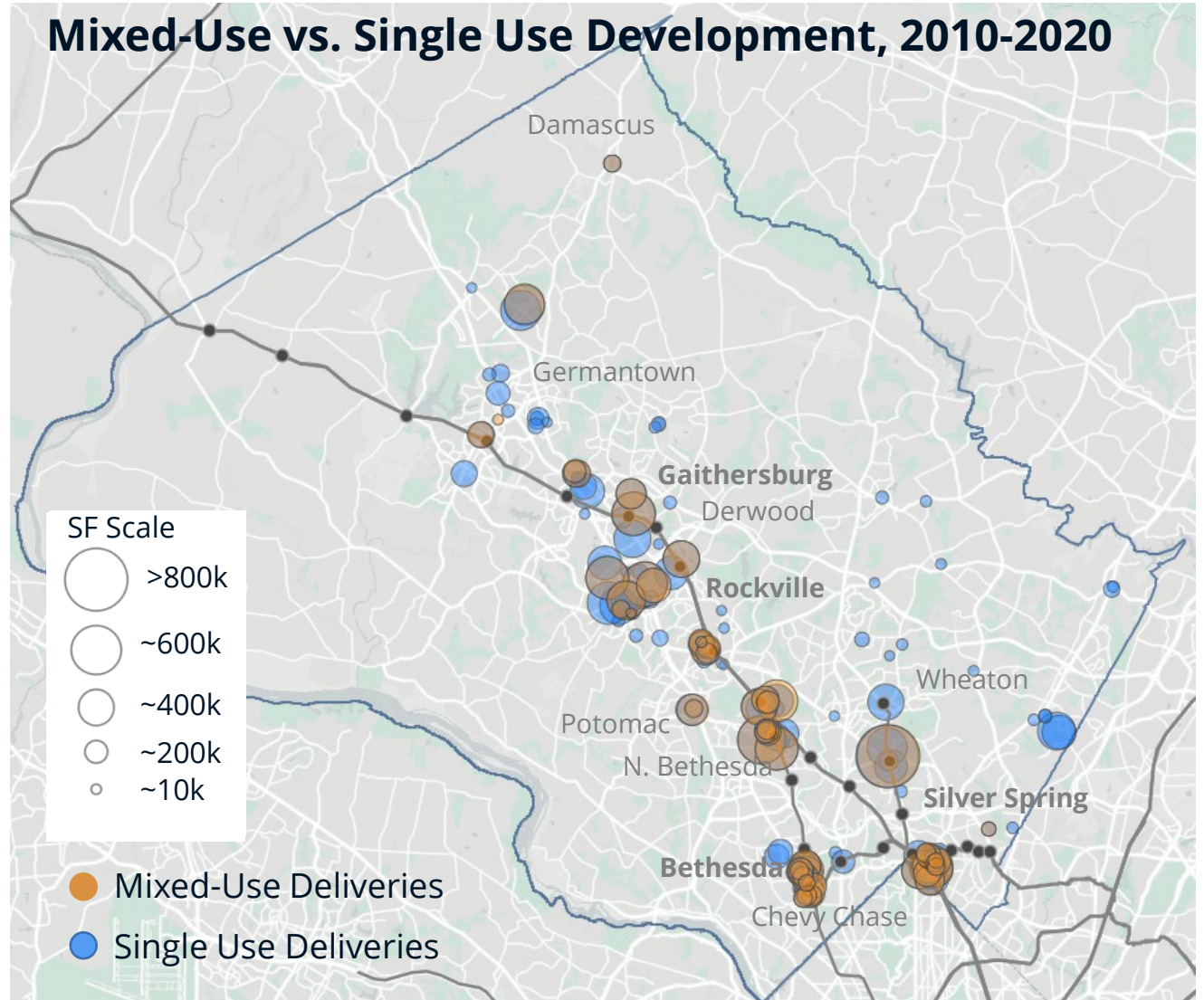
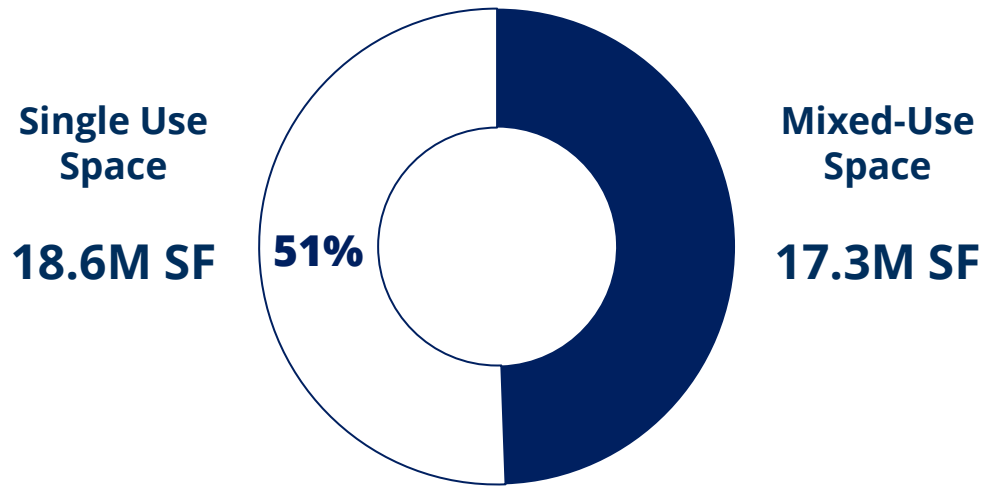
1. Mixed-use development can succeed both by **adding to adjacent authentic/older neighborhoods** and by using **good design and an appealing streetscape** to attract shoppers, workers and residents to a new place.
2. Larger **down-county communities and communities adjacent to rail transit** tend to have **more successful mixed-use projects**, as measured by convenience, walkability and sustainability.
3. Ground floor retail that is **within or adjacent to already-vibrant areas** is much **better positioned for success** than ground floor retail that is more isolated from pedestrians and other retailers or adjacent to major roadways, vacant land or parking.

# MIXED-USE DEVELOPMENT, 2010-2020 | Development Overview

Commercial and multifamily development built since 2010 has been split across mixed-use and single use development, with single use developments having a slightly larger share of total development.

## 35.9 Million SF (2010-2020)

Total Multifamily, Retail, Office, and Hospitality Space Delivered Since 2010\*



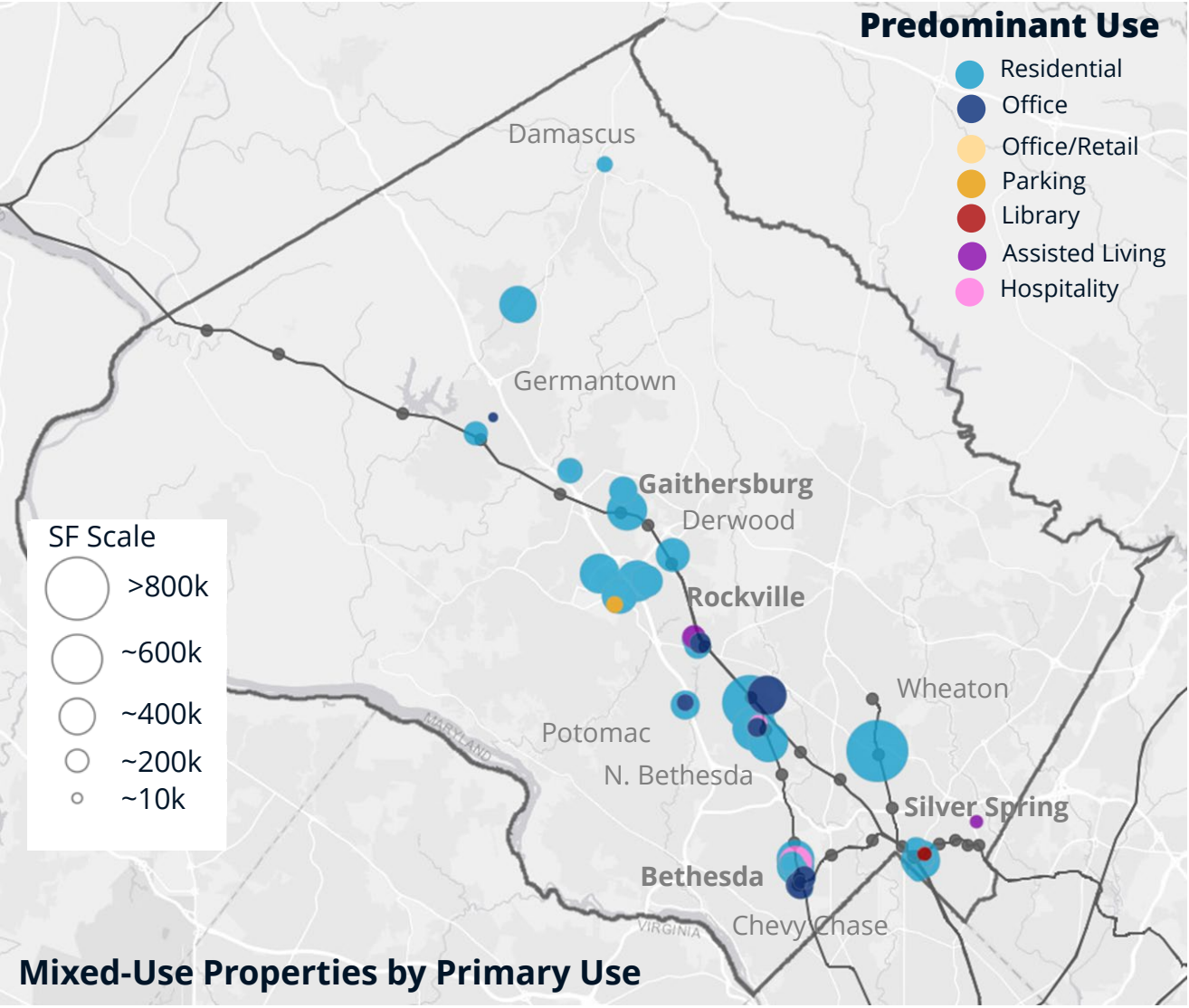
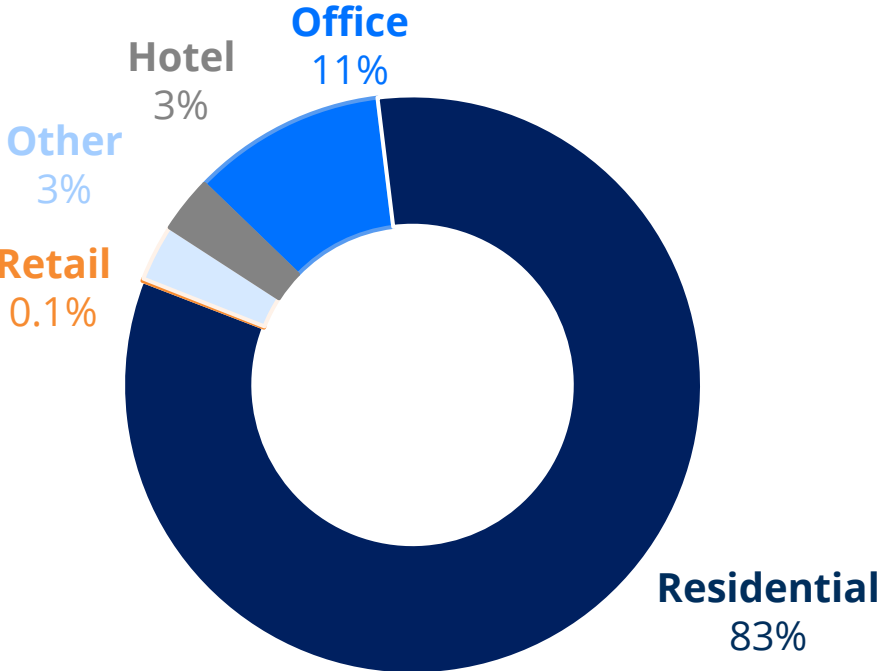
\*Excludes pipeline development projects



# MIXED-USE DEVELOPMENT, 2010-2020 | Primary Uses

Primary uses within the 61 recent mixed-use projects are **most often residential or office, with retail as the secondary use.**

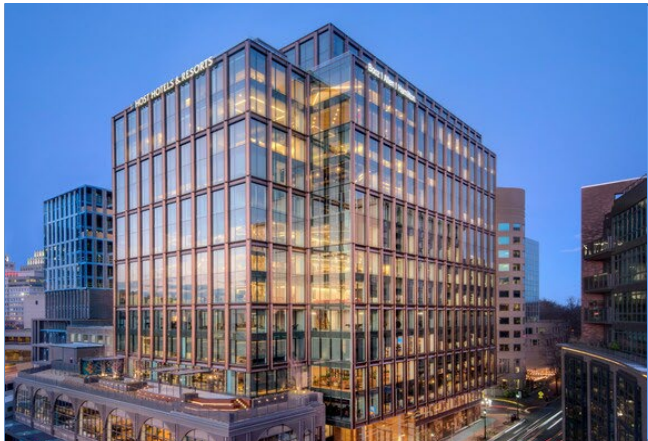
Share of SF of Mixed-Use Development 2010-2020 by Primary Use



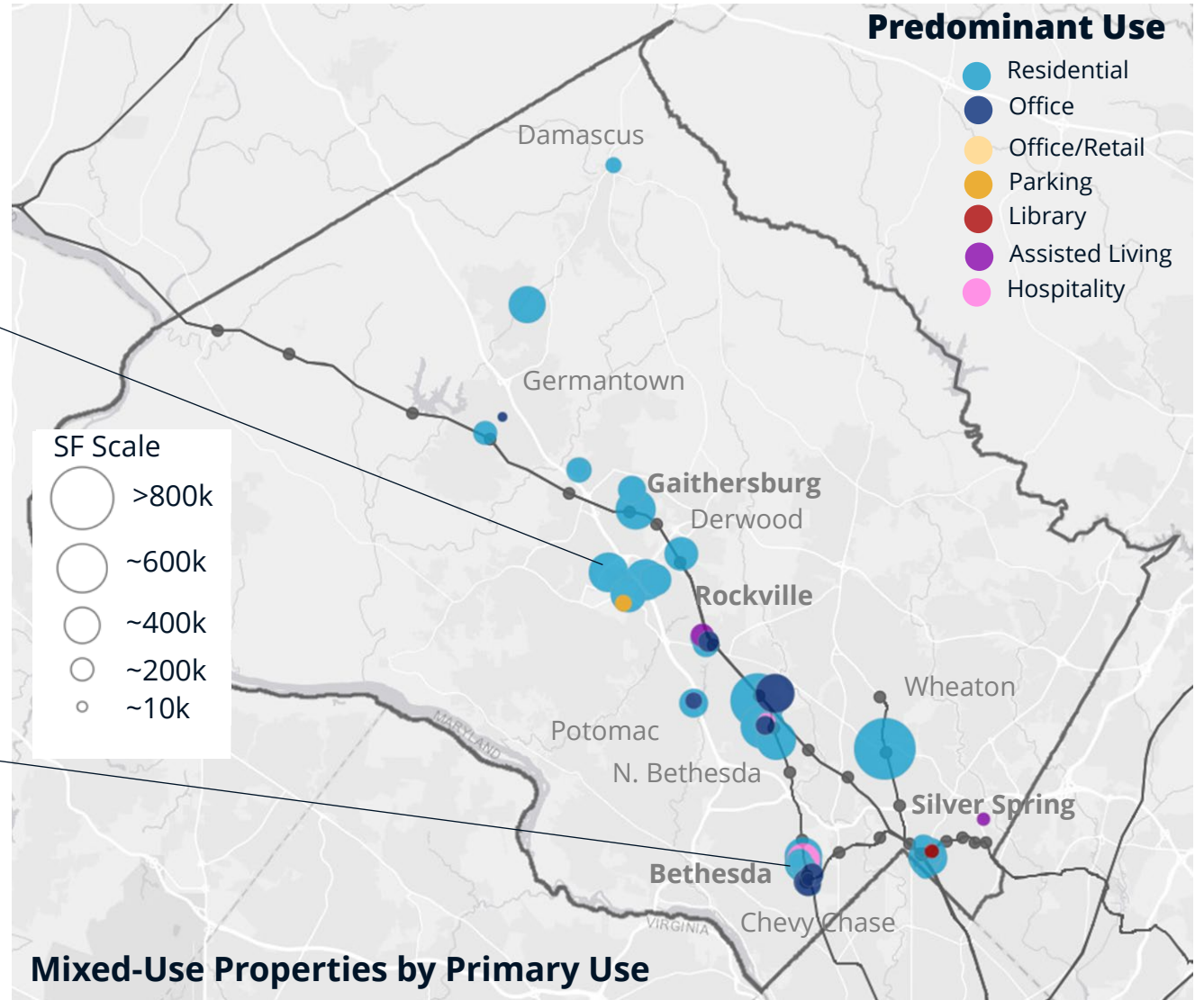
# MIXED-USE DEVELOPMENT, 2010-2020 | Primary Uses



83% of SF is Multifamily-Anchored:  
**113 Ellington Blvd.,** Rockville (Cadence at Crown)



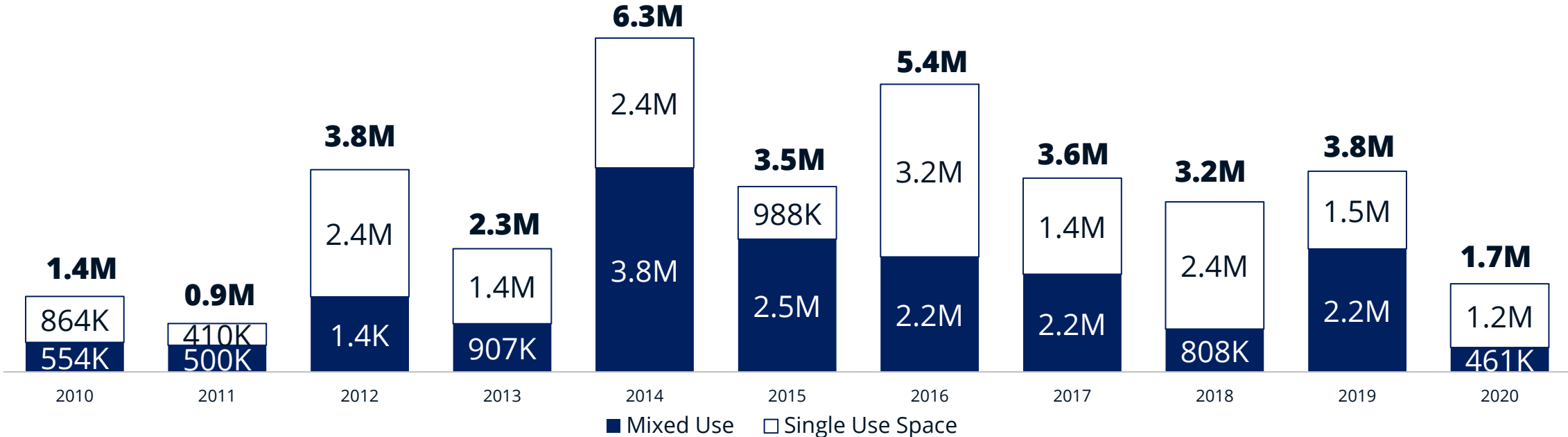
11% of SF is Office-Anchored:  
**4747 Bethesda Ave,** Bethesda



# MIXED-USE DEVELOPMENT, 2010-2020 | Development Trends

Mixed-use development has been the predominant typology for multifamily and commercial development most years since 2014.

**Total Montgomery County Development by Year, 2010 - 2020**



# MIXED-USE DEVELOPMENT, 2010-2020 | Developers

The 60+ mixed-use properties built since 2010 have been led by more than 30 different developers, suggesting a **broad base of companies and investors interested in and capable of developing mixed-use.**

**31** Total **developers of mixed-use** properties

**5** Developers of **at least three mixed-use** properties

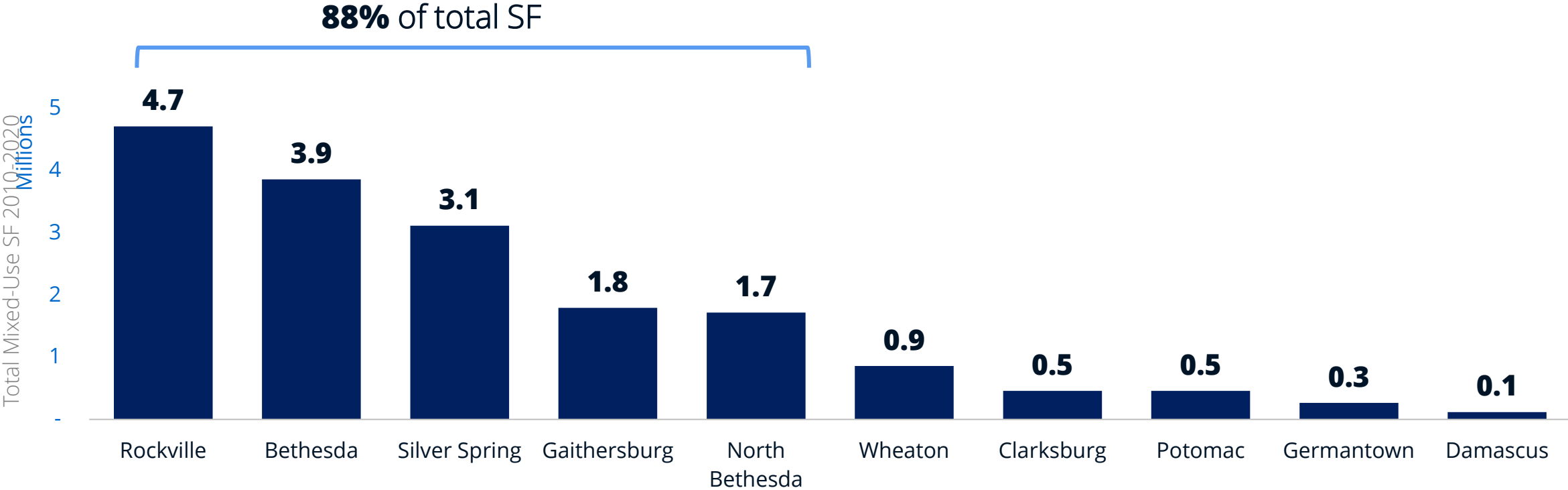
	Projects	SF	% of Recent Mixed-Use Development
<b>JBG</b>	9	3.2M	16%
<b>Federal Realty Investment</b>	5	1.4M	7%
<b>Washington Property</b>	3	1.0M	5%
<b>Foulger-Pratt</b>	3	0.7M	3%
<b>Donohoe</b>	3	0.6M	3%



**Stonebridge:** The Flats at Bethesda Ave.,  
7170 Woodmont Ave, Bethesda

# MIXED-USE DEVELOPMENT, 2010-2020 | Development by Community

Predictably, **mixed-use development has been concentrated in the County's most urban areas**, with the vast majority of built square footage located in the five largest submarkets.

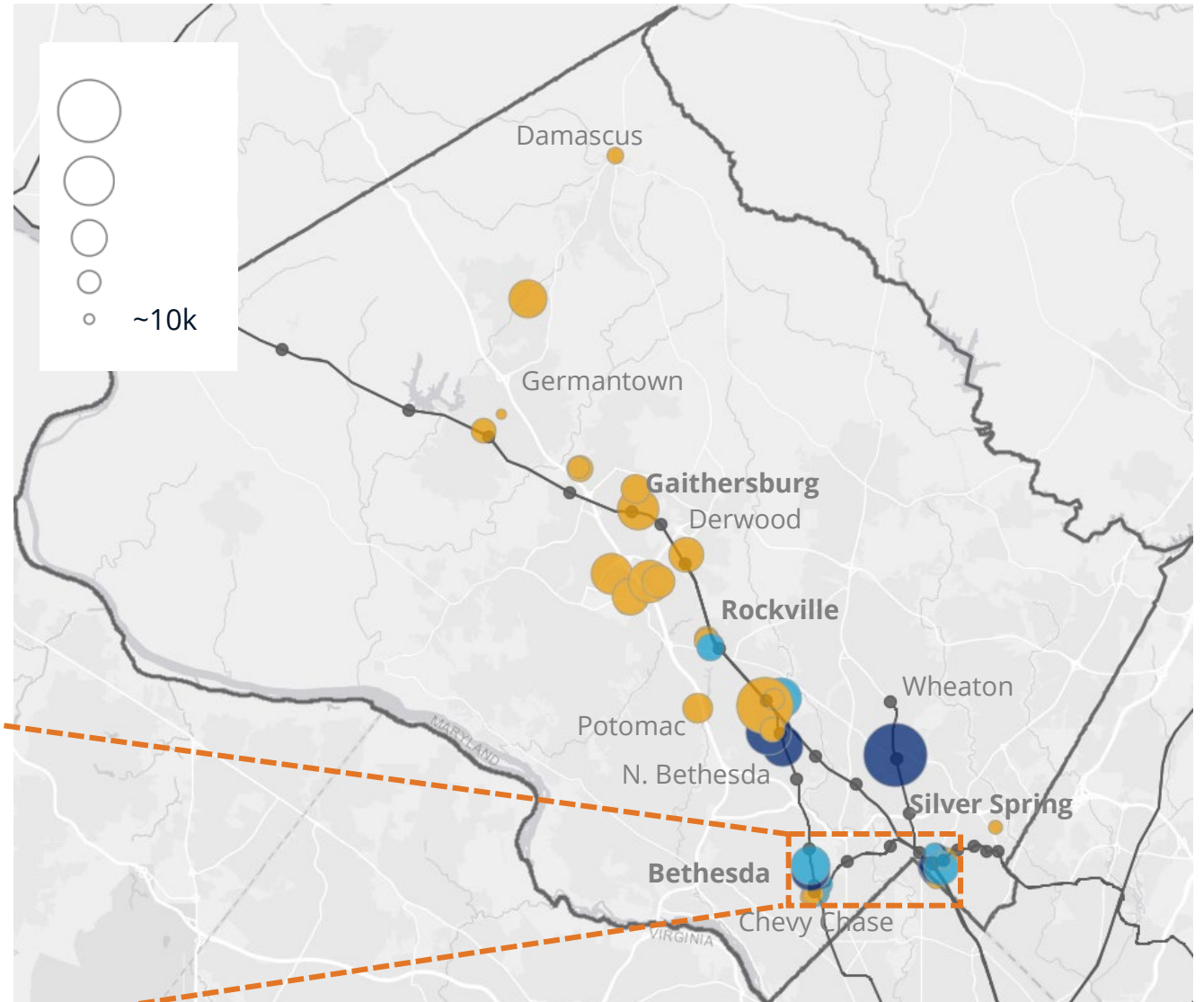


# MIXED-USE DEVELOPMENT, 2010-2020 | Density

The County's mixed-use buildings are **most commonly mid-rise**. High-rise buildings are concentrated in urban centers such as Bethesda and Silver Spring.

## Building Style by SF

- High-Rise (15+ floors)
- Mid-Rise (8-14 floors)
- Low-Rise (1-7 floors)

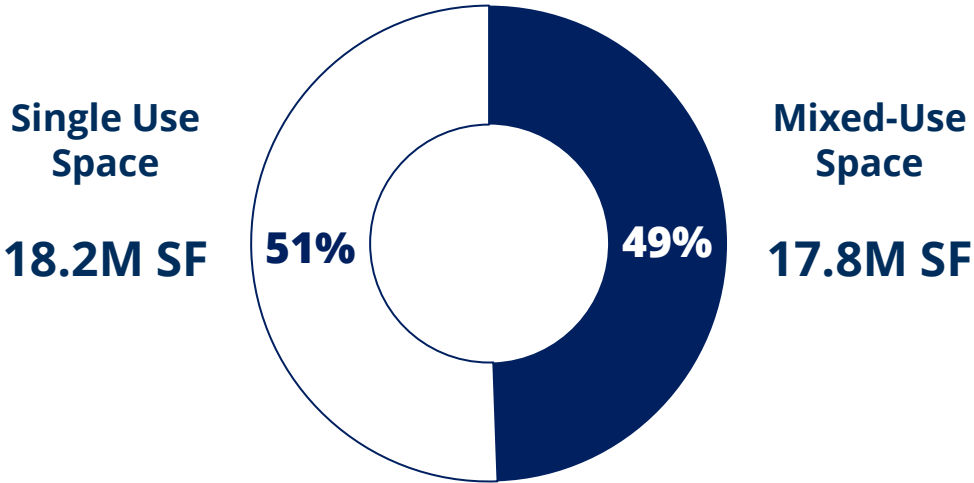


# MIXED-USE PIPELINE | Development Overview

**Pipeline development**, if fully completed, would **double the amount of both mixed-use and single-use commercial and multifamily square footage in Montgomery County**. Pipeline figures include both projects currently under construction and projects in planning, some of which many not be realized for a long time, if ever. **Pipeline buildings are expected to be mostly mixed-use**, in line with trends from the past decade.

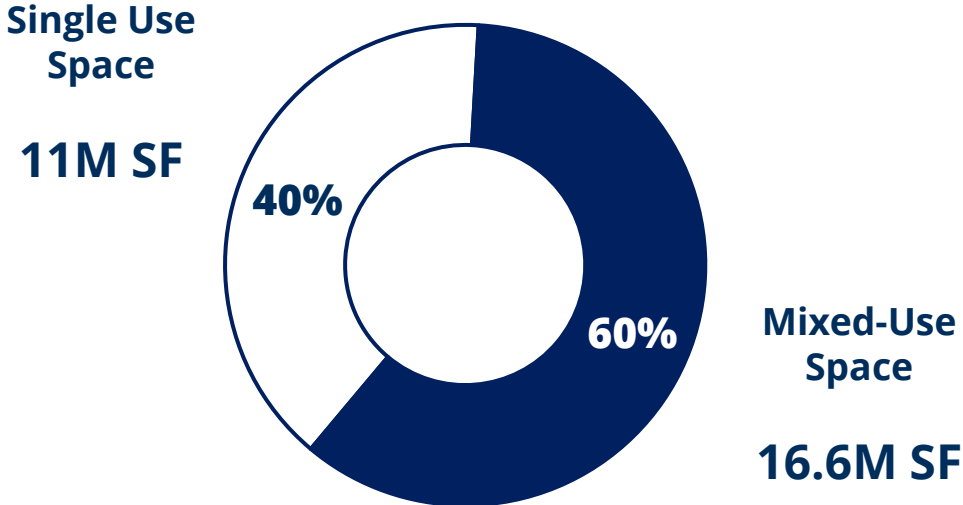
## 35.9 Million SF (2010-2020)

Total Multifamily, Retail, Office, and Hospitality Space Delivered Since 2010\*



## 27.7 Million SF (2021+)

Total Known Multifamily, Retail, Office, and Hospitality Space in the Pipeline (Excl. 6.2M TBD SF)\*\*

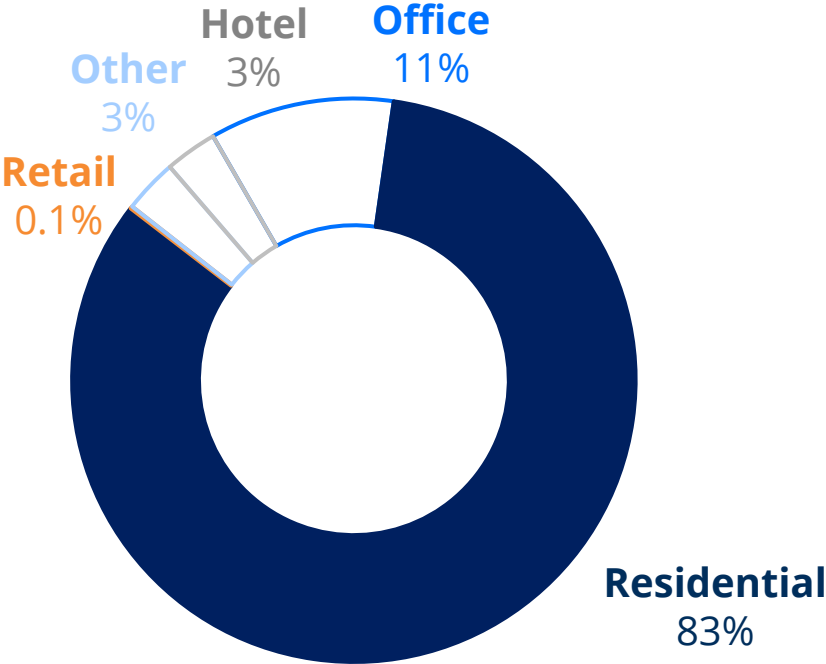


\*Excludes pipeline development projects  
 \*\*Excludes projects for which a category could not be determined

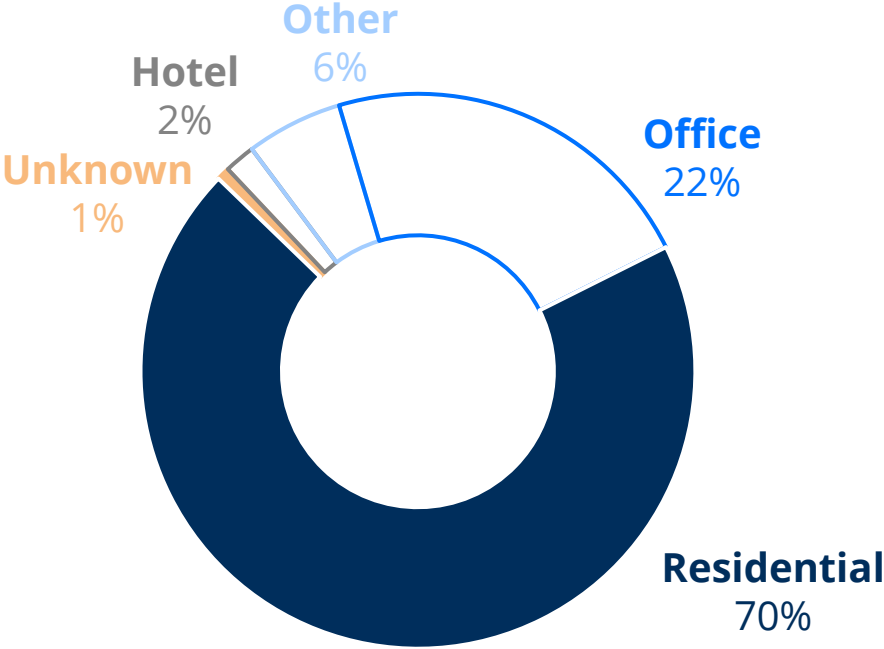
# MIXED-USE PIPELINE | Primary Uses

Pending mixed-use projects are **overwhelming multifamily-anchored**, as was the case for recently built projects. The **share of office-anchored projects in the pipeline is slightly higher** than the share of square footage delivered during the past decade.

### Share of SF of Mixed-Use Development 2010-2020 by Primary Use



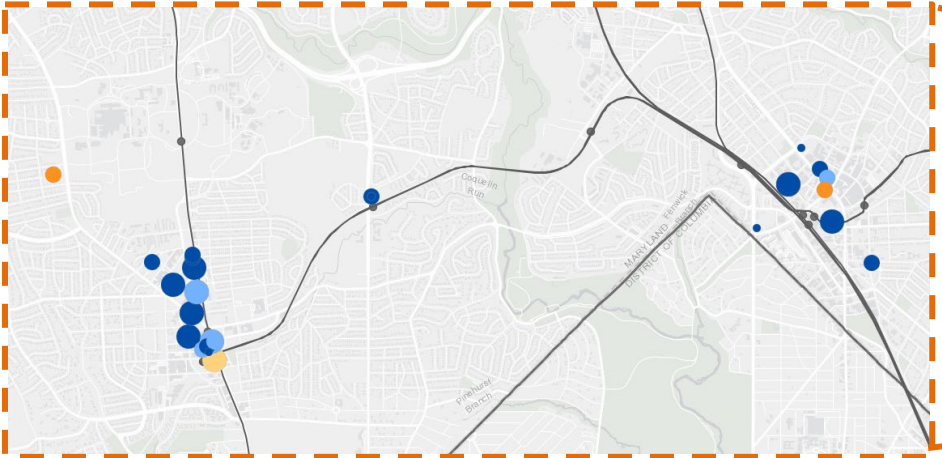
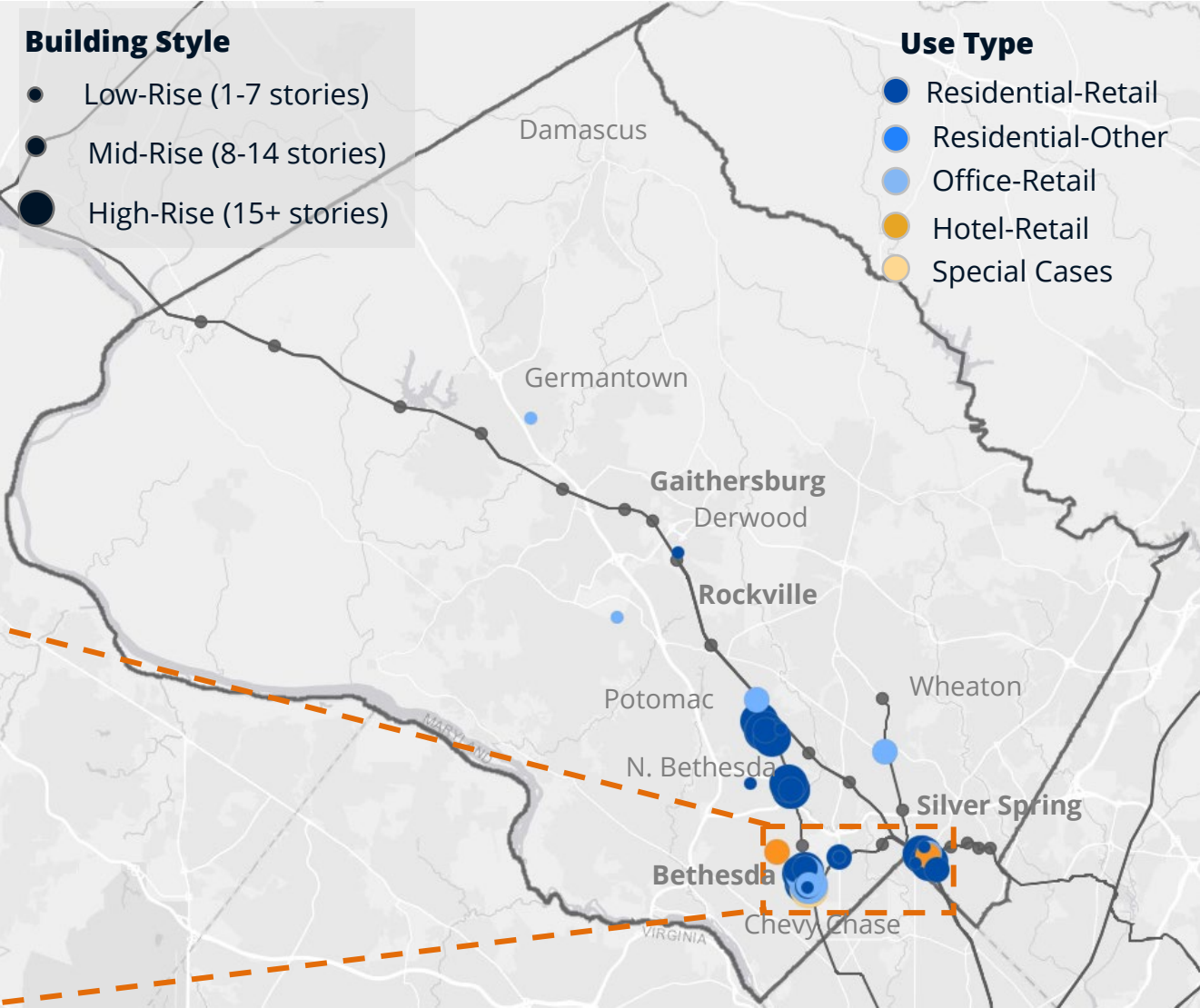
### Share of SF of Mixed-Use Development in the Pipeline by Primary Use





# PIPELINE TYPOLOGIES | Overview

Pipeline mixed-use buildings are even more **concentrated down-county** than was the case for recent deliveries. **Silver Spring, Bethesda and N. Bethesda** (including contiguous portions of Rockville) are expected to remain the primary nodes of mixed-use development.



## PIPELINE TYPOLOGIES | Definitions

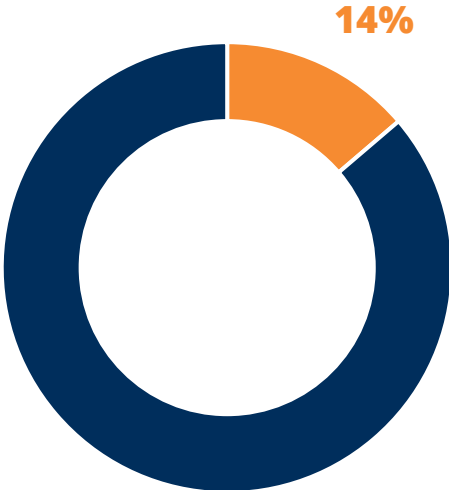
- **Suburban:** Low- to mid-rise properties that are **outside of a half-mile** radius from a MARC, WMATA, or Purple Line station
- **Accessible:** Low- to mid-rise properties that are **within a half-mile** radius from a MARC, WMATA, or Purple Line station
- **Urban:** Mid- to high-rise properties that are **within a half-mile** radius from a MARC, WMATA, or Purple Line station
- **Dense:** High-rise properties that are **within a half-mile** radius from a MARC, WMATA, or Purple Line station
- **Low-Rise:** Properties with 1 to 7 stories
- **Mid-Rise:** Properties with 8 to 14 stories
- **High-Rise:** Properties with 15 or more stories

# PIPELINE TYPOLOGIES | Residential

Residentially-anchored pipeline projects **primarily include retail as a secondary use**, with the share of retail in pipeline buildings ranging from an average of **7% for denser typologies** to an average of **14% for more suburban typologies**. Some pipeline buildings will also contain a share of office use.

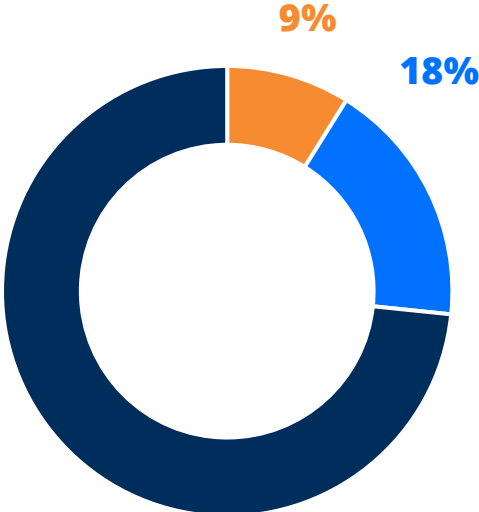
■ Residential   ■ Office   ■ Hotel   ■ Retail   ■ Other

**Suburban Lower/Mid-Rise: SF Break-Out**



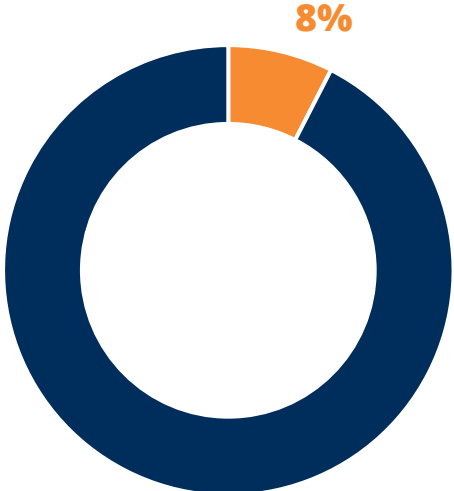
86%

**Accessible Lower/Mid-Rise: SF Break-Out**



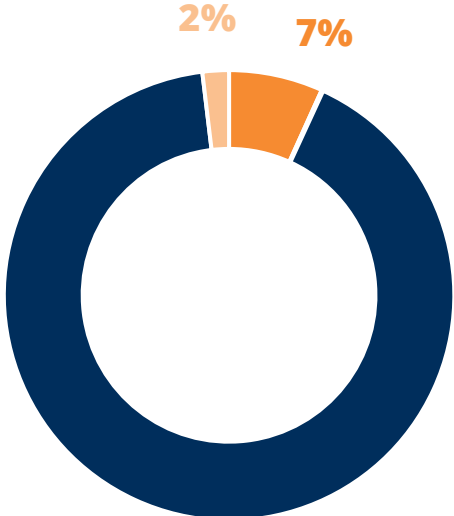
73%

**Urban Mid-Rise: SF Break-Out**



92%

**Dense High-Rise: SF Break-Out**



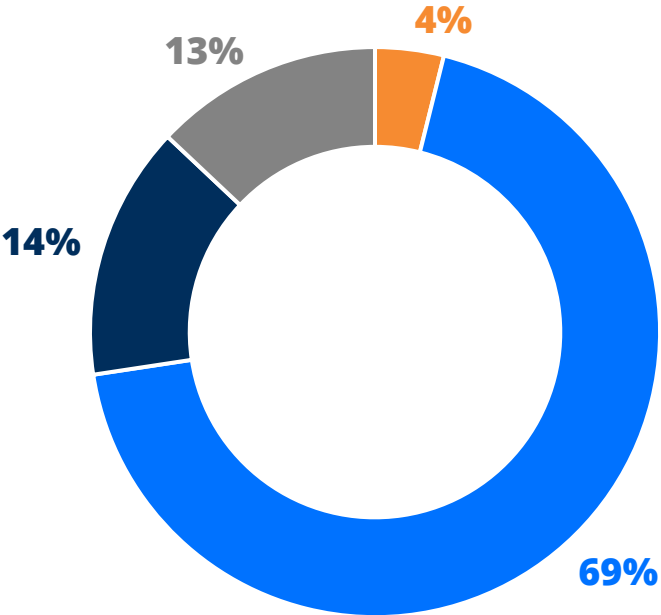
91%

# PIPELINE TYPOLOGIES | Office

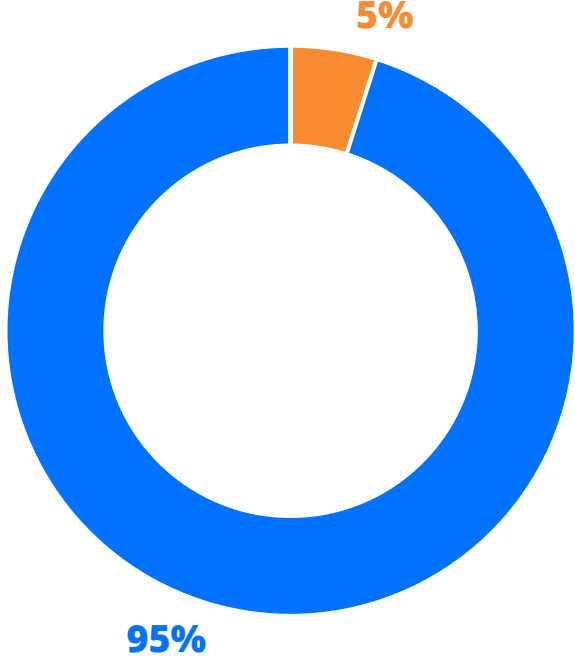
Smaller-scale office-anchored projects will contain a **smaller share of retail on average (4-5%)**. Some projects are expected to also include **residential and hotel** as secondary uses.

Residential Office Hotel Retail Other

### Accessible Mid-Rise: SF Break-Out



### Dense High-Rise: SF Break-Out



# PIPELINE TYPOLOGIES | Other

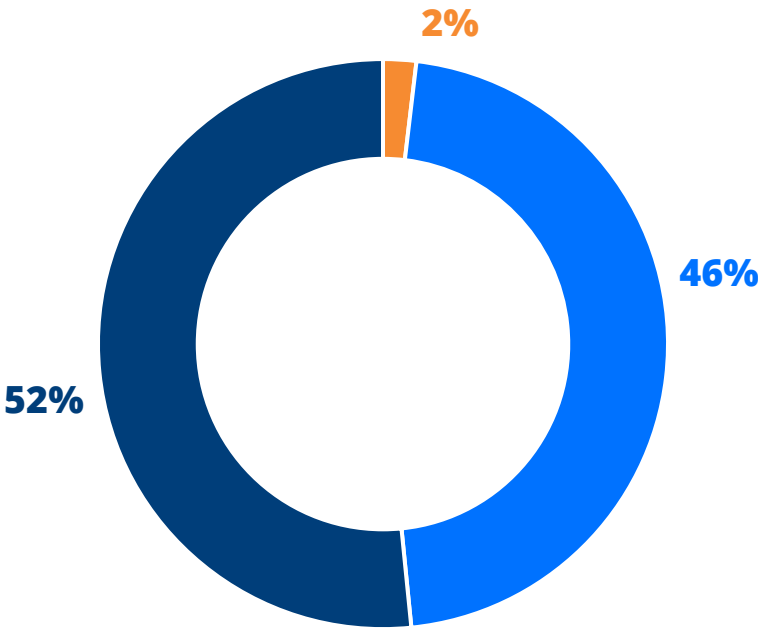
Other pending projects include **hotel-anchored projects**, expected to include a **very small share of retail** space, as well as more evenly-balanced, **jointly-anchored office-residential buildings with ground floor retail**.

■ Residential   ■ Office   ■ Hotel   ■ Retail   ■ Other

**Hotel: SF Break-Out**



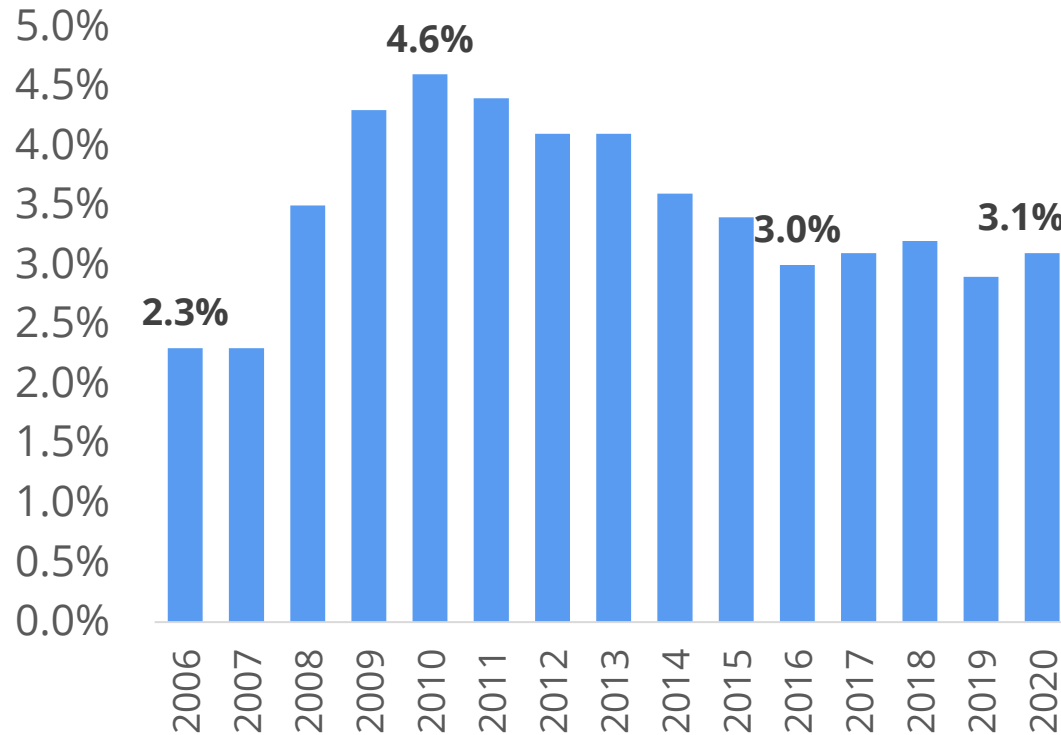
**Multiple Primary Uses: SF Break-Out**



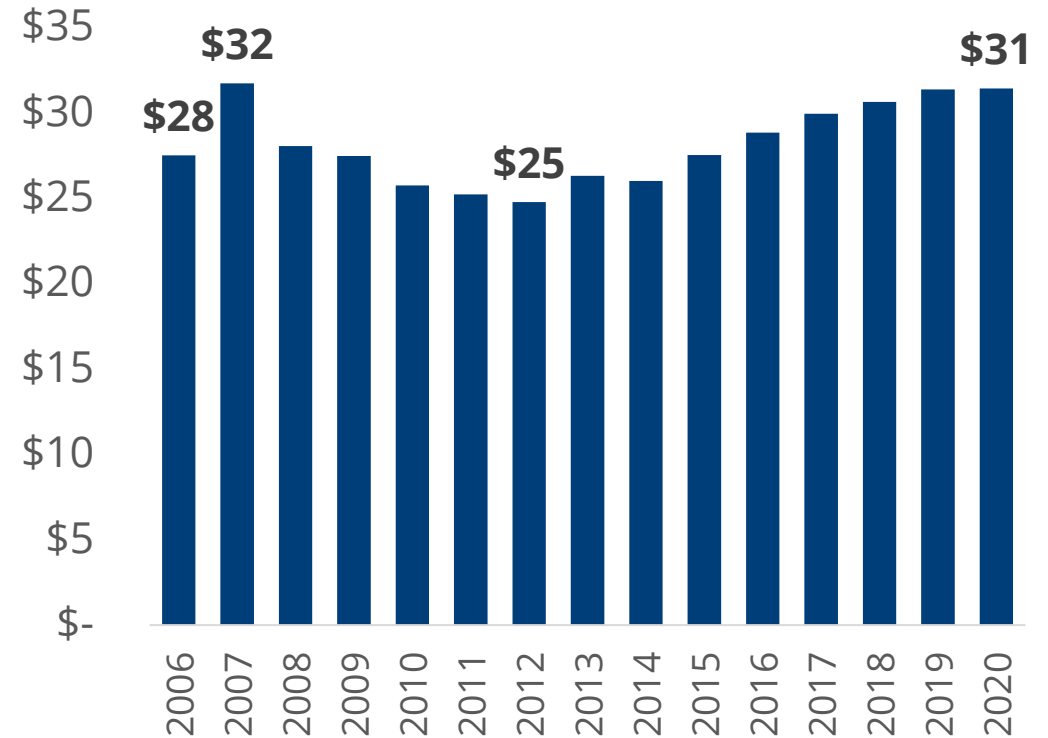
# RETAIL ANALYSIS | Market Dynamics

Montgomery County's retail market, including both mixed-use and single use buildings, has seen a **decade of increasing strength**, with vacancy mostly falling since 2010 and rents mostly rising since 2012.

Montgomery County Retail Vacancy Trends

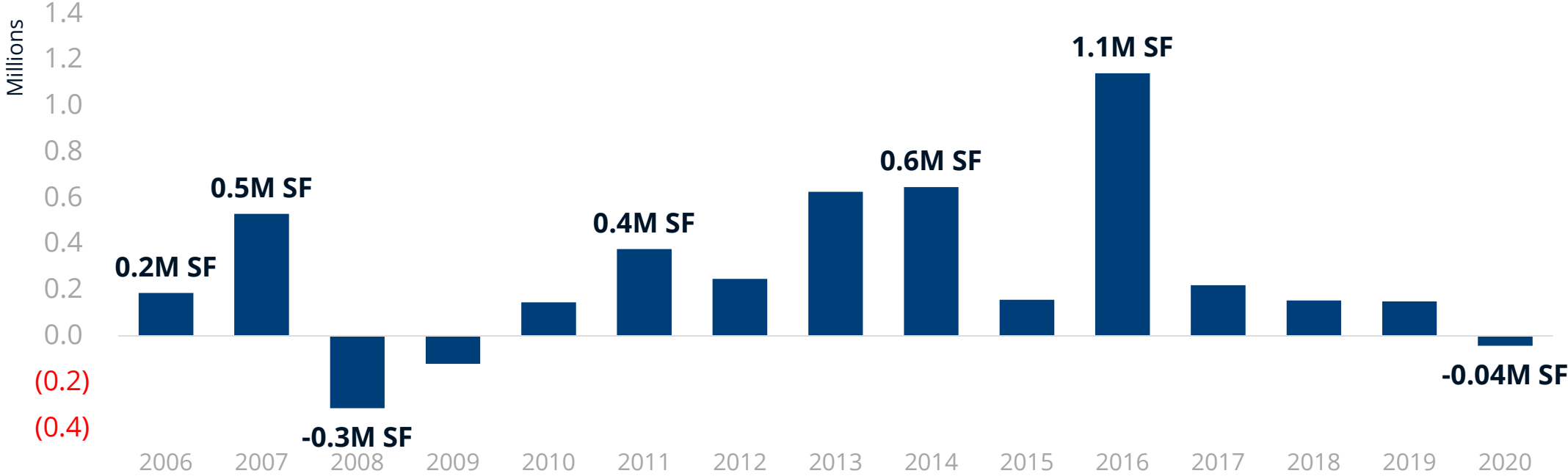


Montgomery County Retail Trends: Rent/SF/Yr.



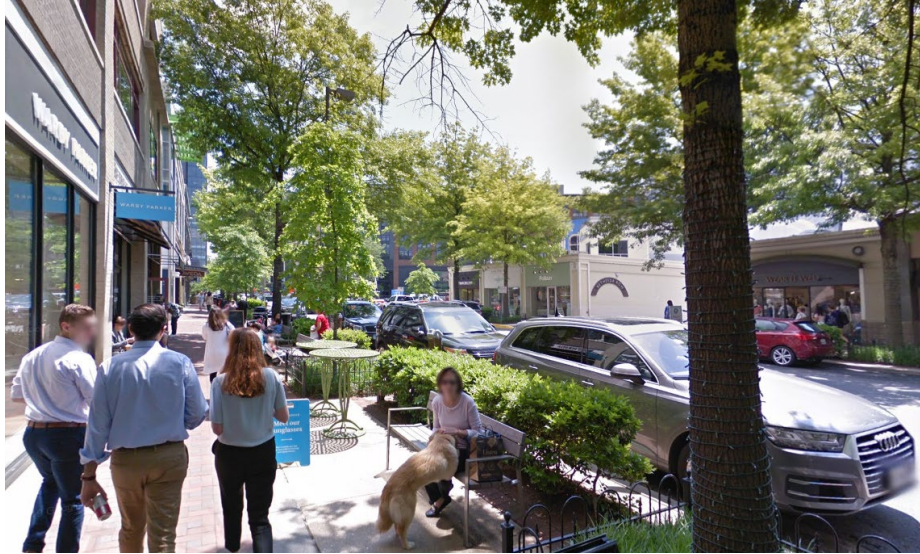
# RETAIL ANALYSIS | Net Absorption

The County's retail market has seen **positive absorption from 2010 through 2019**, with particular growth between 2011 and 2016. In line with national trends, **absorption has declined**, and was **negative through mid-2020** as the country entered a pandemic-induced recession that caused outsized damage to the retail sector.



# RETAIL ANALYSIS | Ground Floor Retail

## Bethesda Row and Adjacent Mixed-Use Buildings



### Bethesda Row

- Central retail core serves as neighborhood anchor and enlivens street life.
- **Adjacent mixed-use properties benefit from and extend neighborhood activity.**



### Adjacent Mixed-Use: Flats at Bethesda Row

- Project is within easy walking distance of Bethesda Row shops.
- **Successful food options on the ground floor** (both chains & higher-end) cater to heavy pedestrian traffic in nearby neighborhood.



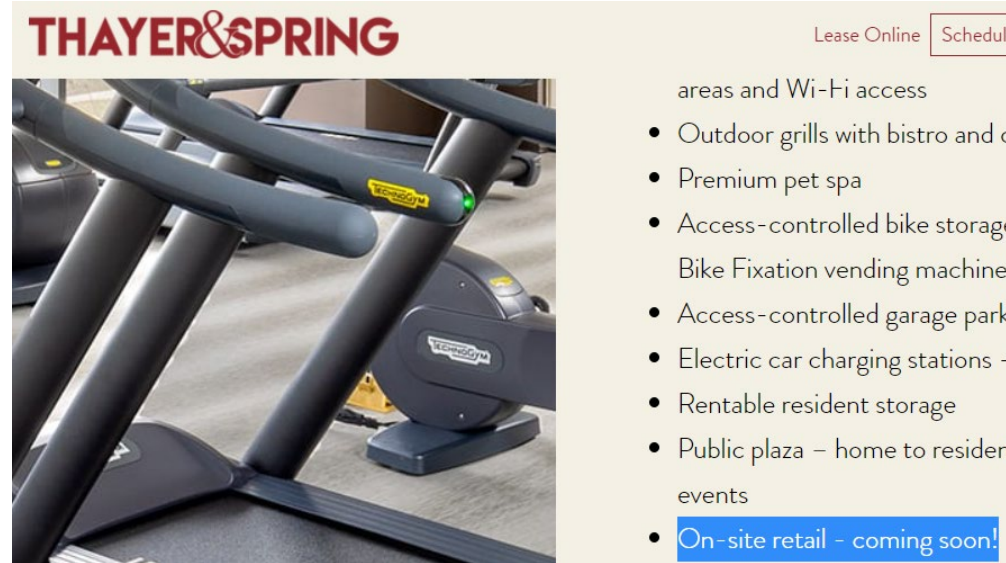
# RETAIL ANALYSIS | Ground Floor Retail

## Retail in Downtown Silver Spring



### Downtown Silver Spring

- Authentic, non-chain restaurants and shops draw customers and give the district an **authentic, inclusive feel**.
- Ground floor retail in new, centrally-located mixed-use properties may ultimately benefit from this energy but **many new spaces are still vacant**.



### Adjacent Mixed-Use: Thayer & Spring

- Although located just behind a vibrant retail block, Thayer & Springs retail faces less **active side streets and remained vacant for half a year**. The space was recently filled with a post office, and a Pilates studio was scheduled to open prior to COVID-19.

# RETAIL ANALYSIS | Ground Floor Retail

## Retail near White Flint Station



### East Side of Station: Potentially Struggling, Non-Walkable Retail

- **Vacant land** in between station and new mixed-use projects **has hampered the market performance** of ground floor retail at projects, unless the project is anchored by a major tenant, like Wentworth House's Harris Teeter, whose activity could be driven by the residents above.



### West Side of Station: Pike & Rose

- As a new, master-planned district, Pike & Rose may **lack** the **authenticity** of Montgomery County's older downtown neighborhoods, but good design and an appealing streetscape have **attracted customers to successful, unique ground floor retailers**, including PerSei's *Summer House Santa Monica* and the *Henri's Nada*.

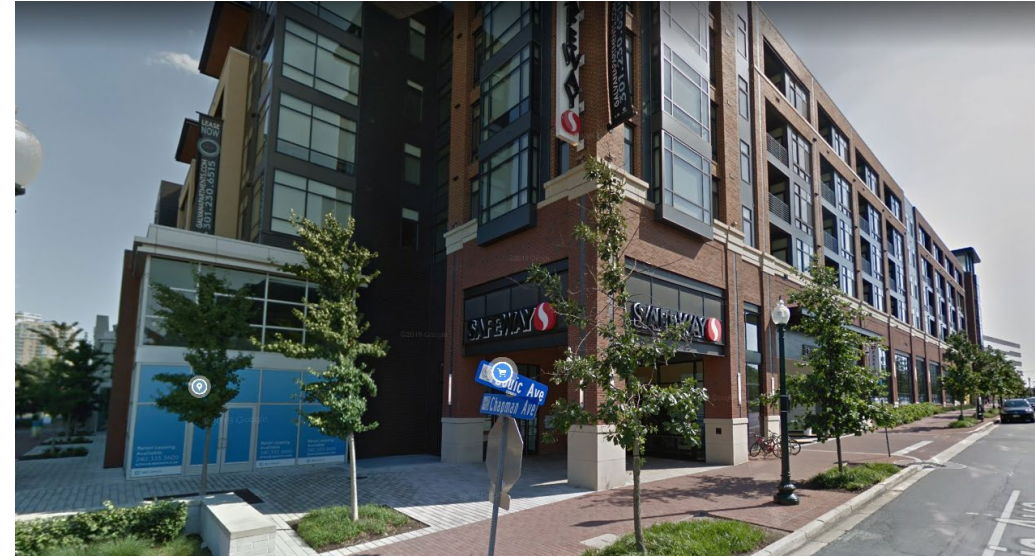
# RETAIL ANALYSIS | Ground Floor Retail

## Retail near Twinbrook Station



### East Side of Station: Struggling Retail

- The **parking lot in between** the metro station and the neighborhood's mixed-use buildings, as well as **older, non-pedestrian-oriented adjacent buildings, reduce** the **success** of ground-floor retailers.
- While adjacent buildings ultimately found retailers, tenanting was more difficult due **lower pedestrian activity** and **disconnection from the station**.



### West Side of Station: Better Connection to Station and Rockville Pike Supports Retail Vibrancy

- Mixed-use buildings near the more vibrant area west of the Metro station and adjacent to Rockville Pike such as Galvan have **attracted unique restaurants and a grocery store** to their ground floors.

# RETAIL ANALYSIS | Ground Floor Retail

Ground floor retail typically thrives in already vibrant areas with substantial foot traffic. As such, a blanket requirement for ground floor retail could result in poor outcomes. The County should consider all types of mixed-use development, and not rely on ground-floor retail mixed-use.

## Drivers of Success and Failure

- **Mixed-use buildings** within or adjacent to **already-vibrant areas** are much better positioned for **successful ground floor retail**.
- Within vibrant areas, **fronting on quiet back-streets can harm retail prospects** even if vibrant corridors are around the corner.
- **Large, vacant areas and parking lots serve as major impediments** to connectivity and customer attraction and hamper the success of ground-floor retail.
- It is **hard** to make **walkable retail typologies** work on **major auto thoroughfares** that are not comfortably walkable.
- Ground floor retail is frequently **underwritten with very conservative assumptions**, which can have negative implications for project financing.
- Vacant ground floor retail is a **“negative amenity”** that harms other uses within a mixed-use project.

## Policy Considerations

- A **blanket retail requirement** for all types of developers may lead to **poor outcomes** in certain locations (e.g. vacancy) – especially among developers who don’t know retail.
- **Retail** may increasingly act as a **demand driver for residential** – policies should keep this in mind.

## Post-COVID trends and observations

- **Retail** is likely to struggle in broad terms, in line with a pronounced national downturn in the sector. A number of retailers and restaurateurs are likely to go out of business and it may take a long time to fill spaces vacated during the pandemic.
- The pandemic may open up opportunities for more **daytime retail in residential neighborhoods**.
- Increased comfort with remote work may increase the demand for **alternative working spaces** outside the home (e.g. **coffee shops** near housing) post-COVID.

# RETAIL ANALYSIS | Ground Floor Retail – Corridor Development

Ground floor retail is most successful in already walkable, retail-friendly districts. Thrive Montgomery 2050's focus on corridor development acknowledges that pedestrian-oriented districts are not created spontaneously, but rather through the development of a critical mass.

## Ground Floor Retail in Corridor Development

- Ground floor retail **thrives in active, pedestrian-oriented districts.**
- Pedestrian-oriented districts are developed by **establishing a critical mass of active uses, concentrating denser uses** and **driving development within a focused area.**
- Initial retailers within emerging pedestrian-oriented corridors may see more success if they are **strong anchors**, focused on **servicing community needs**, like a chain grocer or super store.
- Alternate ground-floor uses that can serve as first movers to help establish initial street-level activity include **makerspace, daycare, live-work units, breweries and coworking.**
- Zoning and regulations that **provide as much flexibility as possible in early ground floor activation** can support increased street-level activity that can eventually increase ground floor retail viability.

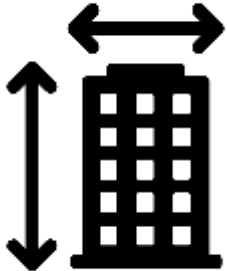
# MIXED-USE TYPOLOGIES | Variables

Initial typologies were driven by three main variables: **primary use**, **size**, and **accessibility**.



## Use

Building Uses



## Size

Height (Stories)  
Square Footage



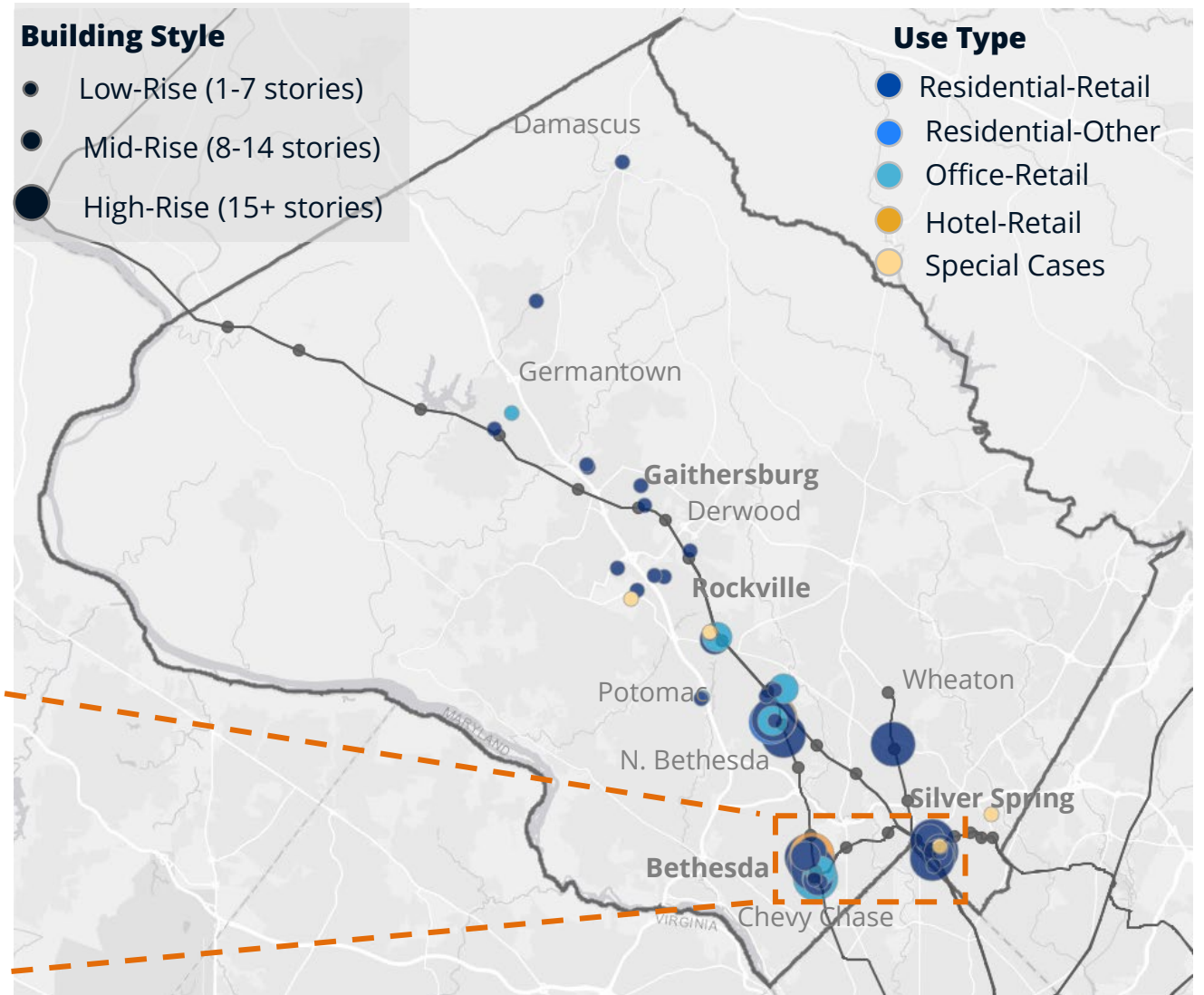
## Accessibility

WalkScore  
TransitScore

# MIXED-USE TYPOLOGIES | Geographic Distribution

**Residentially-anchored mixed-use buildings** are by far the most dominant typology within Montgomery County, followed by office- and hotel-anchored projects.

**Most denser projects are located down-county**, with particular concentration around the Bethesda, North Bethesda, Wheaton and Silver Spring metro stations, plus smaller mostly residential projects in the Rockville-Gaithersburg area.

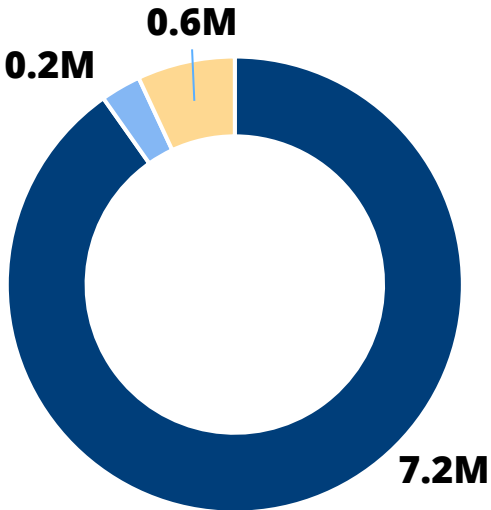


# MIXED-USE TYPOLOGIES | Distribution by Height and Anchor-Use: Low-Rise

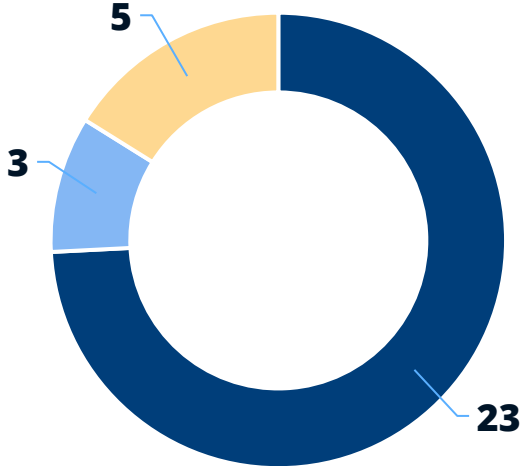
Of the 61 developments built since 2010, **31 are low-rise mixed-use** and include a **majority of multifamily-anchored buildings** as well as some relatively larger office-anchored and other buildings.

■ Residential     
 ■ Residential-Other     
 ■ Office-Retail     
 ■ Hotel-Retail     
 ■ Special Cases\*

**Square Footage by Use**



**Number of Buildings by Use**



Residential	266K SF
Office-Retail	79K SF
Special Cases	90K SF

\*Special Cases are properties that have non-traditional anchor uses like parking, civic uses, or a non-singular anchor use

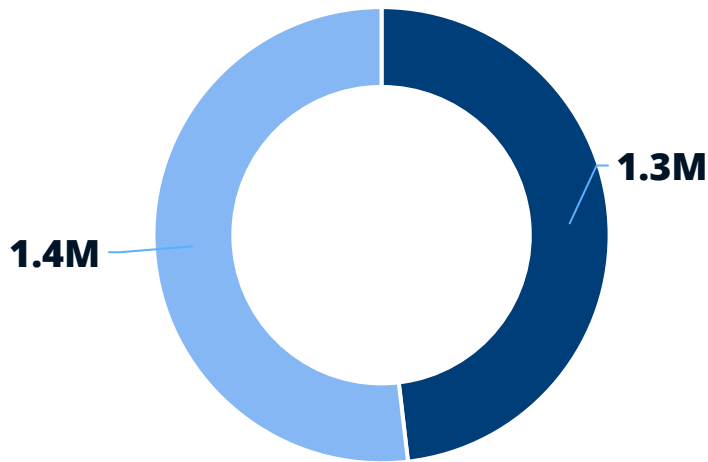


# MIXED-USE TYPOLOGIES | Distribution by Height and Anchor-Use: Mid-Rise

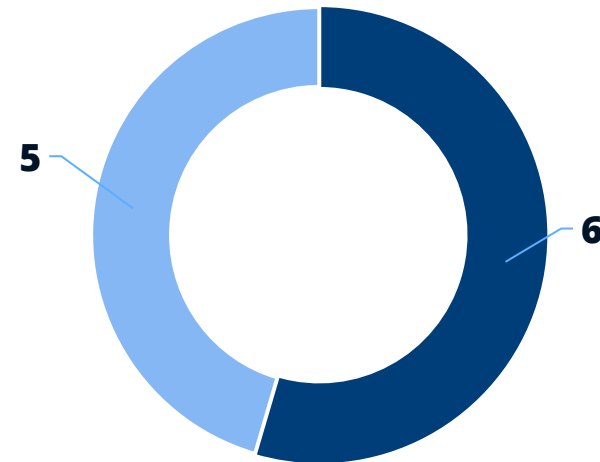
The 11 **mid-rise mixed-use** buildings built since 2010 still include a **majority of multifamily-anchored buildings** but also include a much **larger share of office-anchored** buildings.

Residential-Retail
  Residential-Other
  Office-Retail
  Hotel-Retail
  Special Cases\*

**Square Footage by Use**



**Number of Buildings by Use**



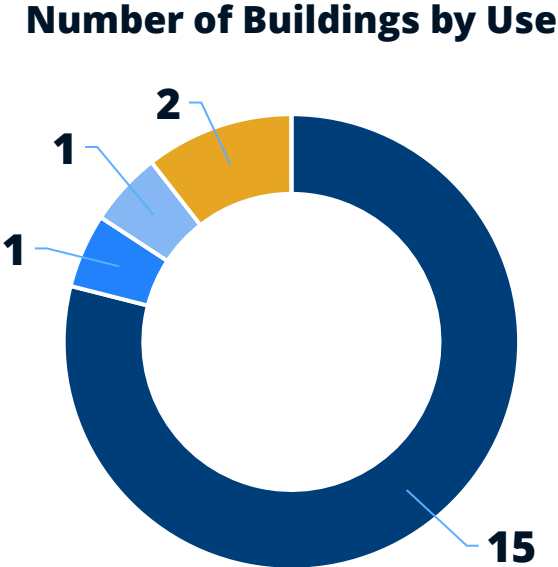
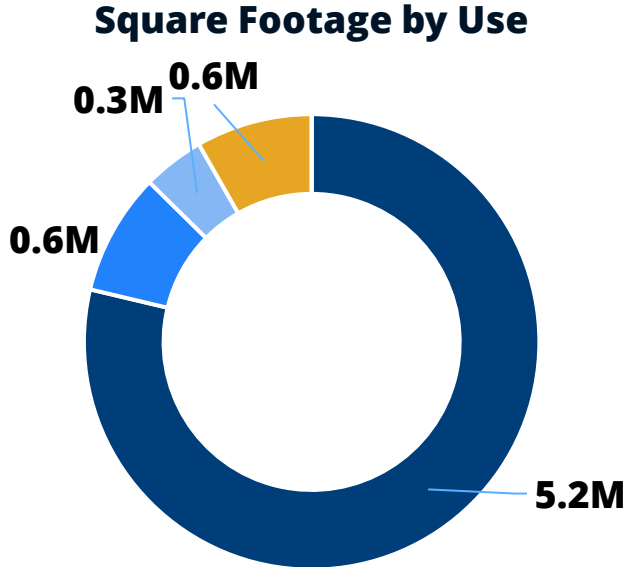
	Median SF
Residential	158K SF
Office-Retail	228K SF

\*Special Cases are properties that have non-traditional anchor uses like parking, civic uses, or a non-singular anchor use

# MIXED-USE TYPOLOGIES | Distribution by Height and Anchor-Use: High-Rise

The **19 tallest mixed-use** buildings built since 2010 still include a **majority of multifamily-anchored buildings**, plus **two high-rise hotels** and **one high-rise office tower**.

■ Residential-Retail    
 ■ Residential-Other    
 ■ Office-Retail    
 ■ Hotel-Retail    
 ■ Special Cases\*



	Median SF
Residential	269K SF
Residential-Other	578K SF
Office-Retail	291K SF
Hotel-Retail	275K SF

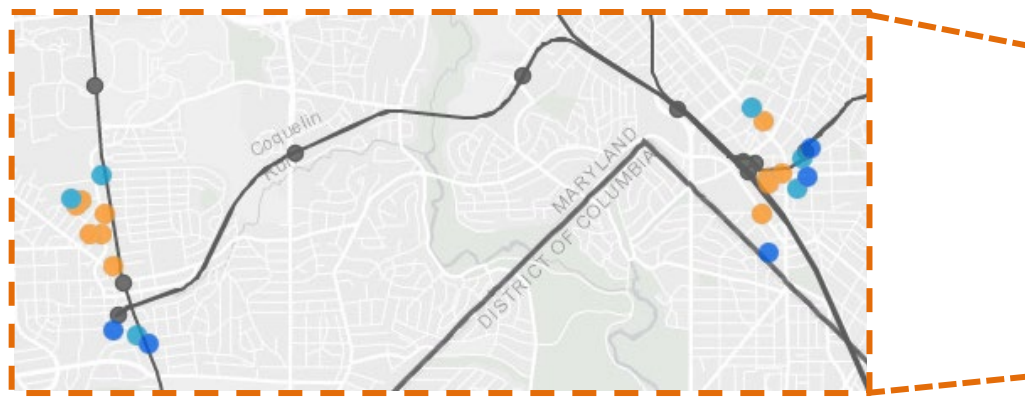
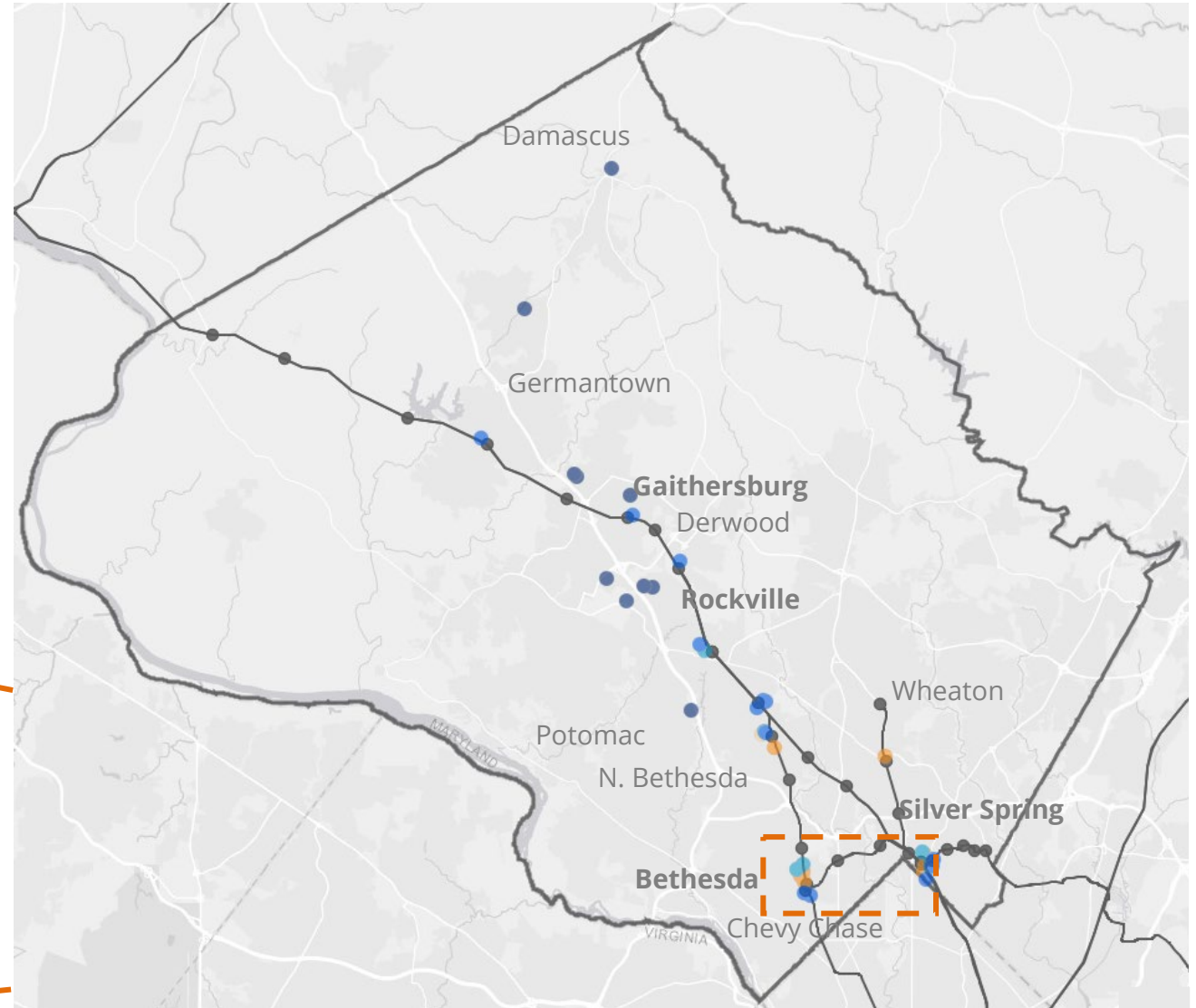
\*Special Cases are properties that have non-traditional anchor uses like parking, civic uses, or a non-singular anchor use

# RESIDENTIAL MIXED-USE TYPOLOGIES

**Denser** residentially-anchored typologies are concentrated **down-county**, while **suburban** typologies are concentrated on the **outskirts of Gaithersburg, Rockville** and beyond.

## Use Type

- Suburban Low/Mid-Rise
- Accessible Low/Mid-Rise
- Urban Mid-Rise
- Dense High-Rise
- Other



# RESIDENTIAL MIXED-USE TYPOLOGIES | Suburban Low/Mid-Rise

Suburban Low/Mid-Rise Residential properties in this typology were built along the I-270 corridor and rank poorly compared to their taller, more accessible peer properties.



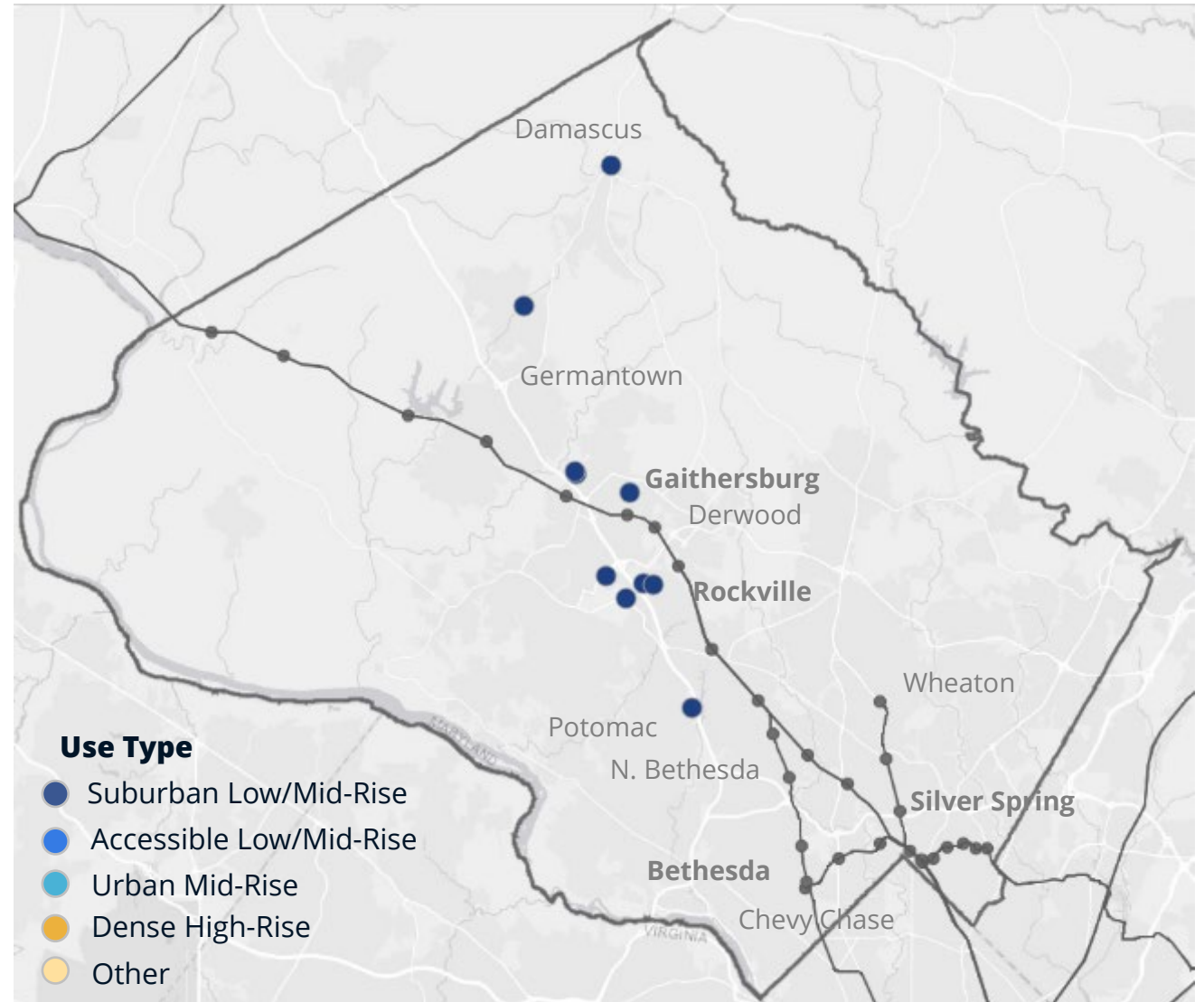
**10 Properties**

**4-7 Stories**



**Walk Score: 40-65**

**Transit Scores: 0-65**



# RESIDENTIAL MIXED-USE TYPOLOGIES | Accessible Low/Mid-Rise

Accessible Low/Mid-Rise Residential properties are generally located **along the county's transit lines**, from down-county to as far north as Germantown.



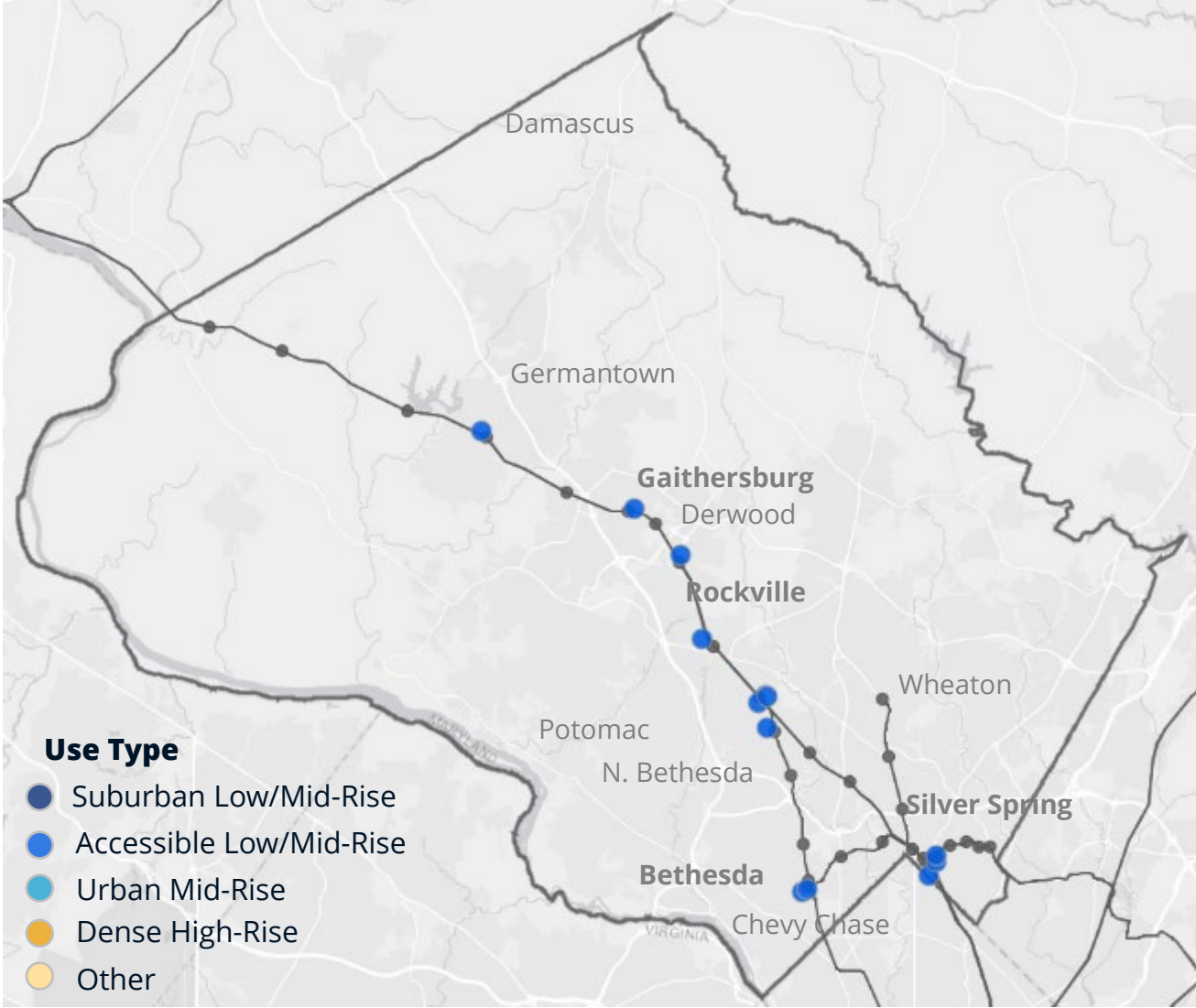
**13 Properties**

**4-6 Stories**



**Walk Score: 75-99**

**Transit Scores: 50-80**



# RESIDENTIAL MIXED-USE TYPOLOGIES | Urban Mid-Rise

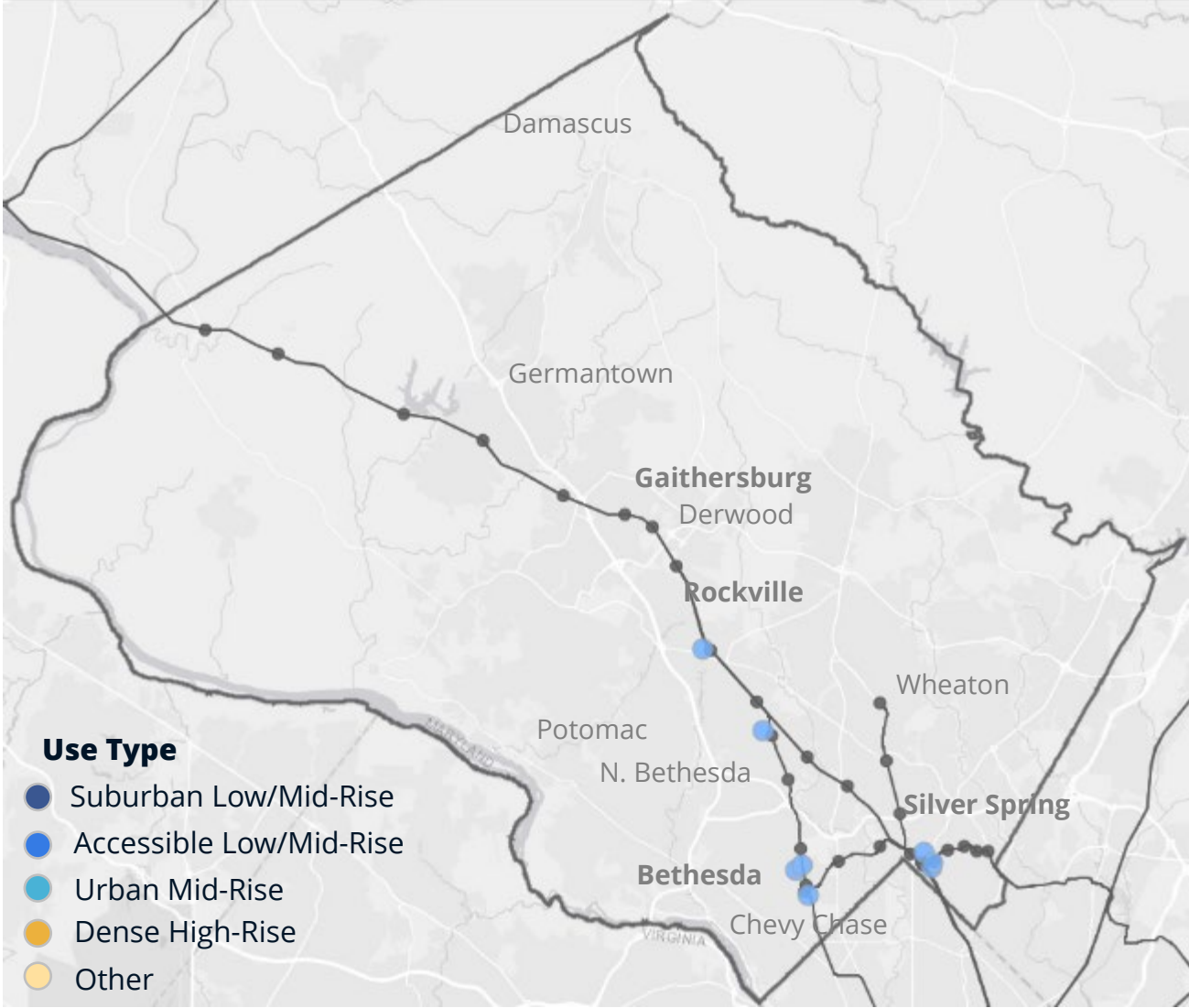
Urban Mid-Rise Residential properties are generally located near metro stations and down-county.



**8 Properties**  
**8-14 Stories**



**Walk Score: 75-99**  
**Transit Scores: 65-90**



# RESIDENTIAL MIXED-USE TYPOLOGIES | Dense High-Rise

Dense High-Rise Residential properties are located in Montgomery County's southernmost Metro-anchored districts.



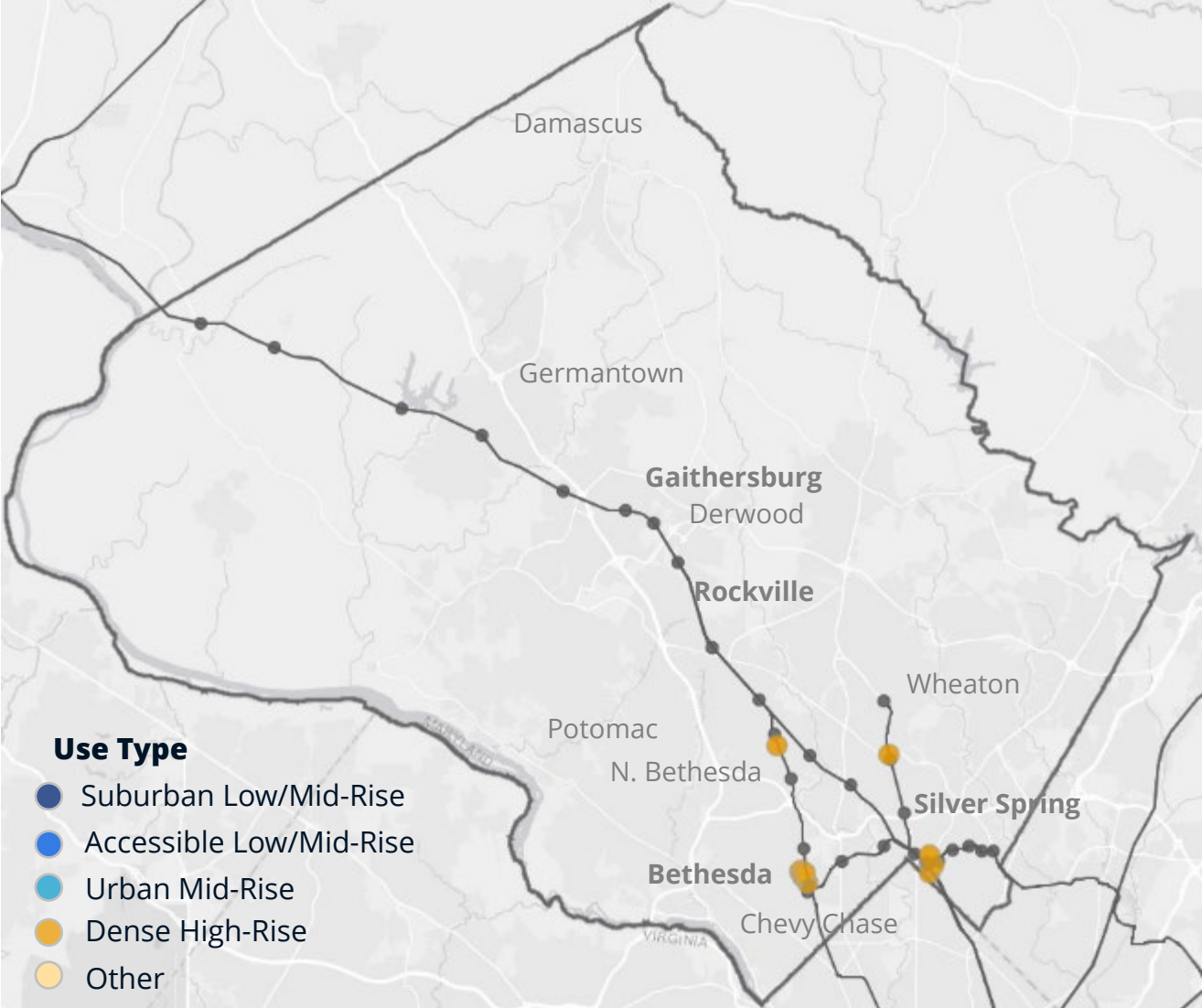
**13 Properties**

**15+ Stories**



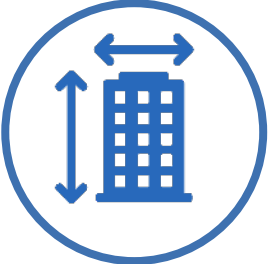
**Walk Score: 95+**

**Transit Scores: 65-90**



# RESIDENTIAL MIXED-USE TYPOLOGIES | Other

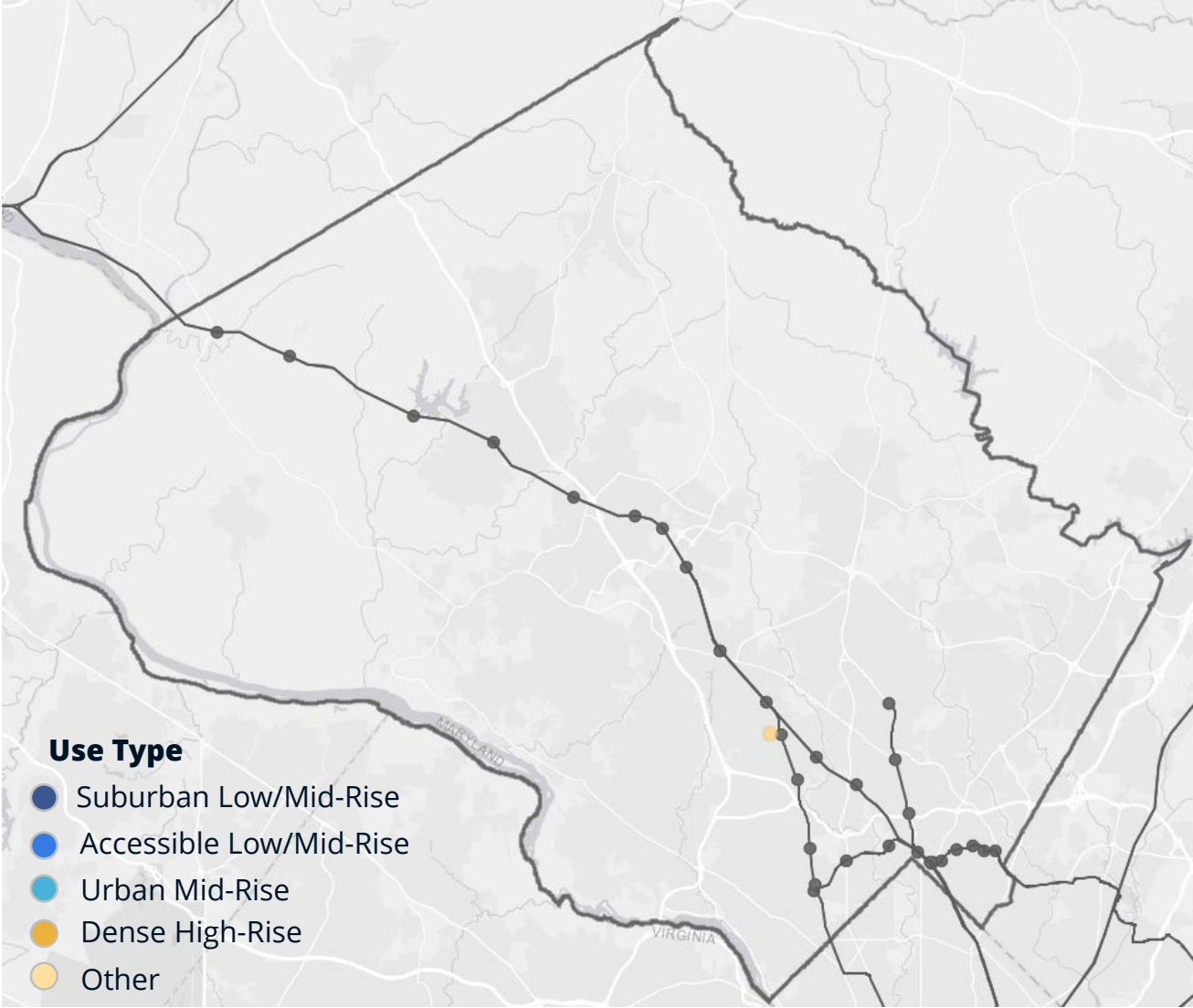
Residential - Other properties have rooftop urban farms, though no ground floor retail and are located down-county.



**1 Property**  
**14+ Stories**



**Walk Score: 81+**  
**Transit Scores: 90+**



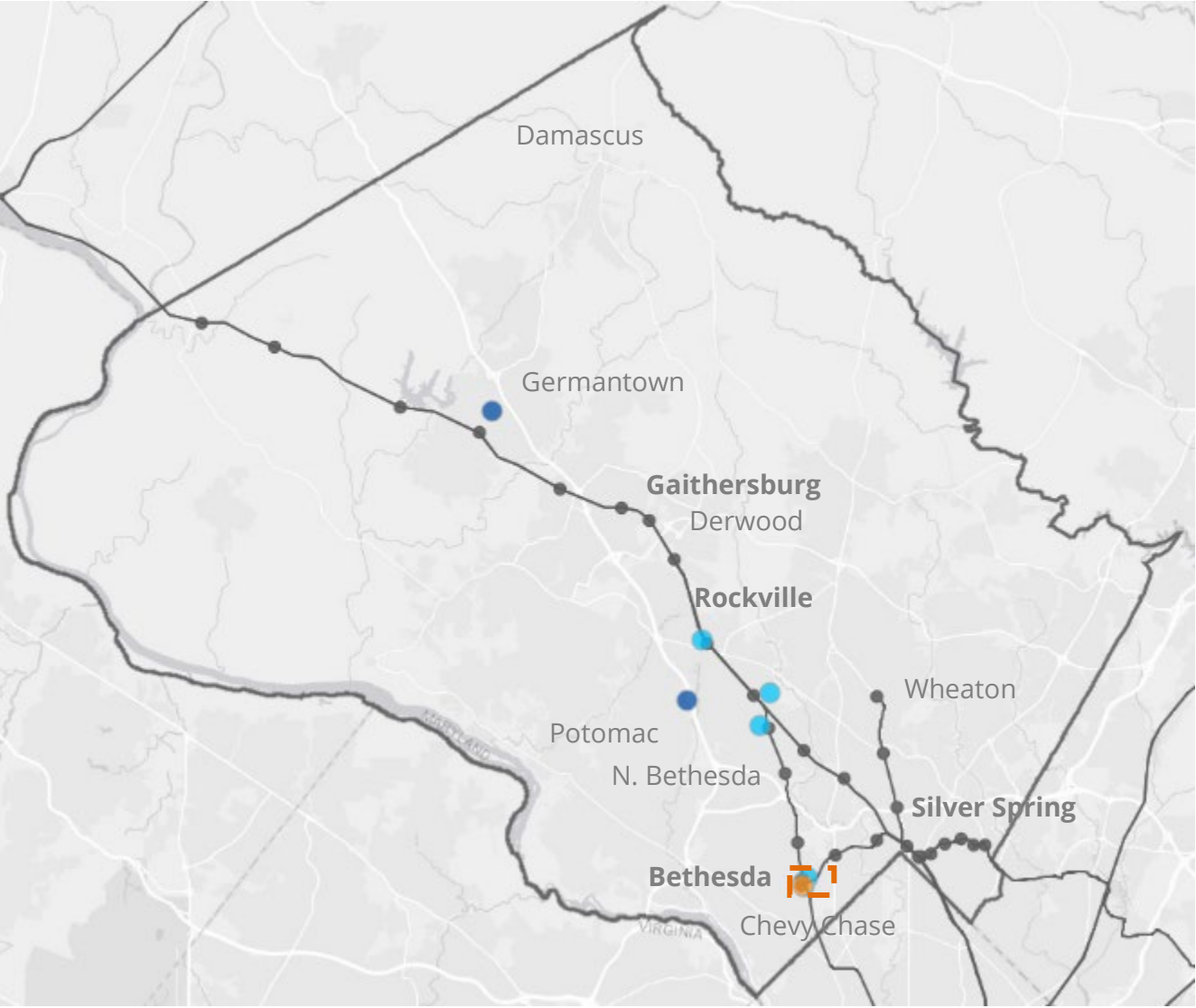
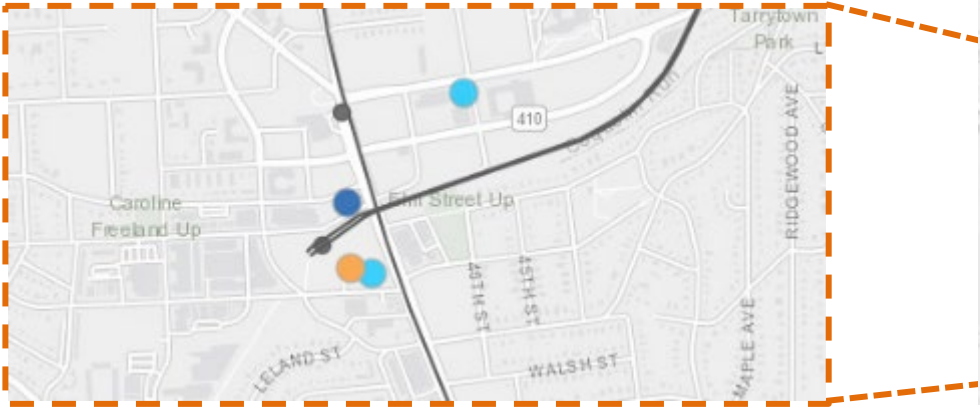


# OFFICE MIXED-USE TYPOLOGIES

Newer, office-anchored mixed-use properties are mostly **located between Bethesda and Rockville**. **Low-rise** office-anchored buildings are mostly located **further from transit**, while the **reverse is true for taller typologies**.

### Use Type

- Low-Rise
- Accessible Mid-Rise
- Dense High-Rise



# OFFICE MIXED-USE TYPOLOGIES | Low-Rise

Low-Rise Office properties are **located across the county**, both in DC-adjacent areas and further out.



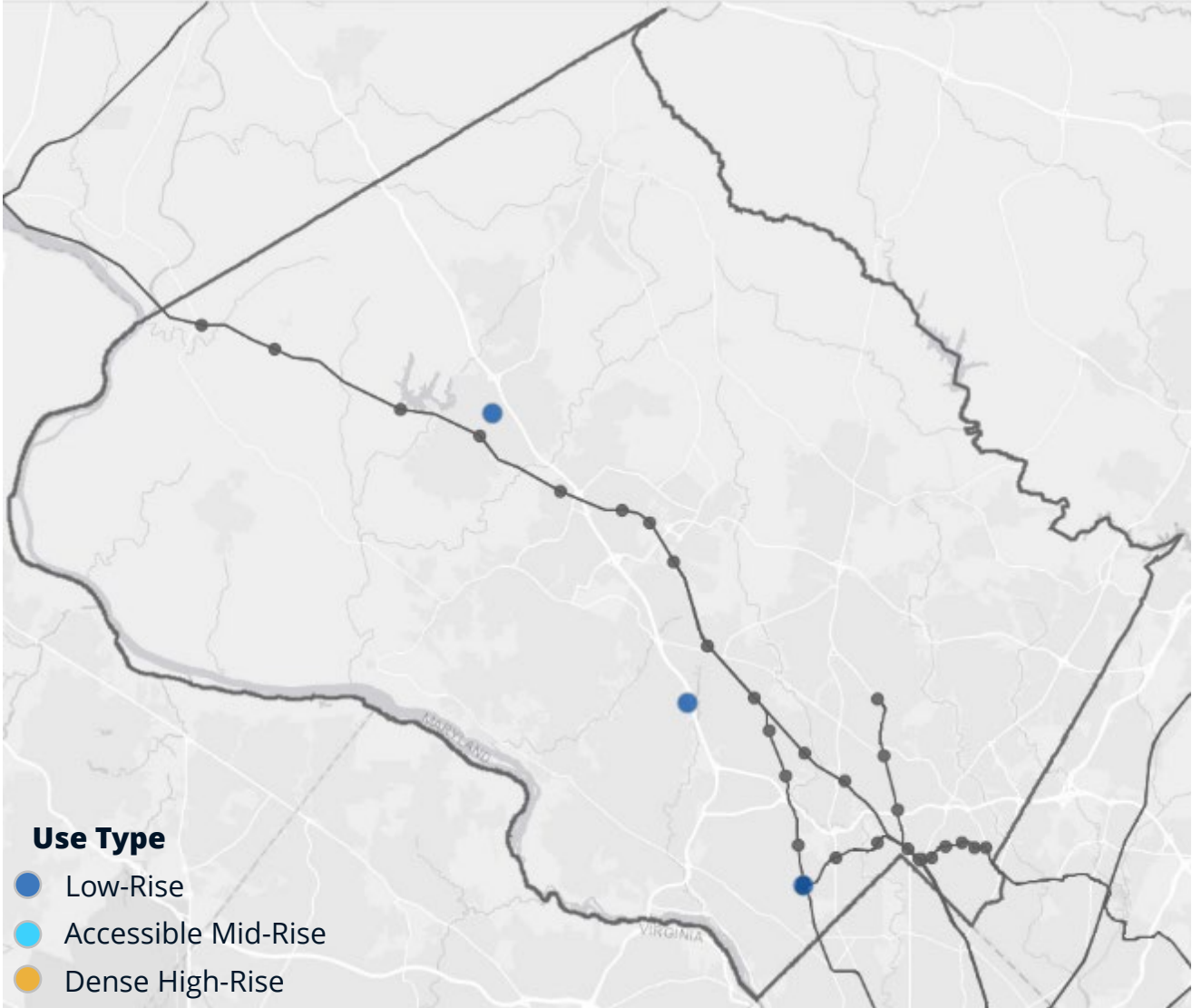
**3 Properties**

**4-6 Stories**



**Walk Score: 45-90**

**Transit Scores: 0-65**



# OFFICE MIXED-USE TYPOLOGIES | Accessible Mid-Rise

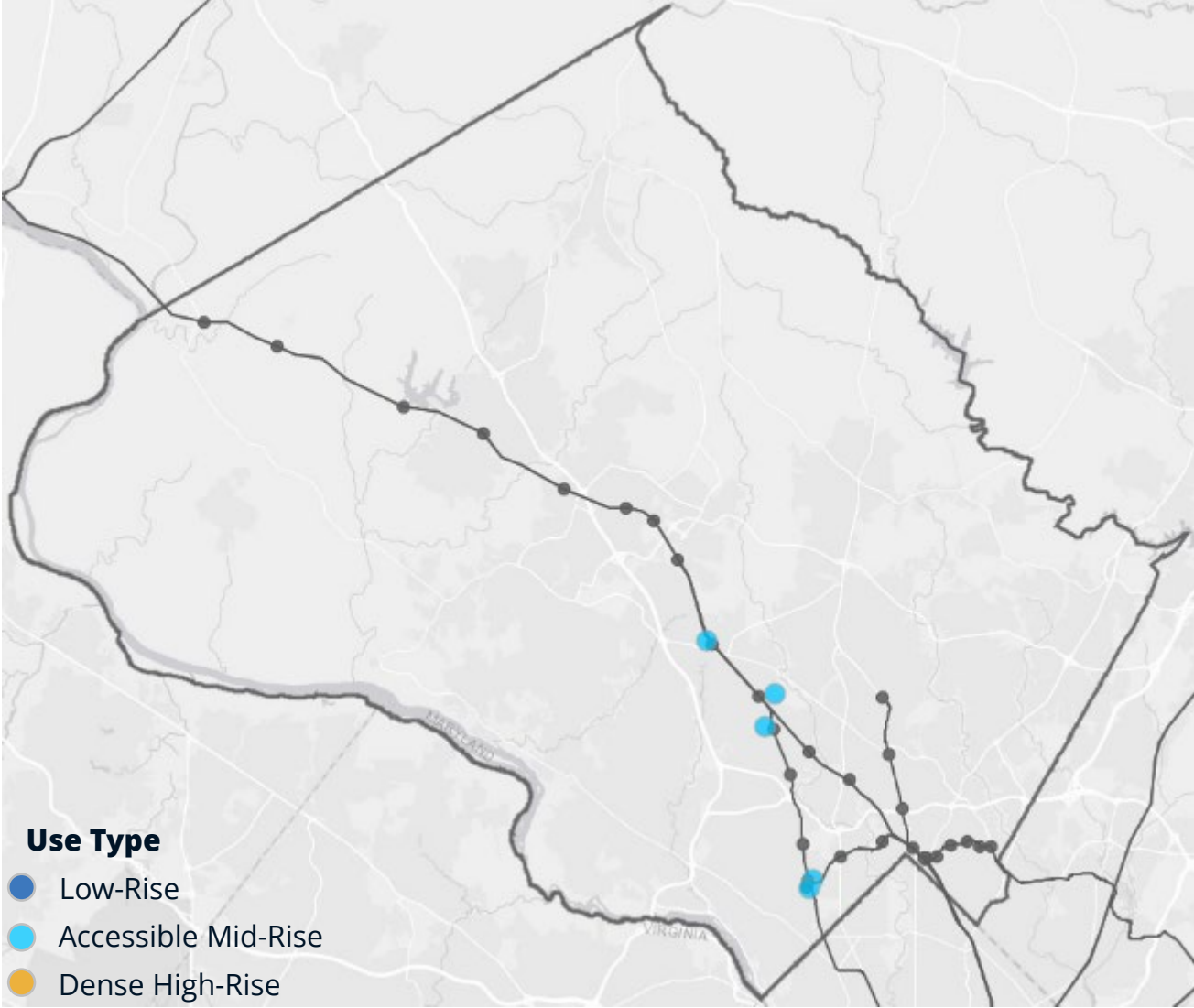
Accessible Mid-Rise Office properties are located primarily down-county.



**5 Properties**  
**6-12 Stories**



**Walk Score: 55-99**  
**Transit Scores: 60-75**



# OFFICE MIXED-USE TYPOLOGIES | Dense High-Rise

Only one **High-Rise Office** property was built in the last 10 years. It is located in **Downtown Bethesda**.



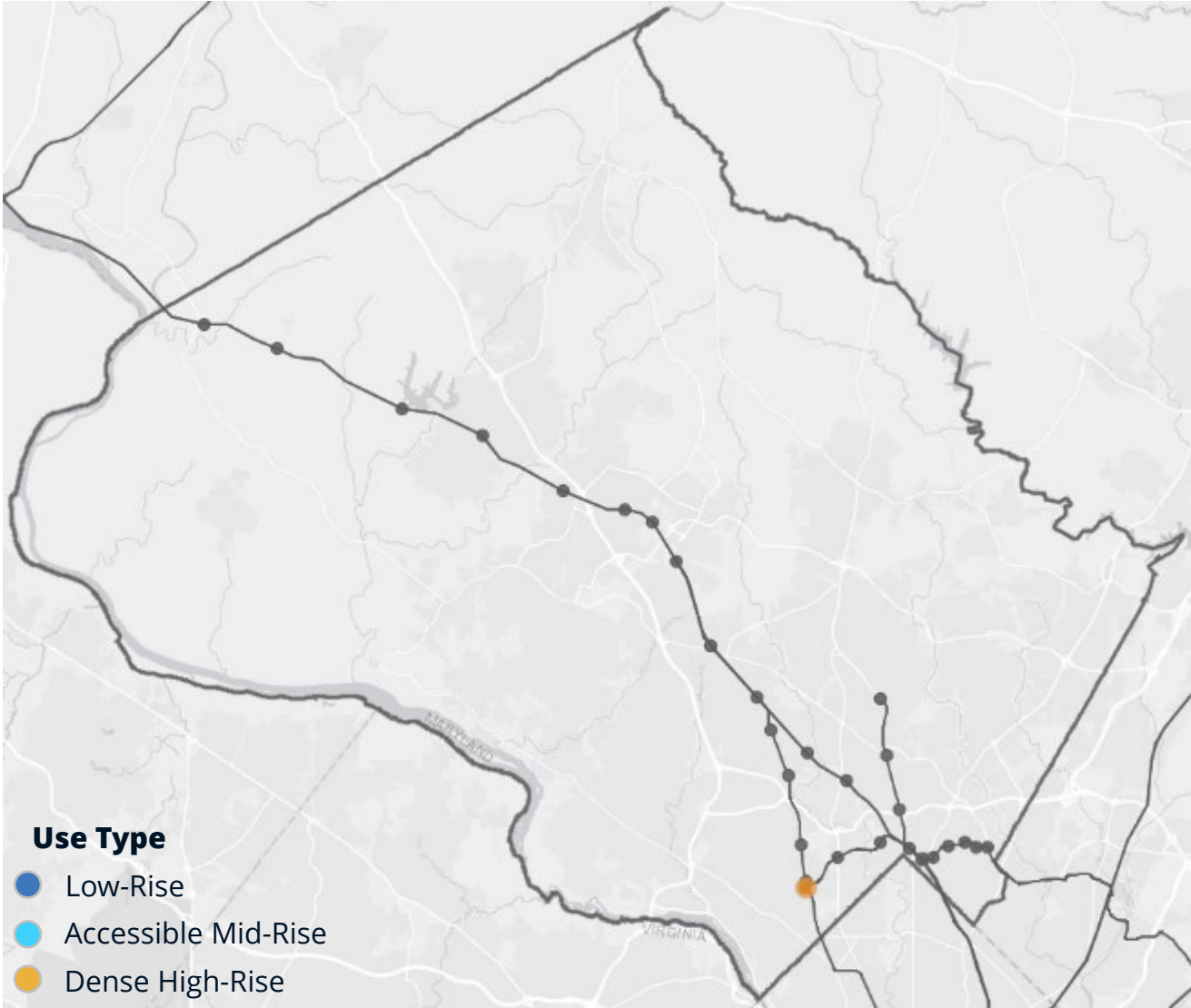
**1 Properties**

**15+ Stories**



**Walk Score: 98**

**Transit Scores: 66**

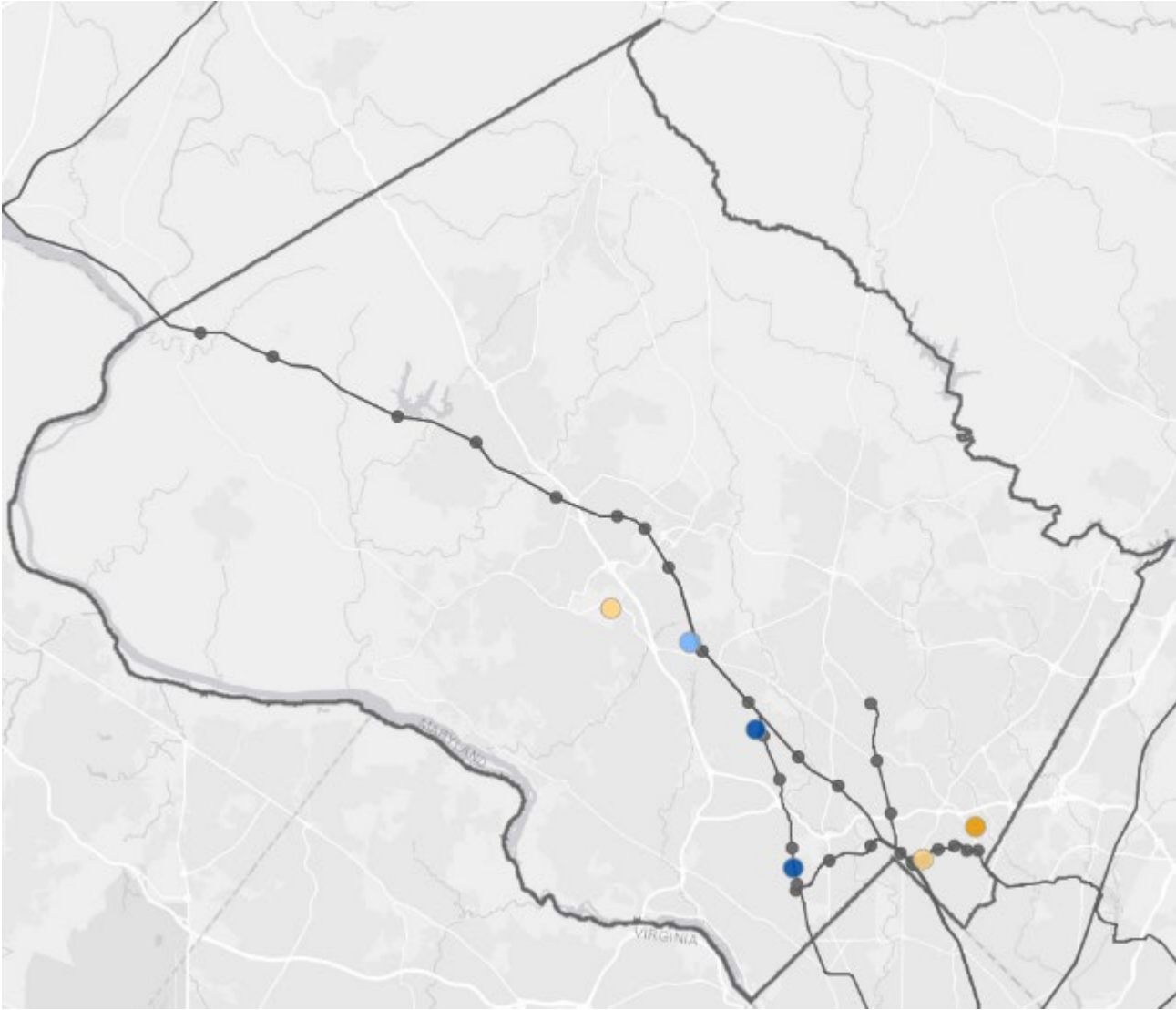


# OTHER MIXED-USE TYPOLOGIES

**Other/Special Case** projects are scattered throughout down-county and the I-270 corridor.

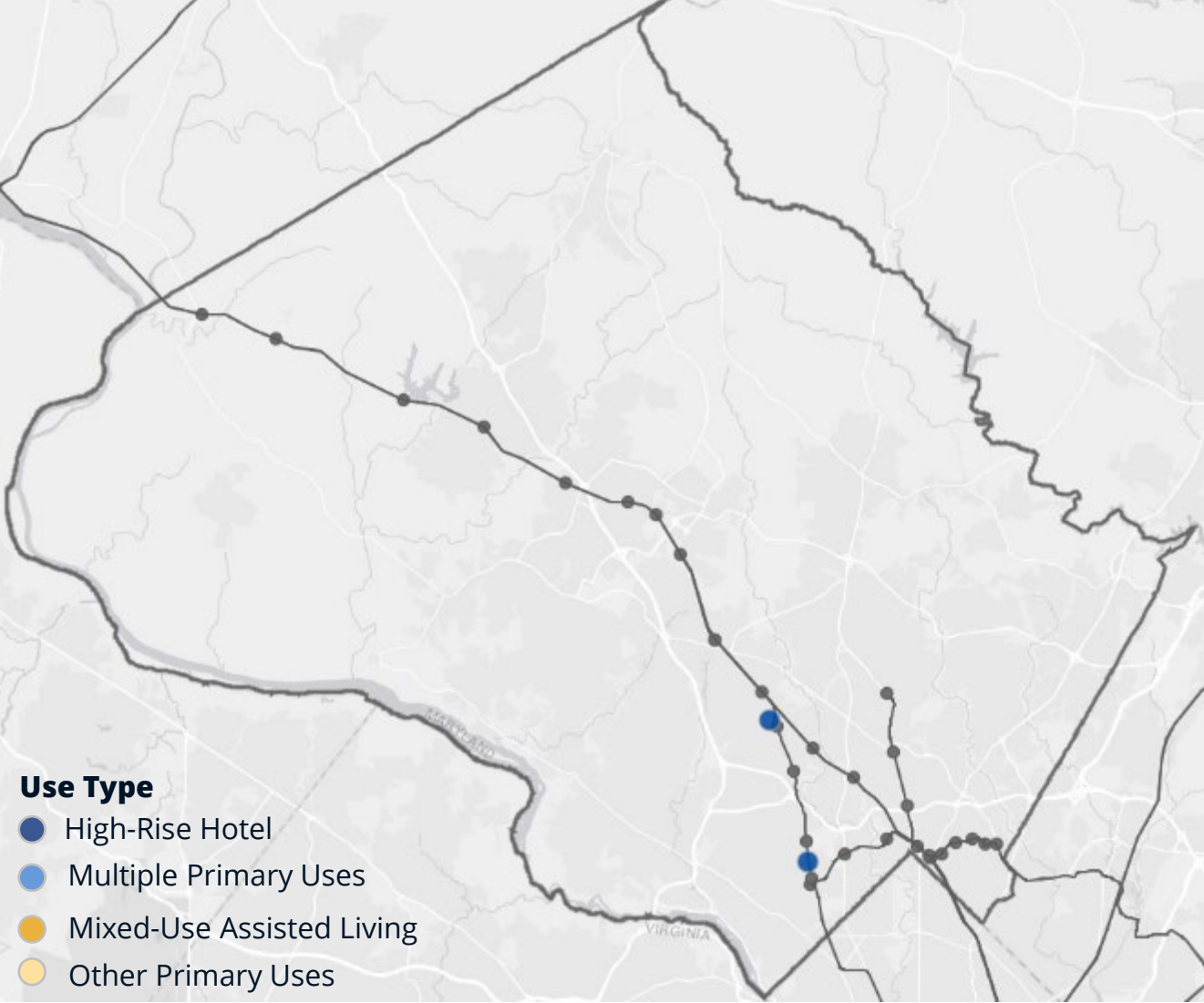
**Use Type**

- High-Rise Hotel
- Multiple Primary Uses
- Mixed-Use Assisted Living
- Other Primary Uses



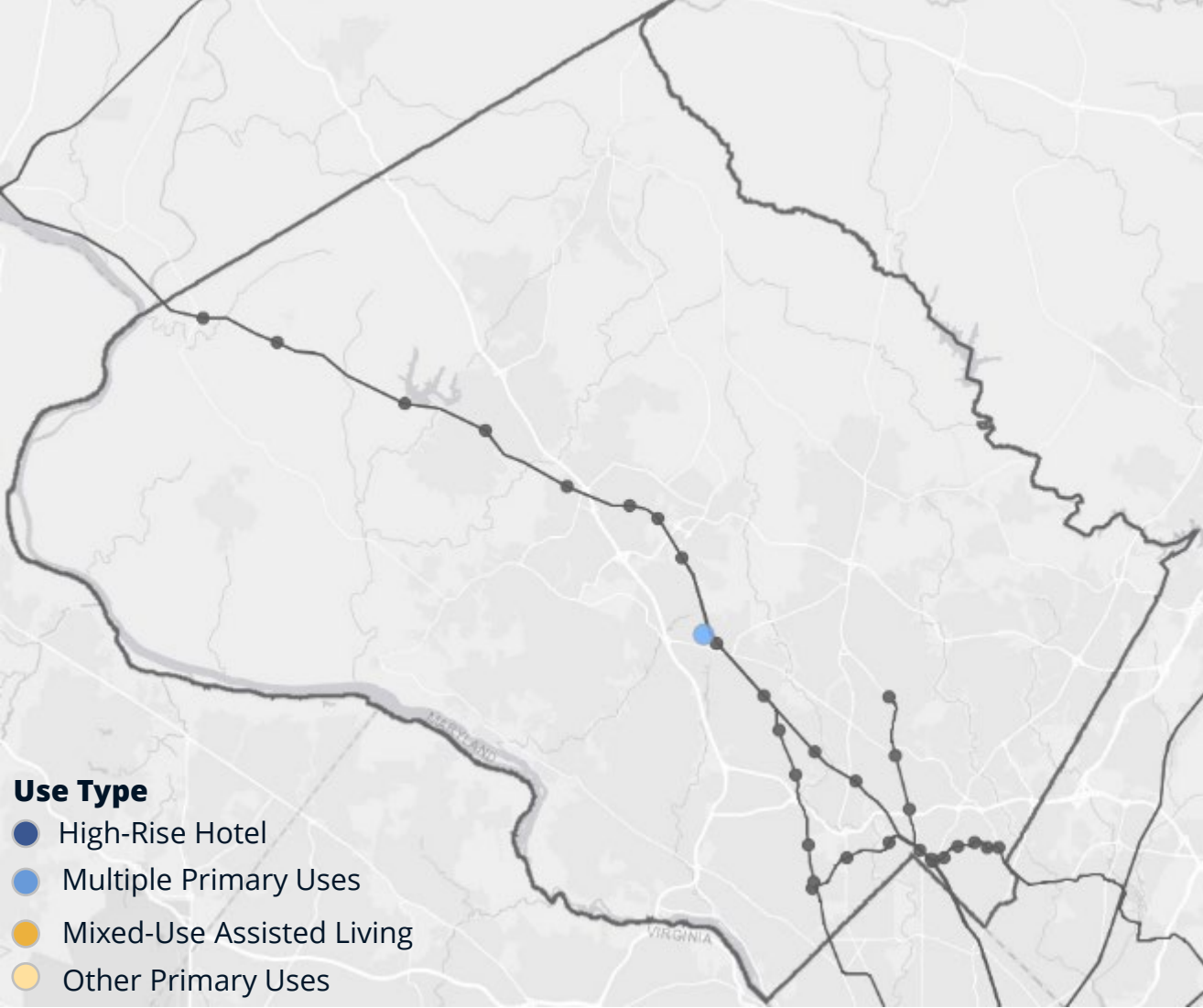
# OTHER MIXED-USE TYPOLOGIES | Hotel

The **two** Hotel-anchored mixed-use properties are **high-rises** and are generally **walkable and transit-accessible**.



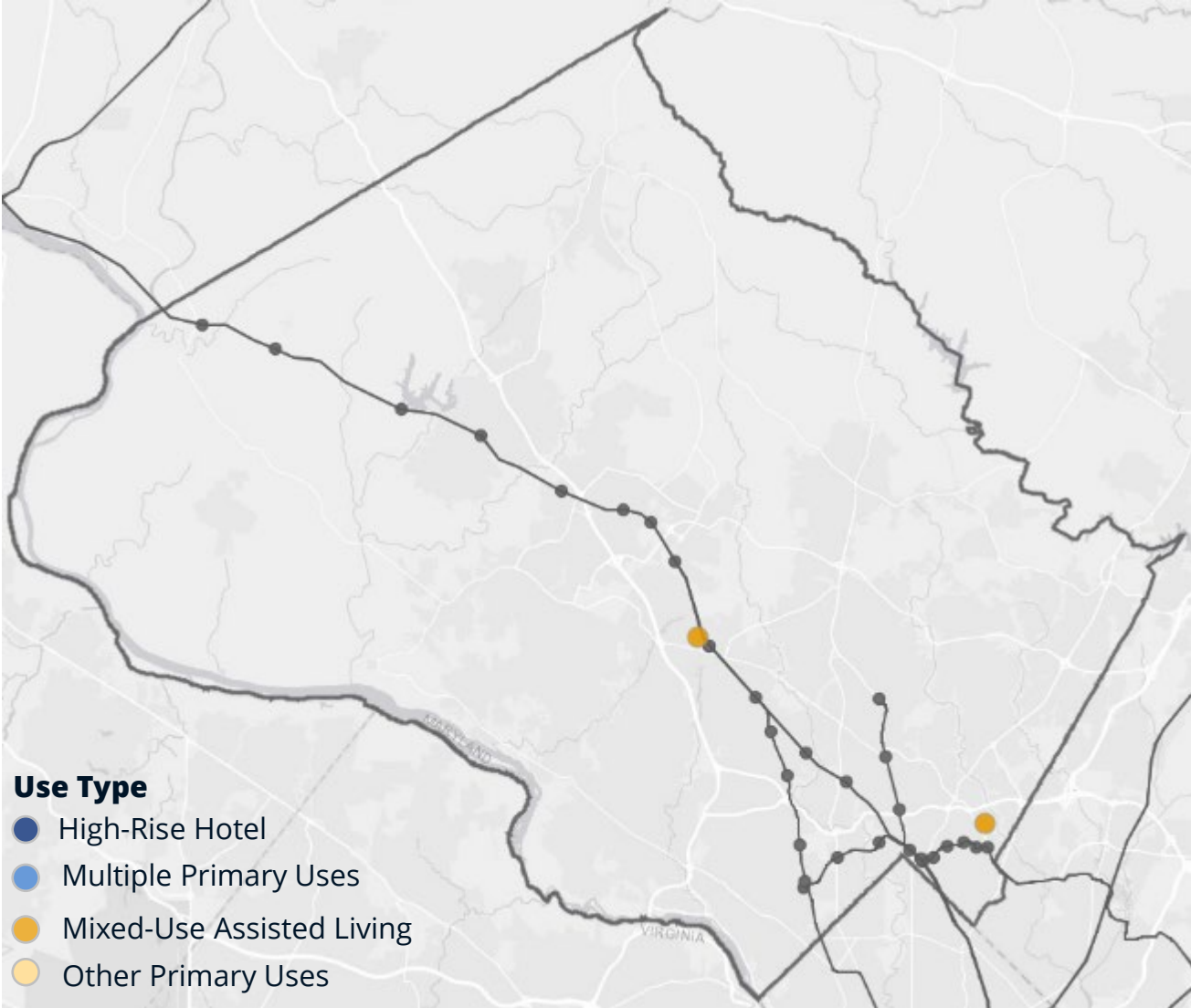
# OTHER MIXED-USE TYPOLOGIES | Multiple Primary Uses

One property with Multiple Primary Uses is 2 stories tall with **evenly-weighted retail and office** uses. It is **reasonably walkable and transit-oriented** and is located in **Rockville**.



# OTHER MIXED-USE TYPOLOGIES | Mixed-Use Assisted Living

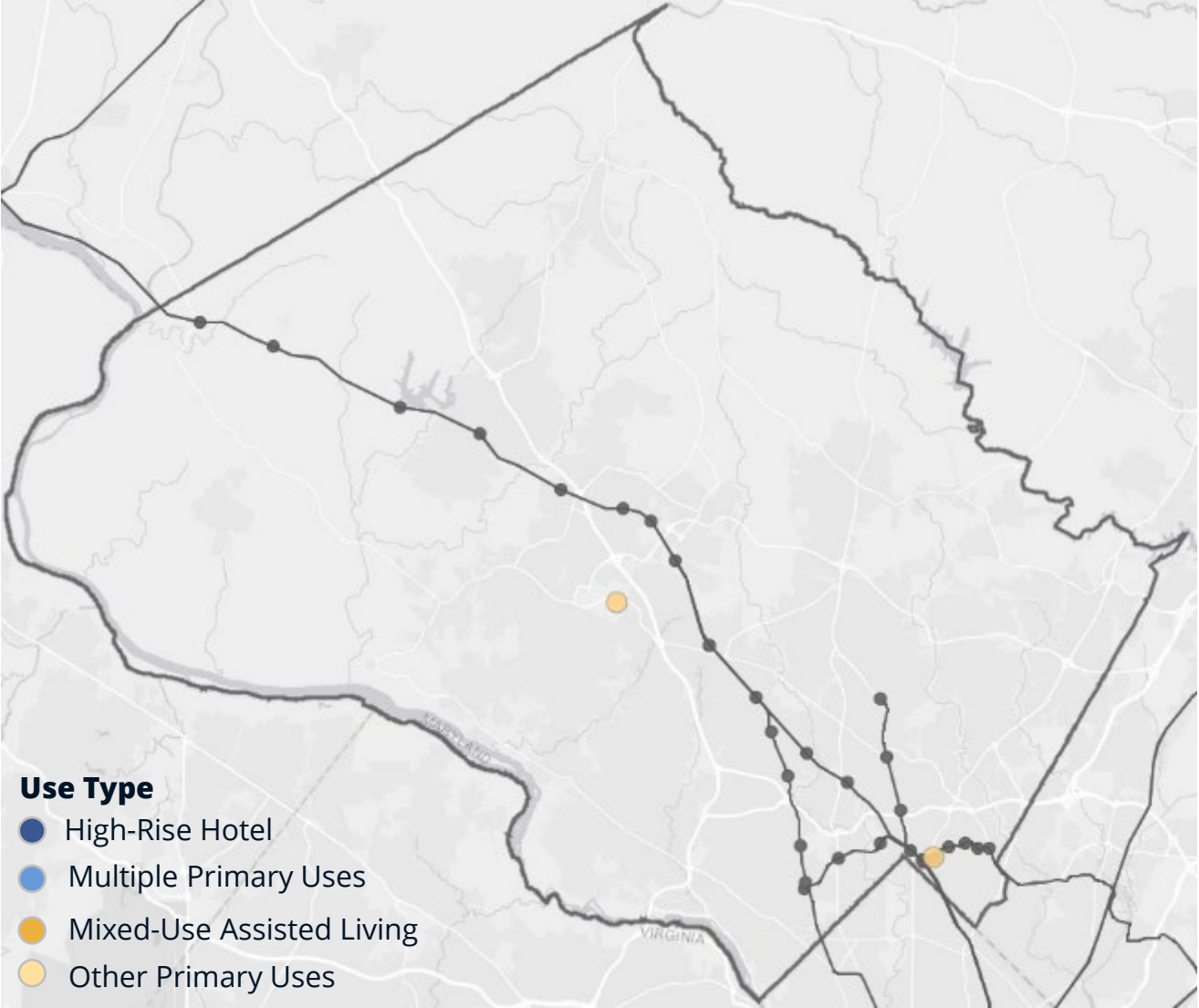
Two **Mixed-Use Assisted Living** properties are 3 and 7 stories tall, respectively, and anchored by an assisted living facility with either activated ground floor retail or medical services. One property has a substantially higher Walk Score and Transit Score than the other. The other property has a **suburban typology** but is **fully affordable**. The properties are located in **Rockville** and **Silver Spring**.





# OTHER MIXED-USE TYPOLOGIES | Other Primary Uses

Two properties with **Other Primary Uses** are included in the dataset – the 5-story **Downtown Silver Spring Library** and a 3-story **parking garage** in western **Rockville** with **ground floor retail**. The Library has a substantially higher Walk Score and Transit Score than the other and ranks **above average**. The parking garage has a **suburban typology** and **ranks poorly** compared to the other developments within this category.



# SUCCESS FACTORS

- **Sustainability:** Do project design and location support **non-auto transportation**, and/or generate **stormwater** and **energy/water efficiency** benefits?
- **Walkability:** Do projects enhance or detract from the **pedestrian experience** in more urban & less urban environments?
- **Authenticity:** What is the character of the neighborhood in which mixed-use projects are built? Do new projects reinforce **neighborhood character**?
- **Convenience:** Do projects have easy **access to transit** and **amenities**? Are on-site retail spaces occupied by tenants relevant to other building users (or occupied at all)?
- **Flexibility:** Can projects accommodate **changing trends** in transportation and real estate dynamics? How well-positioned are buildings to succeed in a post-COVID world?
- **Inclusion:** Do projects allow for **lower-income** residents and/or smaller businesses to become tenants? Are project open spaces **welcoming** to diverse users?

## SUCCESS FACTORS | Sustainability

Sustainability in mixed-use projects can have a variety of meanings. Some projects can apply traditional measures of sustainability – like **LEED certifications or Energy Star ratings** – while other mixed-use projects take a more creative approach.

LEED certifications can be costly and time-consuming. Mixed-use projects, which are flexible by their very nature, **can explore other options to be sustainable**. These options can include both static or active **green roofs, storm water collection and recycling, urban apiaries, or solar panel** integration.

Incorporating non-traditional sustainability strategies such as green roofs or urban apiaries into mixed-use projects can help create interesting and engaging uses without losing leasable square footage.

HR&A Advisors, Inc.



**The Pallas at Pike and Rose** features a **rooftop garden** run by Up Top Acres. This organization provides a full-service produce garden on the roof of the Pallas. Not only does this allow the building to benefit from having a rooftop amenity, but also provides the community direct access to fresh, very local produce.

## SUCCESS FACTORS | Walkability

Most mixed-use projects **rely on ground floor activation to create success for the commercial** uses within the building. Mixed-use developments provide the opportunity for intentional interventions in the pedestrian realm.

Whether a mixed-use project is in a down-county urban core or along the more suburban I-270 corridor, it should **contribute to and plug into the pedestrian experience**. Enhancements can come in form of wider sidewalks, stronger buffering between pedestrians and car traffic, or through ground floor activation that provides more eyes and activity on the street at all hours.



**19873 Century Boulevard, Germantown**, has **street-focused ground floor retail**, with office space on the second floor. The **sidewalks are wide, and buffered with greenery**, and the building provides easy access to the commercial uses from the street.

## SUCCESS FACTORS | Authenticity

Mixed-use projects should seek **to reinforce the character of a neighborhood.**

For large-scale developments like mixed-use districts, the authenticity of the project can be strengthened through the engagement of the local community throughout the planning process, ensuring the **community's vision and voices help to drive project design.**

In smaller developments, like singular buildings, authenticity can come by adding to the existing fabric of a district and by **leasing spaces to local retailers** as opposed to national brand names, supporting and displaying **local art**, or by hosting **community and neighborhood events.**



**The Silver Spring Library** building has a unique design with natural streetscaping that helps **weave the project into the fabric of the neighborhood.** The project also successfully combines **colocated public facilities** and **community-oriented uses** such as a café and transit station.

## SUCCESS FACTORS | Convenience

Mixed-use projects should be **easily accessible, and able to meet multiple needs of consumers at once**. Convenience can be measured through both the **proximity to transit and ease of access**, and the cohesiveness of the **mix of uses within the project**.

Building mixed-use projects near transit makes them more **accessible to residents, workers and shoppers of diverse incomes** and reduces the projects' contribution to **traffic and pollution**.

Integrating **uses that complement each other**, such as retail and restaurants catering to workers or residents upstairs, **reinforces the project's market success** and further **reduces required car trips**.



**The Exchange at Wheaton** provides **a rich mix of uses within the building and is directly adjacent to the Wheaton Metro station**. This development houses active ground floor retail including a grocery store, an alcoholic beverage store, and a Starbucks.

## SUCCESS FACTORS | Flexibility

Zoning and regulations that can **accommodate shifts in consumer preferences and market conditions** will result in more successful projects.

This is true both with regard to the varying **development plans, construction typologies, new uses**, etc. that may be more or less feasible from year to year and with regard to **updates to existing buildings** that seek to remain relevant.

A district that can **evolve naturally in line with changing conditions and preferences** will be more successful and attractive over the long-term.



**Pike & Rose** was facilitated by the **flexible zoning** (CR zone) developed as part of the White Flint Sector Plan. These districts allowed a wide range of uses to respond to development trends and needs over time and required the delivery of key **public benefits** for the community.

## SUCCESS FACTORS | Inclusion

Mixed-use projects should be designed to be **inclusive spaces for all community members** and visitors.

Montgomery County's inclusionary zoning policy, which requires that at least 12.5% of housing units in a development are affordable, is a good step towards creating inclusive mixed-use policies.

Other methods to create more inclusive mixed-use projects include leasing retail space to **smaller, local businesses** and designing spaces to be **welcoming to diverse users of all abilities**.



**The Fenton** is a 100% affordable residential-based mixed-use development close to the heart of downtown Silver Spring. This development goes beyond the Inclusionary Zoning policies laid out by the county. All units are income restricted to maintain affordability.



# **III: Mixed-Use Development Policy Comparison**

# POLICY COMPARISON INTRODUCTION | Overview

**HR&A reviewed regional and national mixed-use trends and policies to understand best practices for encouraging mixed-use development.**

A closer look at case studies in municipalities with policies and programs that have successfully encouraged mixed-use development will provide insight on steps Montgomery County can take to further encourage mixed-use, particularly transit-oriented development. The following pages outline existing practices used in Montgomery County, an assessment of how those practices compare to other regional and national jurisdictions, and a set of recommendations for future policies and initiatives.

**For each jurisdiction, HR&A reviewed the following policies and initiatives to compare to Montgomery County's practices:**

- Land Use/Comprehensive and Sector Plans
- Affordable Housing Standards
- Design Guidelines
- Open Space Guidelines

# POLICY COMPARISON INTRODUCTION | Case Studies Reviewed

We reviewed four **case studies** and several additional examples from the DC region and beyond to identify policies and incentives that successfully encourage complex mixed-use development.

## REGIONAL CASE STUDIES



### Fairfax County, VA

- Mosaic District
- Tysons Corner
- Reston



### Arlington, VA

- Rosslyn-Ballston Corridor

## NATIONAL CASE STUDIES



An edge city in Seattle's orbit, similar to Montgomery County relative to DC.

### Bellevue, WA

- BelRed District
- Eastgate
- Downtown District



Recent investments in public transportation and increasing density around station areas.

### Los Angeles, CA

## ADDITIONAL JURISDICTIONS REFERENCED

- Prince George's County
- Loudon County
- Washington, D.C.
- New York City
- Portland, OR

# REVIEW OF EXISTING POLICIES | Overview

HR&A conducted a review of existing policies that impact mixed-use development in Montgomery County through a review of county plans and stakeholder interviews. The County's General Plan establishes broad policy guidelines and vision, while Sector Plans and Master Plans dictate more specific guidelines for land use, design, open space, and more for smaller areas in the county – all of which contribute to creating an environment that is generally friendly for mixed-use development.

## Land Use

- **Commercial Residential (CR) zones** allow for by-right mixed-use development under the “standard method” (0.5-1 FAR).
- The “optional method” of development allows for **incentive density** in exchange for public benefits using a point-based system.
- Incentives encourage **ground floor retail**.
- **Floating zones** can achieve re-zoning outside the master plan process but are rarely used.
- **Adequate Public Facilities Ordinance** establishes limits on infrastructure elements (e.g. congestion).
- **Overlay zones**, such as Bethesda (B) or Takoma Park/East Silver Spring Commercial Revitalization (TPESS)

## Affordable Housing

- Mandatory **MPDU Program** across the county requires 12.5% - 15% of units to be set aside as affordable, depending on area's zoning.
- Inclusion of affordable units will earn points under “optional method” of development.

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## Design Guidelines

- **Quality Building and Site Design guidelines** for CR zones include:
  - Architectural Elevations
  - Resource Protection
  - Public Open Space
  - Public Art
  - Structured Parking
  - Tower Step-Back
- Compliance with design guidelines earn points under “optional method” of development.
- Design guidelines **vary by sector plan.**

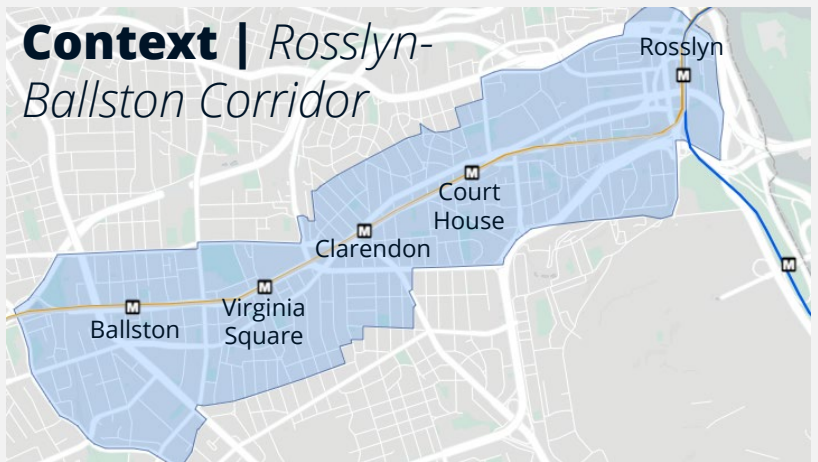
## Open Space

- **Public open space is required** for mixed-use buildings.
- County goals and design principles for open space are determined within **various documents**:
  - 2017 Park, Recreation and Open Space (PROS) Plan
  - 2017 Recreational Guidelines for Private Residential Development
  - Designing Public Spaces: Energized Public Spaces Design Guidelines and the Energized Public Spaces Functional Master Plan
- **Park Impact Payments** are imposed in Bethesda.

# REVIEW OF CASE STUDIES | Arlington, VA

Arlington is an example of transit-oriented development and neighborhood preservation along the Metrorail.

**Context | Rosslyn-Ballston Corridor**



- The County advocated for the Orange Line to be located along commercial spine along Wilson and Clarendon Blvd. to leverage existing development activity.
- Only about 12% of the county is planned for mixed-use or higher density development, all of which is primarily concentrated around Metrorail stations.

## Policies and Initiatives

### Comprehensive or Sector Plans

- **Sector Plans** identify affordable housing, open space and historic preservation goals, and specify additional density bonuses to incentivize those goals.
- The Zoning map is not updated to reflect **development intensities within the Comprehensive Plan or Sector Plans**.
- Sector Plans are **not binding** in Virginia.

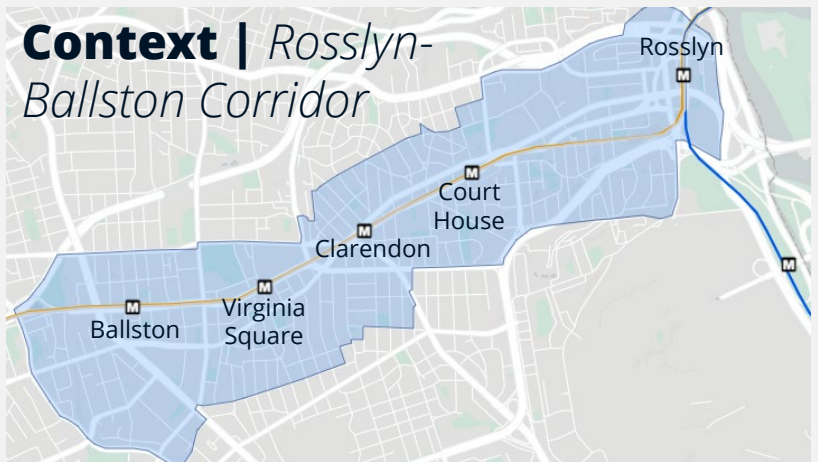
### Land Use

- Under a discretionary “site plan process”, most commercial or mixed-use projects are done by **special exception use permit or rezoning**, and developers can negotiate conditions.
- **Bonus density** is allowed in exchange for community benefits, which are negotiated on a discretionary basis.
- Emphasis on planning **higher densities around transit stations**.
- **Ground floor requirements exist in some districts.** Example: In Clarendon, 75% of ground floor GSA in office buildings must be retail.

# REVIEW OF CASE STUDIES | Arlington, VA

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## Policies and Initiatives

### Affordable Housing

- **Inclusionary zoning** is voluntary across entire jurisdiction allows for bonus density in exchange for 5 – 10% of GFA in affordable housing.

### Design Standards

- **Smart Growth principles drive design standards**, including preserving open space, creating walkable neighborhoods, using compact building design, and creating a strong sense of place.
- **Specific design standards vary by sector plan**, and mixed-use districts typically ask for wider sidewalks (~6 ft.) and street plants.
- **Hierarchy of streetscape treatment**, with more urban design standards, such as a wide sidewalk, planned for dense areas near Metrorail.

### Open Space

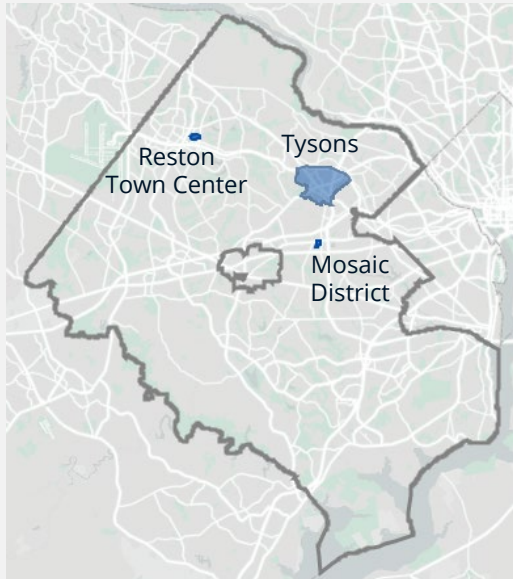
- In many mixed-use districts, a minimum of 10% of the total site area is **required to be landscaped open space**.
- The **Public Spaces Master Plan** recommends more casual use space, public art, and 30 more acres of new public space over 10 years.

# REVIEW OF CASE STUDIES | Fairfax County, VA

Fairfax County's Comprehensive Plan encourages the development of mixed-use projects through the county.

## Context |

*Fairfax  
County*



- Fairfax has three large mixed-use districts at Tysons, Reston Town Center, and the Mosaic District.
- Most mixed-use zoning is concentrated around already existing urban nodes in the county.

## Policies and Initiatives

### Comprehensive or Sector Plans

- The County's **Comprehensive Plan** outlines the county's goals and focuses for development across the county, with explicit development plans for **Community Revitalization Districts (CRDs)**.
- The Comprehensive Plan is regularly updated and tied to updates to the zoning code.

### Land Use

- The County focuses mixed-use development on **grayfield development**, rather than adapting suburban single-family neighborhoods.
- **Zoning changes are tied to updates in the Comprehensive Plan** to limit the need for re-zoning applications during the approvals process.
- Residentially and commercially anchored mixed-use projects have **different zoning designations** to help ensure that the mix of uses is compatible with the anchor usage.

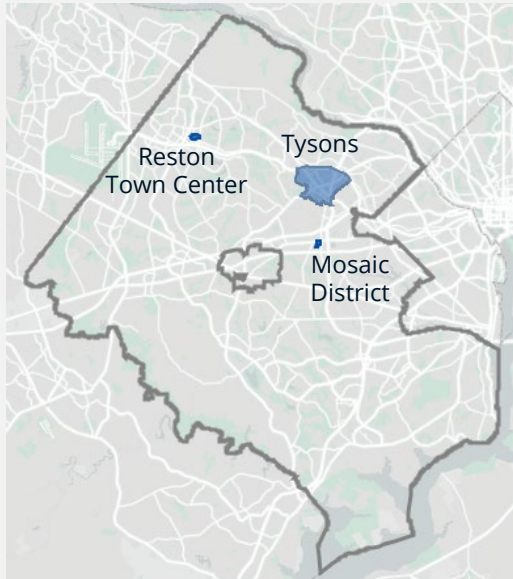


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## Context |

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- Most mixed-use zoning is concentrated around already existing urban nodes in the county.

## Policies and Initiatives

### Affordable Housing

- Fairfax County's Comprehensive Plan encourages the development of affordable units and sets a goal that **12% of units delivered across the county be affordable**. The County provides incentives, including density bonuses and free or reduced cost land, and makes residential **rezonings contingent upon including at least 12% affordable** units within projects.

### Design Standards

- **Urban Design Guidelines** for Community Revitalization Districts (CRDs) provide options and choices to developers. These guidelines are not overly prescriptive, but provide in-depth descriptions and options of what the county envisions the CRDs becoming.

### Open Space

- **Developers are responsible for improvements to the public realm** including but not limited to sidewalk improvements, street lighting, and streetscaping.

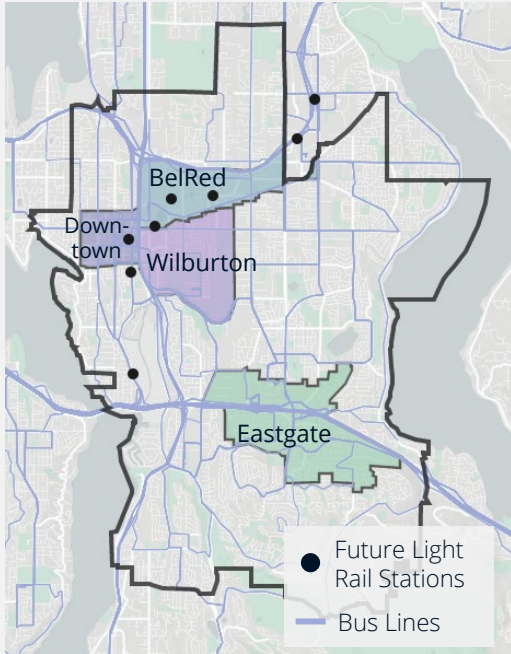
# REVIEW OF CASE STUDIES | Bellevue, WA

Bellevue, an anchor city within metro Seattle, focuses its growth on denser, designated mixed-use districts.

## Context |

### *Bellevue Mixed-Use Districts*

- 5<sup>th</sup> largest city in the state
- Approx. 10 miles to the East of Seattle
- High-tech and retail center of the Eastside (suburbs of Seattle)
- Key mixed-use districts include Downtown District, BelRed District, Eastgate, and Wilburton – each with a unique focus and character.



## Policies and Initiatives

### Comprehensive or Sector Plans

- The **Comprehensive Plan** outlines citywide policies and goals, and identifies areas for high growth. **Neighborhood Plans** contain goals and policies for each of the 14 subareas.
- Neighborhood Plans are updated every 7 years, with **as-needed updates in high growth areas**. Light rail is opening in 2023, so the City is **redoing planning around station** areas to take advantage of those investments.

### Land Use

- A **tiered amenity incentive system** allows developers to exceed the base FAR limit (by up to 4.0 FAR). The **greatest density** is allowed **adjacent to transit**.
- **Office density is limited** in some areas to ensure a mix of uses in a very strong office market. **Ground floor commercial space** is required for building frontages in BelRed.
- The City has an **administrative review process with some discretion**.
- In some areas, the City allows a **market driven approach to parking**.

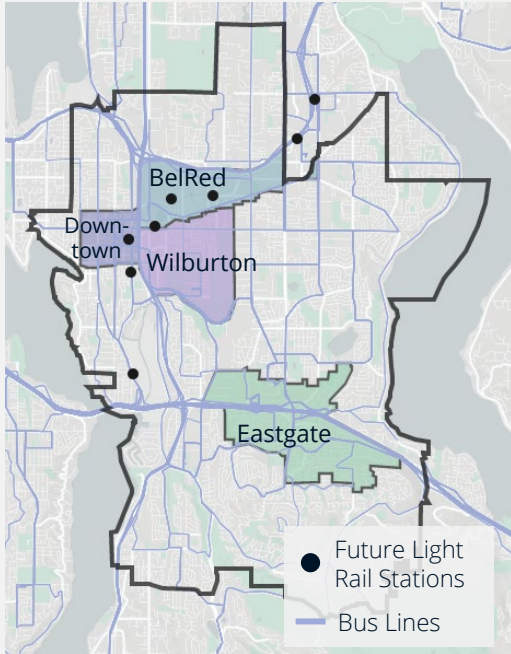
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## Policies and Initiatives

### Affordable Housing

- Affordable housing is **part of the incentive system**. In BelRed, developers must offer affordable housing as the first public benefit before any others.
- This typically results in a 7-10% affordable unit share.

### Design Standards

- **Guidelines for recommended and discouraged typologies vary by zoning district**. Many mixed-use district zoning recommends active and passive gathering spaces, established and strengthened gateways, integration of art, emphasis on pedestrian environment, pedestrian-scaled lighting in public spaces, etc.

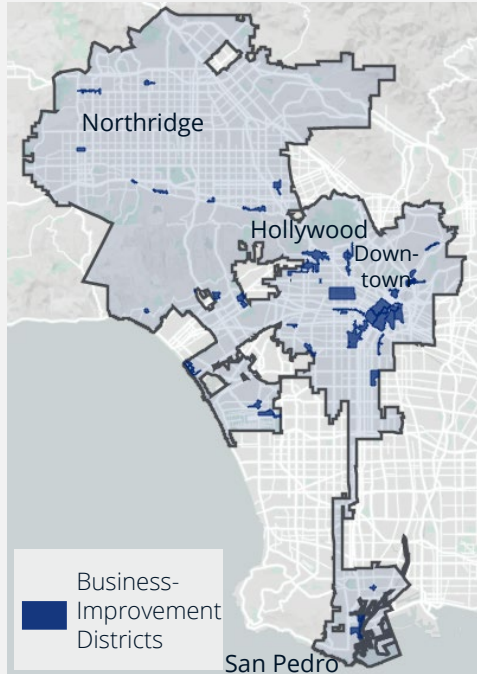
### Open Space

- Downtown Bellevue allows for building height beyond the maximum if 10% of the **project site area is publicly accessible space**, such as an outdoor plaza space. This helps lessen the visual impact of tall buildings and reduces floorplates.

# REVIEW OF CASE STUDIES | Los Angeles, CA

Los Angeles is focused on increasing density throughout the city but lacks explicit policies for mixed-use.

## Context | *Los Angeles*



- Largest city in the state and 2<sup>nd</sup> largest city in the US
- City is expanding its Metro Rail network throughout the city and encouraging mixed-use nodes adjacent to new stations and in already urban areas such as downtown.

## Policies and Initiatives

### Comprehensive or Sector Plans

- Los Angeles is **predominantly single site-zoned** and does not rely on comprehensive or sector plans.

### Land Use

- **Ground floor retail is required throughout Downtown LA.** However, ground floor retail across the Central Business Districts sees rapid turnover, predominantly due to the lack of sufficient foot traffic.
- Parking requirements are the largest barrier to increased density in Los Angeles. Los Angeles has begun to **explore policies that reduce parking minimums to encourage more density.**

### Affordable Housing

- The **Expo Station Neighborhood Plan** provides a points system to allow additional height if developers include affordable housing.
- The **Transit Oriented Communities (TOC) Affordable Housing Incentive Program** allow developers to increase density and/or reduce parking in exchange for adding affordable housing.

# POLICY COMPARISON | Montgomery County and Case Studies

Comprehensive and Sector Plans drive growth and are often used to concentrate density in specific areas, usually near transit, where mixed-use development is most likely to occur.

## Best Practices from Case Studies

**Other jurisdictions tend to rely on a combination of more frequent plan updates and site-specific approvals to accommodate shifts in developer demands or policy.**

- Fairfax County's Comprehensive Plan outlines the county's goals and focuses for development across the county, with explicit development plans for Community Revitalization Districts. The Comprehensive Plan is regularly updated and tied to updates to the zoning code.
- In Arlington, Sector Plans identify affordable housing, open space, and historic preservation goals, and specify additional density bonuses to incentivize those goals, but these plans are non-binding.
- Bellevue updates Plans as-needed in high growth areas. For example, light rail is opening in 2023, so the City is redoing planning around station areas to take advantage of those investments.
- Prince George's County adopted a new zoning ordinance as a part of the construction of the Purple Line, which emphasizes the need for high-density, mixed-use developments at the transit stations, and along existing commercial corridors like the Takoma/Langley Crossroads

### Comprehensive & Sector Plans

# POLICY COMPARISON | Montgomery County and Case Studies

## Best Practices from Case Studies

### Comprehensive & Sector Plans

- In New York City, Special Zoning districts are used to apply additional zoning requirements to developments that are not otherwise stipulated in the Zoning Resolution. In Hudson Square, this Special Zoning district allows for residential, commercial, and community facility development despite the underlying manufacturing zone. Special Districts allow for flexibility in zoning and development, without requiring a full update to the Zoning Resolution.
- Planned Unit Developments (PUD) are utilized in Washington, D.C., to provide zoning relief. If the DC Zoning Commission believes a project will provide substantial community benefits, it can grant the relief. This process also allows for the community to engage and influence the project in a substantial way, including increasing affordable housing, streetscaping, or requiring additional community benefits.

## Implications for Montgomery County

Montgomery County is in the process of drafting Thrive Montgomery 2050 to update the 1993 General Plan. The County's Sector Plans and Master Plans for smaller areas are updated more frequently, which helps drive growth in certain areas. In future years, the County could consider more frequent Sector Plan updates on a proactive basis in line with changes in market conditions, transit, etc. in certain neighborhoods. Additionally, the County could consider the inclusion of highly flexible zoning districts to increase diversity of development and allow for changes in the market.

# POLICY COMPARISON | Montgomery County and Case Studies

Land use requirements and the development review process can drive mixed-use development by encouraging projects that align with market demand, in terms of density and building typology.

## Best Practices from Case Studies

**A review process that offers developers a mix of certainty and flexibility encourages development that aligns with market demand.**

Land Use

- Arlington has a discretionary review process for re-zoning. While this can be time consuming, especially if the development was not originally in the city’s plan, it offers greater flexibility for developers and calibrates to market demand.
- Bellevue has a mix of requirements and discretionary items in the review process, which offers developers both certainty and flexibility when needed.
- Portland, OR allows for more housing units in areas zoned as single-family residential, to encourage a boost in housing supply through the Residential Infill Project.

## Implications for Montgomery County

Currently, Montgomery County allows some discretion throughout the review process through the point-based incentive system. Adoption of a discretionary review process more in line with Arlington and Bellevue could allow a greater degree of flexibility, but might offer less certainty to developers. Additionally, flexibility in density standards, particularly in residential zones, can provide more opportunities for mixed-use development.

# POLICY COMPARISON | Montgomery County and Case Studies

The amenities in walkable, urban areas – such as those offered by and near mixed-use buildings – should be accessible to all residents.

## Best Practices from Case Studies

Affordable Housing

**Other jurisdictions have put programs in place that offer incentives in return for building affordable housing units.**

- Los Angeles’ incentive programs allow for additional height and reduce parking minimums if developers include affordable housing within their development.
- Fairfax County mandates a 12% share of affordable housing for the subset of projects that require greater density or a rezoning, lower than Montgomery County’s 12.5-15% target.
- Loudoun County’s Inclusionary Zoning policy encourages deeply affordable units by applying incentives to units affordable to households earning between 30% and 50% of AMI, and Portland, OR’s Residential Infill Project, which allows more units in areas zoned as single family residential in order to boost affordable housing supply.

## Implications for Montgomery County

While the County already generates relatively high affordable unit production compared to the case study areas, there is still a desire to do better. As noted in the Thrive 2050 Plan, there is inadequate housing production and supply compared to the need. Montgomery could explore the viability of policy options that use incentives to further encourage affordable units in a greater variety of locations and serving a wider range of households.



# POLICY COMPARISON | Montgomery County and Case Studies

Design guidelines contribute to a mixed-use environment by encouraging a sense of place and buildings that allow for greater connectivity.

Best Practices from Case Studies	
<u>Design Standards</u>	<p><b>Design guidelines that are grounded in creating a walkable, urban areas can cultivate environments that attract mixed-use development.</b></p> <ul style="list-style-type: none"><li>• Arlington uses “Smart Growth” principles to drive design guidelines.</li><li>• Bellevue has a mix of required and negotiable design guidelines, allowing the City to prioritize their guidelines and ensuring that developers comply with design preferences that are considered a top priority.</li><li>• Fairfax County has Urban Design Guidelines that provide in-depth descriptions and options for what the County envisions for the Community Revitalization Districts.</li></ul>
Implications for Montgomery County	
<p>Compliance with many of the County’s design guidelines falls under the “optional method” of development, potentially allowing developers to consider choosing between certain County urban design goals and other public benefits. Montgomery County could consider altering its optional method process to make certain high-priority design goals mandatory, regardless of which public benefits developers choose to provide.</p>	

# POLICY COMPARISON | Montgomery County and Case Studies

Open space enhances a mixed-use environment by encouraging a more comfortable transition between indoors and outdoors, which strengthens the viability of ground floor uses.

## Best Practices from Case Studies

<p><u>Open Space</u></p>	<p><b>Other jurisdictions tend to require some public space in mixed-use districts, or in exchange for the density needed to develop a mixed-use building.</b></p> <ul style="list-style-type: none"><li>• Downtown Bellevue allows additional building height if 10% of ground floor is public space.</li><li>• In many mixed-use districts in Arlington, a minimum of 10% of the total site area is required to be landscaped open space.</li></ul>
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## Implications for Montgomery County

Montgomery County’s public space requirements are equal to those in other jurisdictions. Developers can generate points for going above the minimum open space requirements, but they also may choose to gain approval via other public benefits instead.

# POLICY COMPARISON | Montgomery County and Case Studies

Montgomery County’s parking requirements are comparable or slightly lower than those of other suburban jurisdictions in the region, depending on the use and location.

Jurisdiction	Base Parking Requirement	Additional Details
Montgomery County	<ul style="list-style-type: none"> <li>• <b>Residential:</b> Minimum <b>1 space</b> per unit</li> <li>• <b>Retail:</b> Minimum <b>3.5 spaces</b> per 1,000 SF of Gross Leasable Area</li> <li>• <b>Office:</b> Minimum <b>2 spaces</b> per 1,000 Gross Floor Area</li> </ul>	<ul style="list-style-type: none"> <li>• In CR zones, up to 10 points for providing fewer than the maximum allowed number of parking spaces.</li> </ul>
Arlington	<ul style="list-style-type: none"> <li>• <b>Residential:</b> Minimum <b>1 space</b> per unit</li> <li>• <b>Commercial:</b> Minimum <b>1 space</b> per 300-580 SF</li> </ul>	<ul style="list-style-type: none"> <li>• In some mixed-use districts, no parking is required for the first 5,000 SF of commercial floor area.</li> <li>• Open for negotiation in site planning process.</li> </ul>
Fairfax County	<ul style="list-style-type: none"> <li>• <b>Residential:</b> <b>1.3 – 1.6 spaces</b> per unit depending on number of bedrooms or distance from Metro Stations.</li> <li>• <b>Retail:</b> <b>1 space</b> per 200 SF of Net Floor Area for the first 1,000 SF &amp; <b>6 spaces</b> for each additional 1,000 SF. Requirement reduced by 20% near Metro Stations.</li> <li>• <b>Office:</b> <b>2 spaces</b> per 1,000 SF for buildings within 0.25 mile of Metro Stations, otherwise <b>2.3 – 3.6 spaces</b> per 1,000 SF</li> </ul>	<ul style="list-style-type: none"> <li>• Parking requirements were updated in 2018 to lower development costs and avoid overparking.</li> </ul>

# POLICY COMPARISON | Montgomery County and Case Studies

Jurisdictions elsewhere in the country are experimenting with lower parking ratios or even market-driven parking regulations.

Jurisdiction	Base Parking Requirement	Additional Details
Bellevue, WA (Downtown)	<ul style="list-style-type: none"> <li>• <b>Residential:</b> Minimum <b>0 -1.0 spaces</b> per 1,000 NSF depending on zoning</li> <li>• <b>Retail:</b> Minimum <b>3.3 – 4.0 spaces</b> per 1,000 NSF depending on zoning</li> <li>• <b>Office:</b> Minimum <b>2 – 2.7 spaces</b> per 1,000 NSF depending on zoning</li> </ul>	<ul style="list-style-type: none"> <li>• In some areas, the City allows a market driven approach to parking.</li> </ul>
Los Angeles, CA	<ul style="list-style-type: none"> <li>• <b>Residential:</b> Minimum <b>1 – 2 spaces</b> per unit depending on number of bedrooms</li> <li>• <b>Office:</b> Minimum <b>1 space</b> per 400 SF</li> <li>• <b>Retail:</b> Minimum <b>1 space</b> per 250 SF</li> </ul>	<ul style="list-style-type: none"> <li>• Los Angeles has begun to explore policies that reduce parking minimums to encourage more density.</li> </ul>

# REGIONAL COMPETITIVENESS | Montgomery County and Case Studies

Local jurisdictions can offer favorable conditions relating to talent acquisition, tax incentives, and accessibility, all of which contribute to attracting the principal anchor uses of mixed-use buildings, office and residential. The County is in a strong position to attract an increasing share of the region’s residential demand, particularly in areas with more amenities and access to the Metro.

## ATTRACTING RESIDENTIAL DEMAND *(Higher, mid, and lower assessments are relative to the region)*

	Montgomery County	Northern Virginia	DC
Housing Costs →	<b>Mid:</b> \$1,765 Median Rent 2019	<b>Higher:</b> \$1,880 Median Rent 2019*	<b>Lower:</b> \$1,541 Median Rent 2019
	<b>Lower:</b> \$485k Median Home Value 2019	<b>Mid:</b> \$566k Median Home Value 2019*	<b>Higher:</b> \$602k Median Home Value 2019
Public Schools →	<b>Stronger:</b> Good public schools (A rating on Niche)	<b>Stronger:</b> Good public schools (A rating on Niche)	<b>Weaker:</b> Average public schools (B- rating on Niche)
Accessibility to Jobs and Amenities →	<b>Mid:</b> 13 Metro Stops and 0 Transfer Stations. Further from regional airports	<b>Higher:</b> 30 Metro Stops, 4 Transfer Stations, and 2 Airports	<b>Higher:</b> 40 Metro Stops and 5 Transfer Stations Accessible to DCA without transfer

\*Northern Virginia includes Arlington, Fairfax County, Loudoun County, and Alexandria. Housing costs are approximate.

# REGIONAL COMPETITIVENESS | Montgomery County and Case Studies

Northern Virginia captures an outsized share of the region’s office demand due to the jurisdiction’s economic anchors and regulatory environment, making it less expensive for businesses to locate there. Additionally, the area has created an industry hub around tech. Rather than competition for larger office tenants, the County could leverage shifts in demand due to the pandemic and offer more flexible, co-working office spaces.

## ATTRACTING OFFICE DEMAND *(High, mid, low assessments are relative to the region)*

	Montgomery County	Northern Virginia	DC
Tax Incentives →	<b>Limited:</b> Tax incentives focused on target industries	<b>Strong:</b> Range of tax incentives that are workforce-oriented	<b>Limited:</b> Focused on small businesses & inclusive growth
Financing and Grants →	<b>Strong:</b> Range of financing and grants available	<b>Strong:</b> Variety of financing and grants available to businesses	<b>Limited:</b> Focused on small businesses & inclusive growth
Commercial Property Tax Rate →	<b>Mid:</b> \$1.20 per \$100 in value in 2019	<b>Low:</b> \$1.02 - \$1.15 per \$100 in value in 2019	<b>High:</b> Up to \$1.89 per \$100 in value in 2019
Accessibility to Industry Hubs and Transportation	<b>Mid:</b> 13 metro stops and 0 transfer stations. Further from airports. Hub for life science industry (NIH).	<b>High:</b> 30 metro stops, 4 transfer stations, and 2 airports. Hub for defense (Pentagon, CIA) and tech industries.	<b>High:</b> 40 metro stops and 5 transfer stations; accessible to DCA without transfer. Convenient to most federal agencies.

\*Northern Virginia includes Arlington, Fairfax County, Loudoun County, and Alexandria. Housing costs are approximate.

## CONCLUSIONS | Mixed-Use Development Policies

Montgomery County is a national leader in planning for affordable housing, open space and other amenities, but could consider adjusting some policies to attract more mixed-use development. Adjusting policies to balance flexibility with minimum requirements, allow for less time-consuming approvals and re-zonings, and increase alignment with evolving market conditions are potential areas for improvement.

- **Consider Minimum Requirements for Densification:** Montgomery County's thoughtful, detailed "optional method" process allows developers a variety of ways to pursue greater density but may have a side effect of ceding control over which public benefits are most emphasized by developers in pursuit of density. The County could consider a system similar to that of Bellevue in which certain public benefits (affordable housing in Bellevue's case) must be achieved as a first priority for all projects seeking incentive density. In Montgomery County, such a policy could vary based on the needs for specific public benefits in different parts of the County.
- **Consider Broader Definition for Active Ground Floors:** References to ground floor retail in various Sector Plans and other planning documents could be broadened beyond ground floor retail to include other active uses, particularly in light of the evolution of the retail market as well as the challenges faced by ground floor retailers occupying storefronts that are not already within active, pedestrian-oriented retail destinations. Bellevue defines retail as just one of many publicly accessible spaces that are open to the public during normal business hours, and applies requirements and incentives to the broader "active use" designation rather than ground floor retail specifically. Downtown Los Angeles, on the other hand, applies a narrow definition of active ground floors focused on retail, and has suffered as a result.

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- **Maintain National Leadership in Promoting Affordable Housing:** Montgomery has a more aggressive and successful affordable housing policy than many other jurisdictions. While this policy imposes greater financial burdens than developers may face in other jurisdictions such as Fairfax County, it advances a critical County goal and developers have been able to accommodate it. Montgomery County can maintain this leadership and continue to advance progress towards addressing the housing gap in the County.
- **Consider Greater Flexibility Between General and Sector Plan Updates:** Other jurisdictions make it somewhat easier for developers to pursue exceptions to pre-determined uses, densities, etc. (e.g. Arlington), and/or update local plans more frequently to account for changing market conditions (e.g. Bellevue, Fairfax), due in part to differences in State laws. Montgomery County should consider ways to make the approvals process for proposals faster and seek strategies to account for changes in market conditions in certain neighborhoods that may occur in between plan updates, while staying within the bounds of Maryland planning regulation.



## CONCLUSIONS | Mixed-Use Development Policies

The onset of the COVID-19 pandemic has added uncertainty to market dynamics across the country – particularly for commercial uses. The desire for urban workers to limit commuting and continue an amenity-rich lifestyle outside of a central city may lead to more demand for mixed-use development in the suburbs. The pandemic may also shift demand for particular amenities by increasing demand for open space, for example. The County may want to consider additional programs and policies to accommodate potential shifts in the market:

- **Ground Floor Activation Strategies**, such as a public art program to reduce the negative impact of any vacant space, or encouraging a wider range of ground floor uses, including temporary childcare centers and colocated public facilities, and co-working spaces. Ground floor retail, especially in areas with low walkability, should be carefully evaluated, and the County should consider whether a critical mass exists to sustain retail on the ground floor.
- **Funding and Incentive-Based Solutions**, such as continued rental assistance or small business grants. The pandemic can serve as an opportunity to rethink economic development incentives and the industries or use types the County is aiming to attract.
- **Activate Existing Public Spaces** near mixed-use districts by planning events or enhancing the space through the addition of public art, benches, etc. Structural support, like that of BIDs and neighborhood associations, can help further the activation of these spaces.



# **MONTGOMERY COUNTY MIXED-USE DEVELOPMENT STUDY**

Summary of Findings

July 2021

# Appendix

# PERFORMANCE ASSESSMENT | Quantitative Evaluation Considerations

- **Sustainability:** The County has a broad goal of promoting sustainability, and promoting denser, mixed-use nodes is a key component of that goal. Even without integrating sustainable principles into their design, mixed-use developments inherently help achieve this goal by creating walkable and non-car-oriented nodes of development.
- **Walkability:** Most mixed-use projects rely on ground floor retail and commercial uses. The success of these uses is highly reliant on foot traffic. When a mixed-use development is in a highly walkable area, the potential for foot traffic increases, thus walkability is a key component of the success of a mixed-use project.
- **Convenience:** A part of creating a successful mixed-use project is creating spaces where pedestrians feel comfortable. Transit-adjacency can help limit the number of cars on-site and increase the comfort of the pedestrian. Transit-adjacency can also increase the foot traffic to an area.

# PERFORMANCE ASSESSMENT | Variables

**Sustainability** was determined by LEED certification status, regardless of whether the certification was for interior and exterior conditions. Points were awarded based on the property's LEED certification. If the property had no certification, it received 0 points, basic certification received 40 points, Silver 60 points, Gold 80 points, and Platinum 100 points.

## EXAMPLE:

LEED Rating	-	Certified	Silver	Gold	Platinum
Points	0	40	60	80	100

*LEED certification status obtained from CoStar and the U.S. Green Building Council LEED Project Directory*

# PERFORMANCE ASSESSMENT | Variables

**Walkability** was determined using WalkScore. WalkScore measures the walkability of an area on a score of 0-100, based on walking routes to destinations such as grocery stores, restaurants, schools, retail, and parks.

## EXAMPLE:

	<i>Project Example 1</i>	<i>Project Example 2</i>	<i>Project Example 3</i>	<i>Project Example 4</i>	<i>Project Example 5</i>
<b>WalkScore</b>	25	41	60	87	93
<b>Points</b>	25	41	60	87	93

# PERFORMANCE ASSESSMENT | Variables

**Convenience** was determined using TransitScore. TransitScore measures transit accessibility on a scale from 0-100. Transit Score calculates the distance to the closest stop on each route and analyzes route frequency and type. To ensure that the points given for TransitScores were relative to the transit accessibility of Montgomery County on the whole, TransitScores were ranked from 0-88.

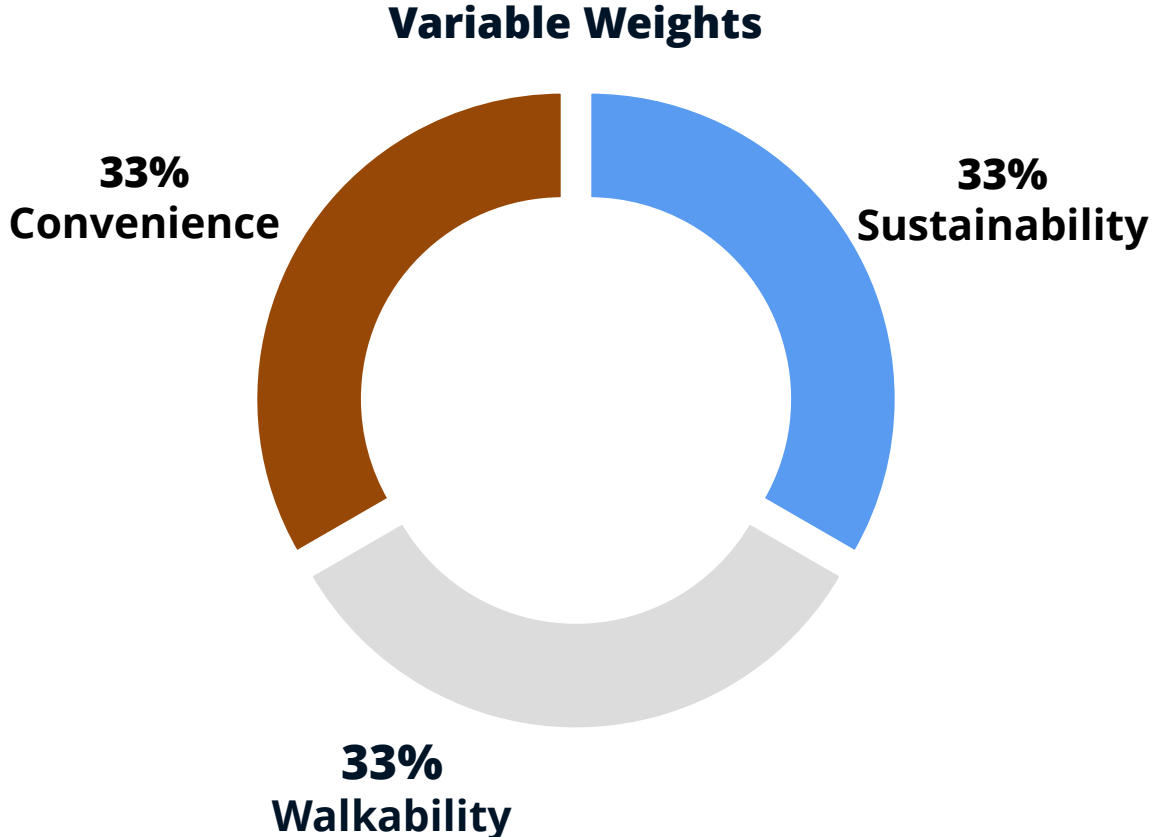
**EXAMPLE:**

	<i>Project Example 1</i>	<i>Project Example 2</i>	<i>Project Example 3</i>	<i>Project Example 4</i>	<i>Project Example 5</i>
<b>TransitScore</b>	0	17	35	52	70
<b>Points</b>	0	19	40	59	79

# PERFORMANCE ASSESSMENT | Quantitative Scoring Matrix

Each property's total score was calculated as a weighted sum. The points from walkability, connectivity, and sustainability were all given equal weight, and summed to get the property's total score.

$$\begin{aligned} & 0.33 * [\text{Walk Score}] \\ & 0.33 * [\text{Weighted Transit Score}] \\ & + 0.33 * [\text{Points for LEED Certification}] \\ \hline & \text{Total Score} \end{aligned}$$





# PERFORMANCE ASSESSMENT | Initial Findings

When mapped, **properties with better performance scores**, based on levels of walkability, transit connectivity and sustainability, tend to be concentrated **down-county, near urban hubs** like Silver Spring and Bethesda. Properties along the I-270 corridor tend to have **worse performance scores**, are **more suburban**, and have **less transit**.

