



Committee: PHP
Committee Review: At a future date
Staff: Livhu Ndou, Senior Legislative Attorney
Purpose: To introduce agenda item – no vote expected

AGENDA ITEM #5
April 29, 2025
Introduction

SUBJECT

Zoning Text Amendment (ZTA) 25-05, Development Standards - Optional Method Public Benefits

Lead Sponsor: Planning, Housing, and Parks Committee

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

To introduce ZTA – no vote expected

DESCRIPTION/ISSUE

ZTA 25-05 updates the public benefit system in the Commercial/Residential and Employment zones.

SUMMARY OF KEY DISCUSSION POINTS

- The County has had a public benefits point system since 2010, which allows developers to receive additional approved density in exchange for providing certain public benefits in the Commercial/Residential and Employment zones.
- In 2022, the Planning Department began a comprehensive review of the system, using data analysis and input from stakeholders, the public, relevant County departments, and a consultant.
- The Planning Board transmitted the “Incentive Zoning Update” in October 2024. The Planning, Housing, and Parks (PHP) Committee reviewed the proposal on [December 2](#) and [December 9](#), 2024. The PHP Committee recommended introduction of a ZTA implementing the proposal.
- ZTA 25-05 will create new optional method public benefits using a tiered system that is more closely tied to FAR than the prior point system, with categories that have been updated to align with county policy priorities.

This report contains:

| | |
|---|------|
| ZTA 25-05 | © 1 |
| Planning Board Transmittal of Incentive Zoning Update | © 72 |
| Planning Board Draft of Incentive Zoning Update | © 74 |

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Ordinance No.: _____
Zoning Text Amendment No.: 25-05
Concerning: Development Standards –
Optional Method Public
Benefits
Revised: 4/21/2025 Draft No.: 1
Introduced: _____
Public Hearing: _____
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: Planning, Housing, and Parks Committee

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- (1) create new Optional Method Public Benefits standards;
- (2) grandfather the existing Optional Method Public Benefits standards; and
- (3) generally amend the public benefits system.

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

| | |
|----------------|---|
| Division 1.4. | “Defined Terms” |
| Section 1.4.2. | “Specific Terms and Phrases” |
| Division 4.5. | “Commercial/Residential Zones” |
| Section 4.5.2. | “Density and Height Allocation” |
| Section 4.5.3. | “Standard Method Development” |
| Section 4.5.4. | “Optional Method Development” |
| Division 4.6. | “Employment Zones” |
| Section 4.6.1. | “Intent Statements” |
| Section 4.6.2. | “Density and Height Allocation” |
| Section 4.6.3. | “Standard Method Development” |
| Section 4.6.4. | “Optional Method Development” |
| Division 4.7. | “Optional Method Public Benefits” |
| Section 4.7.1. | “General Provisions” |
| Section 4.7.2. | “Public Benefit Overview” |
| Section 4.7.3. | “Public Benefit Description and Criteria” |
| Division 5.3. | “Commercial/Residential Floating Zones” |
| Section 5.3.5. | “Development Standards” |

| | |
|----------------|-----------------------------|
| Division 5.4. | “Employment Floating Zones” |
| Section 5.4.5. | “Development Standards” |
| Division 8.1. | “In General” |
| Section 8.1.1. | “Applicability” |

And by adding the following sections to the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

| | |
|----------------|---|
| Division 8.4. | “Optional Method Public Benefits” |
| Section 8.4.1. | “General Provisions” |
| Section 8.4.2. | “Public Benefit Overview” |
| Section 8.4.3. | “Public Benefit Description and Criteria” |

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

ORDINANCE

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

Sec. 1. DIVISION 59-1.4 is amended as follows:

Division 1.4. Defined Terms

* * *

Section 1.4.2. Specific Terms and Phrases Defined

* * *

Impervious Surface: Any surface that prevents or significantly impedes the infiltration of water into the underlying soil, including any structure, building, patio, sidewalk, compacted gravel, pavement, asphalt, concrete, stone, brick, tile, swimming pool, or artificial turf. Impervious surface also includes any area used by or for motor vehicles or heavy commercial equipment regardless of surface type or material, any road, driveway, or parking area.

Incentive Density: The difference in density between the maximum allowed under the standard method of development and the mapped FAR.

Independent Living Facility for Seniors or Persons with Disabilities: See Section 3.3.2.C.1.

* * *

Sec. 2. DIVISION 59-4.5 is amended as follows:

Division 4.5. Commercial/Residential Zones

* * *

Section 4.5.2. Density and Height Allocation

A. Density and Height Limits

* * *

2. Each CRN, CRT, and CR zone classification is followed by a number and a sequence of 3 additional symbols: C, R, and H, each followed by another number where:

* * *

- e. With Planning Board approval, any Optional Method project in a CR zone that includes the provision of a [major public facility under] Tier 4 public benefit under the Public Facility, Art and Placemaking, or Neighborhood Services and Mixed Use categories, as described in Section 4.7.3.A₂ may add the height of any floor mostly used for above grade parking to the maximum height otherwise allowed, when the [major public facility] public benefit diminishes the ability of the applicant to provide parking at or below grade.

* * *

B. FAR Averaging

* * *

3. Density may be averaged over 2 or more non-contiguous properties in one or more CRT or CR zones if:

* * *

- c. the minimum public [benefit] benefits [points] required for any requested incentive density under Section 4.5.4.A.2 must be exceeded by at least 50%; and

* * *

Section 4.5.3. Standard Method Development

The CRN, CRT, and CR zones allow standard method development under the following limitations and requirements.

A. In General

1. In the Commercial/Residential zones, the maximum total, nonresidential, and residential FAR and maximum height for any property are set by the zone shown on the zoning map, unless additional height and density is permitted under Section 4.5.2.C.

2. In the CRT and CR zones, the maximum standard method height for any property is the height set by the zone shown on the zoning map; the maximum total standard method FAR for any property is the greater of 0.5 FAR or 10,000 square feet of gross floor area [the limit indicated in the following table], unless shown as lower on the zoning map[:].

| [Zone] | [Total Density (max)] |
|--------|---|
| [CRT] | [The greater of 1.0 FAR or 10,000 SF of gross floor area] |
| [CR] | [The greater of 0.5 FAR or 10,000 SF of gross floor area] |

* * *

Section 4.5.4. Optional Method Development

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

A. General Requirements

* * *

2. Public Benefit Points and Categories

- a. Public benefits under Division 4.7 must be provided to satisfy any incentive density requested above the standard method of development maximum density threshold, up to the mapped FAR. Public benefits are not required for any additional density received under Section 4.5.2.C for providing additional MPDUs. [according to zone and tract size or maximum total mapped FAR, whichever requires more public benefit points:]

| [Zone] | [Tract Size OR Max Total FAR] | [Public Benefit Points (min)] | [Number of Benefit Categories (min)] |
|--------|--------------------------------|-------------------------------|--------------------------------------|
| [CRT] | [< 10,000 SF OR < 1.5 max FAR] | [25] | [2] |
| | [≥ 10,000 SF OR ≥ 1.5 max FAR] | [50] | [3] |

| | | | |
|------|-----------------------------------|-------|-----|
| [CR] | [< 10,000 SF OR < 1.5 max FAR] | [50] | [3] |
| | [≥ 10,000 SF OR ≥ 1.5 max FAR] | [100] | [4] |

b. In the CR Zone, the purchase of BLTs is required [under Section 4.7.3.F.1.a].

i. An applicant must purchase a BLT easement, or make a payment to the Agricultural Land Preservation Fund (ALPF), in an amount equal to 7.5% of the incentive density floor area under the following parameters:

(a) for every 31,500 square feet of gross floor area comprising the 7.5 percent incentive density floor area, one BLT must be purchased or an equivalent payment made to the ALPF;

(b) if a fraction of a BLT easement is needed, a payment must be made to the ALPF for the fractional amount;

(c) a private BLT easement must be purchased in whole units;

(d) payments must be made to the ALPF based on the amount established by Executive Regulations under Chapter 2B. The payment amount must be updated by the Office of Agriculture; and,

(e) the ALPF may use collected payments to purchase BLTs or TDRs.

* * *

Sec. 3. DIVISION 59-4.6 is amended as follows:

Division 4.6. Employment Zones

Section 4.6.1. Intent Statements

A. In General

The GR, NR, LSC, and EOF zones permit nonresidential uses including office, technology, and general commercial uses with limited residential use at varying densities and heights. The GR, NR, LSC, and EOF zones promote economic diversity and job creation in development patterns where people can work, learn, and recreate. The application of the GR, NR, LSC, and EOF zones is appropriate for targeting jobs and services co-located near diverse housing options. In the Employment zones, residential uses are generally limited to 30% of the total gross floor area on the subject site. The intent of the GR, NR, LSC, and EOF zones is to:

* * *

3. provide employment areas with supporting residential and retail uses;
and
4. allow a flexible mix of uses, densities, and building heights appropriate to various settings to ensure compatible relationships with adjoining neighborhoods[; and].
- [5. establish minimum requirements for the provision of public benefits.]

* * *

Section 4.6.2. Density and Height Allocation

* * *

B. FAR Averaging

1. Only standard method development projects that require site plan approval [or optional method development projects] can average FAR between properties.
2. FAR may be averaged over 2 or more directly abutting or confronting properties in one or more Employment zones if:

- a. the properties are under the same site plan[, sketch plan,] or Biohealth Priority Campus plan.[:; however] However, if a [sketch plan or] Biohealth Priority Campus plan is required, density averaging must be shown on the [applicable] plan;
 - b. the resulting properties are created by the same preliminary subdivision plan or satisfy a phasing plan established by an approved [sketch plan or] Biohealth Priority Campus plan;
 - c. the maximum total, nonresidential, and residential FAR limits apply to the entire development, not to individual properties; and
 - d. the total allowed maximum density on a resulting property that is abutting or confronting a property in an Agricultural, Rural Residential, or Residential Detached zone that is vacant or improved with an agricultural or residential use does not exceed that allowed by the property's zone[:; and].
 - [e. public benefits are required to be provided under the phasing element of an approved sketch plan or Biohealth Priority Campus plan.]
3. Density may be averaged over 2 or more non-contiguous properties in one or more LSC or EOF zones if:
 - a. each provision under Section 4.6.2.B.2 is satisfied;
 - b. the properties are within 1/4 mile of each other or in a designated master-planned density transfer area or part of a Biohealth Priority Campus plan; and
 - c. [the minimum public benefit points required under Section 4.6.4.A.2 are exceeded by at least 50%; and
 - d.] the applicable master plan does not specifically prohibit the averaging of density between non-contiguous properties.

* * *

E. Development of Certain Biohealth Uses

Additional height may be approved for any application in the LSC or EOF zone where the primary use is Research and Development under Section 3.5.8 or Medical/Scientific Manufacturing and Production under Section 3.6.4.D if:

1. the development site is located within a red policy area or opportunity zone, including contiguous properties separated from the red policy area or opportunity zone only by a public right-of-way, or within ½ mile of a planned or existing Bus Rapid Transit route;
2. the development site fronts on a street classified as an Area Connector or higher classification; and
3. the development site does not abut or confront a property in an Agricultural, Rural Residential, Residential Detached, or Residential Townhouse zone that is vacant or improved with an agricultural or residential use.

Section 4.6.3. Standard Method Development

The GR, NR, LSC, and EOF zones allow standard method development under the following limitations and requirements.

A. In General

- [1. In the GR and NR zone, the] The maximum total FAR and maximum height for any property is set by the zone shown on the zoning map.
- [2. In the LSC and EOF zones, the maximum standard method height for any property is the height set by the zone shown on the zoning map; the maximum total standard method FAR for any property is the limit indicated in the following table, unless shown as lower on the zoning map:]

| [Zone] | [Total Density (max)] |
|--------|-----------------------|
|--------|-----------------------|

| | |
|-------|---|
| [LSC] | [The greater of 0.5 FAR or 10,000 SF of gross floor area] |
| [EOF] | [The greater of 1.0 FAR or 10,000 SF of gross floor area] |

B. Procedure for Approval

1. In the GR and NR Zones, [Site] site plan approval may be required under Section 7.3.4.A.8.
2. In the LSC and EOF Zones, site plan approval may be required under Section 7.3.4.A.8 and is required for any development application with an FAR over 0.5.
3. An applicant may file a site plan application to modify the Parking Setbacks for Surface Parking Lots, Build-to Area, Building Orientation, or Transparency requirements under Section 4.6.3.D and Section 4.6.3.E.

[Section 4.6.4. Optional Method Development]

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

[A. General Requirements]

[1. Procedure for Approval

A sketch plan must be approved under Section 7.3.3, unless a Signature Business Headquarters plan is approved under Section 7.3.5, a Biohealth Priority Campus plan is approved under Section 7.3.6, or a Mixed-Income Housing Community plan is approved under Section 7.3.7. A site plan must be approved under Section 7.3.4 for any development on a property with an approved sketch plan.]

[2. Public Benefit Points and Categories

- a. Public benefits under Division 4.7 must be provided according to zone and tract size or maximum total mapped FAR, whichever requires more public benefit points:]

| [Zone] | [Tract Size OR Max Total FAR] | [Public Benefit Points (min)] | [Number of Benefit Categories (min)] |
|--------|--------------------------------|-------------------------------|--------------------------------------|
| [LSC] | [< 10,000 SF OR < 1.5 max FAR] | [15] | [1] |
| | [≥ 10,000 SF OR ≥ 1.5 max FAR] | [30] | [2] |
| [EOF] | [< 10,000 SF OR < 1.5 max FAR] | [30] | [2] |
| | [≥ 10,000 SF OR ≥ 1.5 max FAR] | [60] | [3] |

[b. In the LSC zone, the purchase of BLTs is required under Section 4.7.3.F.1.b.]

[3. Building Type

All building types allowed under Section 4.1.6. are allowed in the LSC and EOF zones under optional method development.]

[4. Compatibility Standards

Development must satisfy the compatibility standards under Section 4.1.8.]

[B. Development Standards]

[1. Open Space

a. A developer must provide open space based on the tract area and number of frontages as described in the following table.]

| [Tract Area] | [# of Existing, Proposed, and Master-Planned Right-of-Way Frontages] | | | |
|----------------------|--|-------|-------|-------------|
| | [1] | [2] | [3] | [4 or more] |
| | [% of Site Required to be Dedicated for Open Space] | | | |
| [≤ 0.50 acres] | [0%] | [0%] | [0%] | [5%] |
| [0.51 to 1.00 acres] | [0%] | [0%] | [5%] | [10%] |
| [1.01 to 3.00 acres] | [0%] | [5%] | [10%] | [10%] |
| [3.01 to 6.00 acres] | [5%] | [10%] | [10%] | [10%] |
| [≥ 6.01 acres] | [10%] | [10%] | [10%] | [10%] |

[b. In a development with townhouse, apartment, multi use, or general building types, open space is calculated on the site area minus any area used for detached house and duplex unit lots.

- c. Open space for the townhouse building type is common open space (see Section 6.3.5), and for other buildings is public open space (see Section 6.3.6) in the LSC zone and amenity open space (see Section 6.3.7) in the EOF zone.
- d. Open space must satisfy Division 6.3.]

[2. Lot, Density, and Height

- a. Lot standards for detached house, duplex, and townhouse building types are established by the site plan approval process.
- b. The maximum total FAR and the maximum height are established by the mapped zone unless increased under Section 4.6.2.C or Section 4.6.2.D.
- c. In the GR, NR, and EOF zones, gross floor area of all Household Living uses is limited to 30% of the gross floor area on the subject site.
- d. In the LSC zone:
 - i. For tracts larger than 5 acres:
 - (a) A minimum of 40% of the gross floor area proposed must be for Life Sciences and related uses. The proposed gross floor area used for the purpose of calculating the minimum percentage of Life Sciences uses excludes educational facilities.
 - (b) A maximum of 10% of the gross floor area proposed may be used for Retail/Service Establishment; however, a maximum of 15% of the gross floor area proposed may be used for a Retail/Service Establishment if the Planning Board finds unique

circumstances and the development would be enhanced by additional retail activity.

- ii. Gross floor area of all Household Living uses is limited to 30% of the maximum allowed FAR mapped on the subject site.
- iii. Any area used exclusively for mechanical equipment is excluded from the maximum density calculation, and any area excluded from this calculation that exceeds the FAR of the zone must be used only for purpose. The total area of any partial floors or stories excluded from the maximum density calculation is limited to the gross floor area of any full floor of the building.]

[3. Placement

Setbacks for principal buildings, accessory structures, and parking are established by the site plan approval process.]

[4. Form

Form standards are established by the site plan approval process and must address, at a minimum, transparency, blank walls, and active entrances.]

[5. Development of Certain Biohealth Uses

- a. Additional height is permitted for any application in the LSC or EOF zone where the primary use is Research and Development under Section 3.5.8 or Medical/Scientific Manufacturing and Production under Section 3.6.4.D, if:
 - i. the development site is located within a red policy area or opportunity zone, including contiguous properties separated from the red policy area or opportunity zone only by a public right-of-way; or within ½ mile of a

planned or existing Bus Rapid Transit route including the
Corridor Cities Transitway;

ii. the development site fronts on a street classified as an Area
Connector or higher classification;

iii. the development site does not abut or confront a property
in an Agricultural, Rural Residential, Residential
Detached, or Residential Townhouse zone that is vacant or
improved with an agricultural or residential use; and

iv. the application achieves public benefit points for
Adaptive Buildings under Sec. 4.7.3.D.1.]

* * *

Sec. 4. DIVISION 59-4.7 is amended as follows:

[Division 4.7. Optional Method Public Benefits]

[Section 4.7.1. General Provisions]

[A. Public Benefit Categories]

1. Public benefits must be provided that enhance or contribute to the
objectives of the zone among the following categories:

a. Major Public Facilities;

b. Transit Proximity;

c. Connectivity and Mobility;

d. Diversity of Uses and Activities;

e. Quality Building and Site Design;

f. Protection and Enhancement of the Natural Environment; and

g. Building Reuse.

2. The individual public benefits that may be accepted in each of these
categories in each zone are in Section 4.7.2.]

[B. General Public Benefit Considerations]

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

1. the recommendations and objectives of the applicable master plan;
2. the Commercial/Residential and Employment Zone Incentive Density Implementation Guidelines;
3. any design guidelines adopted for the applicable master plan area;
4. the size and configuration of the site;
5. the relationship of the site to adjacent properties;
6. the presence or lack of similar public benefits nearby; and
7. enhancements beyond the elements listed in an individual public benefit that increase public access to, or enjoyment of, the benefit.]

[C. Public Benefit Implementation Guidelines

The Planning Board must adopt, publish, and maintain guidelines that detail the standards and requirements for public benefits. The guidelines must:

1. be consistent with the objectives of Division 4.7;
2. be in addition to any standards, requirements, or rules of incentive density calculation included in Division 4.7, but must not conflict with those provisions; and
3. allow incentive FAR only for those public benefits listed in Section 4.7.3.]

[Section 4.7.2. Public Benefit Overview

The Planning Board must determine the public benefit points under optional method development from the following categories:]

[A. Major Public Facility]

[B. Transit Proximity]

324 **[C. Connectivity and Mobility**

- 325 1. Advance Dedication
- 326 2. Minimum Parking
- 327 3. Neighborhood Services
- 328 4. Public Parking
- 329 5. Through-Block Connection
- 330 6. Transit Access Improvement
- 331 7. Streetscape Improvement
- 332 8. Trip Mitigation
- 333 9. Way Finding]

334 **[D. Diversity of Uses and Activities**

- 335 1. Adaptive Buildings
- 336 2. Care Centers
- 337 3. Dwelling Unit Mix
- 338 4. Enhanced Accessibility for the Disabled
- 339 5. Live/Work
- 340 6. Moderately Priced Dwelling Units
- 341 7. Small Business Opportunity]

342 **[E. Quality Building and Site Design**

- 343 1. Architectural Elevations
- 344 2. Exceptional Design
- 345 3. Historic Resource Protection
- 346 4. Public Art
- 347 5. Public Open Space
- 348 6. Structured Parking
- 349 7. Tower Step-Back]

350 **[F. Protection and Enhancement of the Natural Environment**

1. Building Lot Terminations
2. Cool Roof
3. Energy Conservation and Generation
4. Habitat Preservation and Restoration
5. Recycling Facility Plan
6. Transferable Development Rights
7. Tree Canopy
8. Vegetated Area
9. Vegetated Roof
10. Vegetated Wall]

[G. Building Reuse]

[Section 4.7.3. Public Benefit Descriptions and Criteria]

[A. Major Public Facilities]

1. Major public facilities include, but are not limited to, such facilities as a school, library, recreation center, park, County service center, bike share station, public transportation or utility upgrade, or other resource delineated in an applicable master plan. Major public facilities provide public services at a convenient location where increased density creates a greater need for civic uses and greater demands on public infrastructure.
2. If a major public facility is recommended for a property in a master plan, an applicant for a sketch plan on that property must provide the major public facility unless the Planning Board finds that the facility:
 - a. is infeasible;
 - b. would not be accepted by the government department or agency responsible for operating the facility; or
 - c. is no longer in the public interest.

3. If a proposed major public facility is not recommended in the applicable master plan, the Planning Board must find that the facility or improvement provides the community with a resource that is at least as beneficial as other major public facilities recommended in the applicable master plan. Additionally, any infrastructure upgrade may only receive incentive density for improvements beyond those required by any applicable adequate public facilities requirement to complete the proposed development.
4. Due to their significance in placemaking, the Planning Board may approve incentive FAR for
 - a. the conveyance of a site or floor area,
 - b. the construction of, or
 - c. making a partial or full payment for a major public facility that is accepted for use or operation by an appropriate public agency, community association, or nonprofit organization.
5. Up to the following number of points may be awarded if the requirements of Section 4.7.3.A are met:
 - a. 20 points in an LSC zone;
 - b. 40 points in an EOF or CRT zone; and
 - c. 70 points in a CR zone.]

[B. Transit Proximity

1. Transit proximity points are granted for proximity to existing or master planned transit stops based on transit service level and CRT, CR, LSC, and EOF zones. Public benefit points can only be granted for one transit stop.
 - a. Transit proximity is categorized in 3 levels:

- i. Level 1 is proximity to an existing or master planned Metrorail Station.
- ii. Level 2 is proximity to an existing or master planned station or stop along a rail or bus line with a dedicated, fixed path; this excludes a site that is within one mile of an existing or master planned MARC station.
- iii. Level 3 is proximity to an existing or master planned MARC station.

All distances for transit proximity are measured from the nearest transit station entrance or bus stop entrance.

- b. A project is abutting or confronting a transit station or stop if it shares a property line or easement line, or is separated only by a right-of-way from an existing or master-planned transit station or stop, and 100% of the tract in a single sketch plan application is within 1/4 mile of the transit portal.
- c. For split proximity-range projects:
 - i. If at least 75% of the tract in a single sketch plan application is within the closer of two proximity ranges, the entire project may take the points for the closer range;
 - ii. If less than 75% of the tract in a single sketch plan is within the closer of 2 proximity ranges, the points must be calculated as the weighted average of the percentage of area in each range.]

| | | | | |
|--|--------------------------------------|--------------------------|---------------------------------------|-------------------------------------|
| | [Abutting or Confronting] | [Within 1/4 Mile] | [Between 1/4 and 1/2 Mile] | [Between 1/2 and 1 Mile] |
|--|--------------------------------------|--------------------------|---------------------------------------|-------------------------------------|

| [Transit Service Level Proximity] | [1] | [2] | [3] | [1] | [2] | [3] | [1] | [2] | [3] | [1] | [2] | [3] |
|--|------|------|-------|------|--------|-------|------|------|-----|------|-------|-------|
| [LSC] | [10] | [5] | [2.5] | [8] | [4] | [0] | [6] | [2] | [0] | [4] | [0] | [0] |
| [EOF or CRT] | [25] | [15] | [5] | [20] | [12.5] | [2.5] | [15] | [10] | [0] | [10] | [7.5] | [0] |
| [CR] | [50] | [30] | [10] | [40] | [25] | [5] | [30] | [20] | [5] | [20] | [15] | [2.5] |

[C. Connectivity and Mobility

Development that enhances connectivity between uses and amenities; increases mobility options; encourages walking, cycling and transit; facilitates social interaction; provides opportunities for healthier living; and stimulates local businesses may achieve public benefit points.

1. **Advance Dedication:** Up to 8 points in the LSC zone, 15 points in the EOF zone, and 30 points in the CRT and CR zone for dedicating or providing a reservation for dedication for master-planned rights-of-way in advance of a preliminary or site plan application.
2. **Minimum Parking:** Up to 10 points for providing fewer than the maximum allowed number of parking spaces, where a maximum is applicable.
3. **Neighborhood Services:** When fewer than 10 different basic services exist within 1/4 mile, up to 15 points for providing retail bays appropriate for at least 10 different basic services on-site or within 1/4 mile, of which at least 4 have a maximum retail bay floor area of 5,000 square feet.
4. **Public Parking:** Up to 25 points for providing up to the maximum number of parking spaces allowed in the zone as public parking.

- 447 **5. Through-Block Connections:** Up to 20 points for safe and attractive
448 pedestrian connections between streets.
- 449 **6. Transit Access Improvement:** Up to 20 points for constructing new
450 or improving existing transit access.
- 451 **7. Streetscape Improvement:** Up to 20 points for construction of off-site
452 improvements, excluding any streetscape improvements otherwise
453 required.
- 454 **8. Trip Mitigation:** Up to 20 points for entering into a binding Traffic
455 Mitigation Agreement to reduce the number of weekday morning and
456 evening peak hour trips attributable to the site in excess of any other
457 regulatory requirement; the agreement must result in a reduction of at
458 least 50% for trips attributable to the site.
- 459 **9. Way-Finding:** Up to 10 points for design and implementation of a
460 way-finding system orienting pedestrians and cyclists to major open
461 spaces, cultural facilities and transit opportunities.]

462 **[D. Diversity of Uses and Activities**

463 Development that increases the variety and mixture of land uses, types of housing,
464 economic variety and community activities; contributes to development of more
465 efficient and sustainable communities; reduces the necessity for automobile use; and
466 facilitates healthier lifestyles and greater social interaction.

- 467 **1. Adaptive Buildings:** Up to 15 points for constructing commercial or
468 mixed use buildings with minimum floor-to-floor heights of at least 15
469 feet on any floor that meets grade and 12 feet on all other floors. Internal
470 structural systems must be able to accommodate various types of use
471 with only minor modifications.

2. **Care Centers:** Up to 20 points for constructing a child, teen, or adult day care facility accommodating at least 15 users that satisfies State standards.
3. **Dwelling Unit Mix:** Up to 10 points for integrating a mix of residential market-rate unit types with at least 7.5% efficiency units, 8% one- and two-bedroom units, and 5% three- or more bedroom units; the proportional number of MPDUs for each unit type must satisfy Chapter 25A.
4. **Enhanced Accessibility for Seniors or the Disabled:** Up to 20 points for constructing dwelling units with interiors that satisfy American National Standards Institute A117.1 Residential Type A standards or an equivalent County standard.
5. **Live/Work:** Up to 15 points for developments of up to 2.0 FAR total allowed density that provide at least 3 units or, for developments allowed greater than 2.0 FAR, 10% of the total unit count as live/work units.
6. **Moderately Priced Dwelling Units:** There is no limitation on the number of points for providing more than 12.5% of the residential units as MPDUs as required under Chapter 25A.
Points are calculated as follows:
 - a. 12 points are granted for every 1% of MPDUs greater than 12.5%. Any fraction of 1% increase in MPDUs entitles the applicant to an equal fraction of 12 points.
 - b. An additional 2 points are granted for every 1% of 2-bedroom MPDUs not otherwise required.
 - c. An additional 5 points are granted for every 1% of 3-bedroom MPDUs.

- d. In any case, for points to be awarded, at least one more MPDU than would be required at 12.5% must be provided to take advantage of the MPDU public benefit points in any zone.
- e. For a project providing a minimum of 15% MPDUs, one less benefit category than is required under Section 4.5.4.A.2 and Section 4.6.4.A.2 must be satisfied. A project that provides a minimum of 20% MPDUs does not have to satisfy any other benefit category under Section 4.5.4.A.2 and Section 4.6.4.A.2.]

[7. Small Business Opportunities: Up to 20 points for providing on-site space for small, neighborhood-oriented businesses.]

[E. Quality Building and Site Design

High quality design is especially important in urban, integrated-use settings to ensure that buildings and uses are visually compatible with each other and adjacent communities and to provide a harmonious pattern of development. Due to increased density in these settings, buildings tend to be highly visible and high quality design helps attract residents, patrons and businesses to these areas. Location, height, massing, facade treatments and ornamentation of buildings all affect sense of place, orientation and the perception of comfort and convenience. The quality of the built environment affects light, shadow, wind and noise, as well as the functional and economic value of property.

- 1. Architectural Elevations:** Up to 20 points for providing elevations of architectural facades and agreeing to be bound by particular elements of design, such as minimum amount of transparency, maximum separation between doors, awning provisions, sign restrictions, or lighting parameters that affect the perception of mass, pedestrian comfort, or enhance neighborhood compatibility.

2. **Exceptional Design:** Up to 10 points for building or site design whose visual and functional impacts exceptionally enhance the character of a setting per the purposes listed in Section 4.7.3.E.
3. **Historic Resource Protection:** Up to 20 points for the preservation or enhancement of, or payment towards preservation or enhancement of, a historic resource or a contributing element within an historic district designated in the Master Plan for Historic Preservation.
4. **Public Open Space:** Up to 20 points for providing, or making a payment for, public open space in excess of the minimum open space requirement of the zone.
5. **Public Art:** Up to 15 points for installing public art reviewed for comment by the Art Review Panel under The Public Art Guidelines approved by the Planning Board, or for paying a fee accepted by the Public Arts Trust Steering Committee.
6. **Structured Parking:** Up to 20 points for placing parking in an above or below grade parking structure.
7. **Tower Step-Back:** Up to 10 points for stepping back a building's upper floors by a minimum of 6 feet behind the first floor facade. The step-back must begin at a height no greater than 72 feet.]

[F. Protection and Enhancement of the Natural Environment

Protection and enhancement of natural systems and reduced energy consumption help mitigate or reverse environmental impacts such as heat island effects from the built environment, inadequate carbon-sequestration, habitat and agricultural land loss, and air and water pollution caused by reliance on the automobile.

1. **Building Lot Termination (BLT):** Up to 30 points for the purchase of BLT easements or payment to the Agricultural Land Preservation Fund (ALPF).

- 552 a. In the CR zone:
- 553 i. An applicant must purchase BLT easements, or make
- 554 payments to the ALPF, in an amount equal to 7.5% of the
- 555 incentive density floor area under the following
- 556 parameters:
- 557 (a) One BLT, equivalent to 9 points, must be purchased
- 558 or equivalent payment made for every 31,500
- 559 square feet of gross floor area comprising the 7.5%
- 560 incentive density floor area;
- 561 (b) A private BLT easement must be purchased in
- 562 whole units; or
- 563 (c) BLT payments must be made to the ALPF, based on
- 564 the amount established by Executive Regulations
- 565 under Chapter 2B; if a fraction of a BLT easement
- 566 is needed, a payment based on the gross square
- 567 footage of incentive density must be made for at
- 568 least the fraction of the BLT easement.
- 569 ii. Up to 25 points for the purchase of BLTs or equivalent
- 570 payments to the ALPF may be made for any incentive
- 571 density above 7.5%. Each BLT easement purchase or
- 572 payment is equivalent to 9 points, or such proportionate
- 573 points represented by a fractional BLT purchase or
- 574 payment.
- 575 b. In the LSC zone:
- 576 i. An applicant must purchase BLT easements, or make
- 577 payments to the ALPF, in an amount equal to 50% of the
- 578 incentive density under the following parameters:

- (a) For any floor area above 0.50 FAR, one BLT, equivalent to 9 points, must be purchased or an equivalent payment made for:
 - (1) each 31,500 square feet of floor area of residential, nonresidential, and Life Sciences between 0% and 40% of the project's floor area; and
 - (2) each 60,000 square feet of Life Sciences between 40% and 50% of the project's floor area.
 - (b) Any private BLT easement must be purchased in a whole unit; or
 - (c) BLT payments must be made to the ALPF, based on the amount established by Executive Regulations under Chapter 2B; if a fraction of a BLT easement is needed, a payment based on the gross square footage of incentive density must be made for at least the fraction of the BLT easement.
 - ii. Floor area restricted to the following uses is subtracted from the total density before calculating the required BLTs:
 - (a) workforce housing units;
 - (b) MPDUs;
 - (c) Hospitals, including the Hospital's accessory uses, other than medical office buildings;
 - (d) educational facilities for non-life sciences; and

(e) Life Sciences in excess of 50% of the project's total floor area.

c. In the CRT and EOF zones, BLT payments are optional; each BLT easement purchase or payment is equal to 9 points, or such proportionate points represented by a fractional BLT purchase or payment.

2. **Cool Roof:** Up to 10 points for constructing any roof area that is not covered by a vegetated roof with a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum SRI of 25 for slopes above 2:12.

3. **Energy Conservation and Generation:** Up to 15 points for constructing buildings that exceed the energy-efficiency standards for the building type by 17.5% for new buildings or 10% for existing buildings. At least 15 points for providing renewable energy generation facilities on-site or within 1/2 mile of the site for a minimum of 2.5% of the projected energy requirement for the development.

4. **Habitat Preservation and Restoration:** Up to 20 points for protection, restoration or enhancement of natural habitats, on-site or within the same local watershed, which are in addition to requirements of the Forest Conservation Law or other County laws.

5. **Recycling Facility Plan:** Up to 10 points for providing a recycling facility plan to be approved as part of a site plan for buildings that satisfies Montgomery County Executive Regulation 15-04AM or Montgomery County Executive Regulation 18-04.

6. **Transferable Development Right:** For a property that is in a TDR Overlay zone, up to 20 points for the purchase of TDRs under Section 4.9.15.B. Every TDR purchased is worth 1 point.

7. Tree Canopy: Up to 15 points for protecting tree canopy coverage with at least 15 years of growth per Trees Technical Manual approved by the Planning Board, as amended, on at least 25% of the on-site open space.

8. Vegetated Area: Up to 10 points for installation of plantings in a minimum of 12 inches of soil, covering at least 5,000 square feet. This does not include vegetated roofs or stormwater management facilities.

9. Vegetated Roof: Up to 15 points for installation of a vegetated roof with a soil depth of at least 4 inches covering at least 33% of a building's roof, excluding space for mechanical equipment.

10. Vegetated Wall: Up to 10 points for the installation and maintenance of a vegetated wall that covers at least 30% of any blank wall or parking garage facade that is at least 300 square feet in area and is visible from a public street or open space.]

[G. Building Reuse

Up to 100 points for reuse of an existing building that satisfies the following:

- a. 75% of the structural system of the building must be retained; and
- b. An architectural deconstruction company must be used to remove reusable and recyclable materials before any demolition.
- c. Although up to 100 points may be obtained, public benefit category minimums must be met.]

Division 4.7. Optional Method Public Benefits

Section 4.7.1. General Provisions

A. Public Benefit Categories

1. To receive incentive density, public benefits must be provided that contribute to the objectives of the zone. There are 4 public benefit categories, organized under 2 groups:

- a. Countywide Priorities

- i. Housing for All
- ii. Environmental Resilience
- b. Local Needs from Applicable Master Plans
 - i. Infrastructure for Compact Growth
 - ii. Complete Community Amenities

2. The individual public benefits that may be provided within each category are detailed in Section 4.7.2.

B. General Public Benefit Considerations

- 1. For any development application that is required to provide public benefits, the application must provide at least one public benefit from the Countywide Priorities group and at least one public benefit from the Local Needs from Applicable Master Plans group, except when it provides a Tier 4 public benefit or is requesting 0.25 FAR of incentive density or lower.
- 2. A development application may be awarded incentive density more than once from the same public benefit if the applicant provides distinct elements at different tiers.
- 3. Unless otherwise stated in Section 4.7.3, incentive density is awarded based on the following tiered public benefit system:
 - a. Tier 1 public benefits are eligible for a maximum of 0.25 FAR of incentive density;
 - b. Tier 2 public benefits are eligible for a maximum of 1.0 FAR of incentive density;
 - c. Tier 3 public benefits are eligible for a maximum 1.5 FAR of incentive density; and
 - d. Tier 4 public benefits are eligible to satisfy all requested incentive density.

4. Required public benefits are calculated by rounding up to the next 0.25 FAR increment.
5. A development application with a tract size under 1 acre and a mapped total FAR greater than 4.0 that is seeking approval for the maximum mapped FAR is only required to provide public benefits for incentive density over 2.0 FAR.
6. In approving incentive density based on the provision of public benefits, the Planning Board must consider:
- a. the recommendations and objectives of the applicable master plan and any associated design guidelines;
 - b. the Incentive Density Implementation Guidelines;
 - c. the size and configuration of the site;
 - d. the relationship of the site to adjacent properties;
 - e. the presence or lack of similar public benefits nearby; and
 - f. enhancements beyond the elements listed in an individual public benefit that increase public access to, or enjoyment of, the benefit.
7. If an applicable master plan recommends a specific public benefit for a specific property or geography, any application within that property or geography must provide the recommended public benefit unless the Planning Board finds that providing the recommended public benefit is infeasible or that the public benefit is no longer in the public interest.
8. Payment in lieu rates must be adjusted biennially based on the Engineering News Record's Baltimore Construction Cost Index. Payment in lieu of providing a public benefit may be considered and accepted under the following criteria:

a. the public benefit is in one of the following public benefit categories:

i. Offsite Improvements

ii. Public Facilities

iii. Street Grid and Multi-Modal Extensions

iv. Art and Placemaking

v. Great Public Realm

b. the applicable master plan recommends larger-scale facilities or amenities and establishes a mechanism to receive in lieu payments;

c. a Capital Improvements Program project exists to utilize the payment within the applicable master plan area; and

d. the public benefit under consideration is located off-site.

9. The Planning Board may approve an alternative method of compliance for providing a public benefit under Section 4.7.3 if it is determined that there is a unique site, a use characteristic, a unique benefit to the public, or a development constraint that precludes the delivery of a pre-defined public benefit under Section 4.7.3 or as modified by any applicable master plan. The alternative method of compliance must:

a. satisfy the intent of the public benefit category;

b. align with the overall vision of the applicable master plan;

c. enhance the applicable functional result or performance standard for the public benefit category; and

d. be in the public interest.

C. Public Benefit Implementation Guidelines

The Planning Board must adopt, publish, and maintain guidelines that detail the standards and requirements for public benefits. The guidelines must:

1. be consistent with the objectives of Division 4.7;
2. be in addition to any standards, requirements, or rules of incentive density calculation included in Division 4.7, but must not conflict with those provisions; and
3. allow incentive density only for those public benefits listed in Section 4.7.3.

D. Public Benefit Procedures and Exemptions

1. An application for a sketch plan or site plan filed and accepted as complete prior to {effective date} must be reviewed under the rules and procedures for approving public benefits under Section 8.4, unless an applicant elects to be reviewed under Division 4.7.
2. An application for a sketch plan or site plan filed and accepted as complete within 12 months of {effective date} may choose at the time of application whether to be reviewed under the rules and procedures for approving public benefits under Section 8.4, or Division 4.7.
3. A development application with a sketch plan approval under Section 8.4 may file a site plan under the same rules and procedures as long as the sketch plan remains valid.
4. An amendment to a sketch plan or site plan application approved using the rules and procedures for approving public benefits under Section 8.4 may continue to use those rules and procedures, if the amendment:
 - (a) does not increase the approved density or building heights by more than 10%; and
 - (b) does not increase the tract area of the application.

Section 4.7.2. Public Benefit Overview

The Planning Board must determine that public benefits are provided for requested incentive density under the optional method development from the following public benefit categories:

A. Countywide Priorities

1. Housing for All
 - a. MPDUs
 - b. Family Sized Units
 - c. Deeper Levels of Affordability
2. Environmental Resilience
 - a. Energy Efficiency
 - b. Renewable Energy
 - c. Green Buildings
 - d. Sustainable Site Design

B. Local Needs from Applicable Master Plans

1. Infrastructure for Compact Growth
 - a. Offsite Improvements
 - b. Public Facilities
 - c. Street Grid and Multi-Modal Extensions
2. Complete Community Amenities
 - a. Art and Placemaking
 - b. Neighborhood Services and Mixed Use
 - c. Great Public Realm
 - d. Design Excellence

Section 4.7.3. Public Benefit Description and Criteria

A. Countywide Priorities

Countywide Priorities are public benefits that align with the County's key policy priorities.

1. Housing for All

Housing for All is a public benefit category designed to incentivize the delivery of affordable housing, for rent or for sale, at varying levels of affordability and structure size, including dwellings suitable for families and intergenerational households.

a. MPDUs

A development application that provides more than the minimum MPDUs required by the County or an applicable master plan is eligible to receive incentive density based on the following FAR increment tiers modified from those described in Section 4.7.1.B.3:

- i. Tier 1 receives 1.25 FAR for providing greater than or equal to 2.5% and less than 5% more MPDUs than required;
- ii. Tier 2 receives 1.5 FAR for providing greater than or equal to 5% and less than 7.5% more MPDUs than required;
- iii. Tier 3 receives 1.75 FAR for providing greater than or equal to 7.5% and less than 10% more MPDUs than required; and
- iv. Tier 4 receives up to the mapped FAR for providing greater than or equal to 10% more MPDUs than required.

b. Family Sized Units

A development application that provides family sized dwellings, defined as dwellings that are 3 or more bedrooms in size, is eligible for incentive density.

- i. Tier 1 must include one of the following:

(a) a minimum 5% of all units in an apartment or mixed use building type must be constructed with 3 or more bedrooms, and these family sized units must be divided evenly between market rate and MPDU units; or

(b) a minimum 5% of all MPDU units in townhouse building types must be constructed with 4 or more bedrooms.

ii. Tier 2 must include one of the following:

(a) a minimum 10% of all units in an apartment or mixed use building type must be constructed with 3 or more bedrooms, and these family sized units must be divided evenly between market rate and MPDU units; or

(b) a minimum 10% of all MPDU units in townhouse building types must be constructed with 4 or more bedrooms.

iii. There are no Tier 3 or Tier 4 options for the Family Sized Units public benefit.

c. Deeper Levels of Affordability

A development application that provides dwelling units eligible to households earning below the MPDU Area Median Income (AMI) set under Chapter 25A is eligible for incentive density.

i. There is no Tier 1 option for the Deeper Levels of Affordability public benefit.

- ii. Tier 2 must enter into an agreement with DHCA to provide at least 15% of all units as MPDUs at levels of affordability averaging 60% of AMI.
- iii. Tier 3 must enter into an agreement with DHCA to provide at least 20% of all units as MPDUs at levels of affordability averaging 60% of AMI.
- iv. Tier 4 must enter into an agreement with DHCA to provide at least 25% of all units as MPDUs at levels of affordability averaging 60% of AMI.

2. Environmental Resilience

This public benefit category incentivizes energy efficient buildings, the use of renewable energy, and incorporating sustainable site design principles into buildings and development sites.

a. Energy Efficiency

A development application that exceeds County required energy efficiency standards is eligible for incentive density.

- i. Tier 1 must exceed County energy efficiency standards by 10%.
- ii. Tier 2 must exceed County energy efficiency standards by 17.5%.
- iii. Tier 3 must exceed County energy efficiency standards by 25%.
- iv. Tier 4 must achieve a net zero energy performance.

b. Renewable Energy

A development application that commits to using or generating renewable energy onsite is eligible for incentive density.

- i. Tier 1 must either generate renewable energy onsite or commit to using renewable energy from an offsite provider within the regional catchment area greater than or equal to 1/3 of the energy necessary for the development.
- ii. Tier 2 must either generate renewable energy onsite or commit to renewable energy from an offsite provider within the regional catchment area greater than or equal to 2/3 of the energy necessary for the development.
- iii. Tier 3 must either generate renewable energy onsite or commit to using renewable energy from an offsite provider within the regional catchment area greater than or equal to 3/4 of the energy necessary for the development.
- iv. Tier 4 must generate renewable energy onsite equal to 100% of the energy necessary for the development.

c. Green Buildings

A development application that achieves the Alternative Compliance Path for Green Buildings through LEED, or an alternative certification program approved by the County, is eligible for incentive density.

- i. Tier 1 must meet the Alternative Compliance Path for Green Code and achieve LEED Silver plus 21 points.
- ii. Tier 2 must meet the Alternative Compliance Path for Green Code and achieve LEED Gold.
- iii. Tier 3 must meet the Alternative Compliance Path for Green Code, achieve LEED Gold, and either provide full

electrification of the building or utilize mass timber framed construction.

- iv. Tier 4 must meet the Alternative Compliance Path for Green Code and achieve LEED Platinum.

d. Sustainable Site Design

A development application that incorporates sustainable features into buildings and site design, including biophilic design, enhanced green roofs, bird friendly building design, pervious pavement materials, retaining existing trees, and adaptively reusing existing structures is eligible for incentive density.

- i. Tier 1 must include one of the following elements:

(a) meet or exceed requirements for one point for “Designing with Nature, Biophilic Design for the Indoor Environment” under LEED BD+C version 4.1, as amended;

(b) enhanced green roof with a minimum coverage of 20% of the roof area and a minimum 6 inches in depth;

(c) meet or exceed requirements for one point for “Bird Collision Deterrence” under LEED BD+C version 4.1, as amended;

(d) pervious pavement for 10% of all paved surfaces onsite;

(e) retain a minimum 10% Diameter at Breast Height (DBH) of existing trees onsite that have a DBH between 3 and 24 inches with an adequate soil volume; or

(f) adaptively reuse at least 10,000 square feet of existing floor area from an existing building onsite or within the master plan area.

ii. Tier 2 must include at least 2 of the following elements:

(a) meet or exceed requirements for one point plus 5 additional biophilic strategies for “Designing with Nature, Biophilic Design for the Indoor Environment” under LEED BD+C version 4.1, as amended;

(b) enhanced green roof with a minimum coverage of 40% of the roof area and a minimum 6 inches in depth;

(c) meet or exceed requirements for one point for “Bird Collision Deterrence” under LEED BD+C version 4.1, as amended;

(d) pervious pavement for 25% of all hard paved surfaces onsite;

(e) retain a minimum of more than 10% and less than 30% DBH of existing trees onsite that have a DBH between 3 and 24 inches with an adequate soil volume; or

(f) adaptively reuse at least 50,000 square feet of existing floor area from an existing building onsite or within the master plan area.

iii. Tier 3 must include at least 3 of the following elements:

(a) meet or exceed requirements for one point plus 5 additional biophilic strategies for “Designing with

- 947 Nature, Biophilic Design for the Indoor
 948 Environment” under LEED BD+C version 4.1, as
 949 amended;
- 950 (b) enhanced green roof with a minimum coverage of
 951 50% of the roof area and a minimum 6 inches in
 952 depth;
- 953 (c) meet or exceed requirements for one point for “Bird
 954 Collision Deterrence” under LEED BD+C version
 955 4.1, as amended;
- 956 (d) pervious pavement for 40% of all hard paved
 957 surfaces onsite;
- 958 (e) retain a minimum of more than 30% and less than
 959 50% DBH of existing trees onsite that have a DBH
 960 between 3 and 24 inches with an adequate soil
 961 volume; or
- 962 (f) adaptively reuse at least 75,000 square feet of
 963 existing floor area from an existing building onsite
 964 or within the master plan area.
- 965 iv. Tier 4 must include at least 4 of the following elements:
- 966 (a) meet or exceed requirements for one point plus 5
 967 additional biophilic strategies for “Designing with
 968 Nature, Biophilic Design for the Indoor
 969 Environment” under LEED BD+C version 4.1, as
 970 amended;
- 971 (b) enhanced green roof with a minimum coverage of
 972 60% of the roof area and a minimum 6 inches in
 973 depth;

- (c) meet or exceed requirements for one point for “Bird Collision Deterrence” under LEED BD+C version 4.1, as amended;
- (d) pervious pavement for 50% of all hard paved surfaces onsite;
- (e) retain 50% or more DBH of existing trees onsite that have a DBH between 3 and 24 inches with an adequate soil volume; or
- (f) adaptively reuse greater than 100,000 square feet of existing floor area from an existing building onsite or within the master plan area.

B. Local Needs from Applicable Master Plans

Local needs are public benefits that are intended to implement critical local needs identified through master, sector, or functional plans.

1. Infrastructure for Compact Growth

Public benefits in this category are intended to deliver public facilities that enhance connectivity by creating an infrastructure framework supportive of compact growth. Projects may include, but are not limited to, new streets, new or upgraded sidewalks, bicycle facilities, transit access, streetscapes, seating, tree canopy, and lighting.

a. Offsite Improvements

A development application that provides needed linear infrastructure improvements in an existing public right-of-way that are not part of an application’s required frontage improvements is eligible for incentive density.

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

- 1000 (a) offsite streetscape improvements greater than 2,000
 1001 square feet, or with an estimated cost greater than or
 1002 equal to \$100,000 but less than \$300,000, that are
 1003 consistent with County guidelines or master plan
 1004 recommendations, or;
- 1005 (b) contribute a minimum of \$0.33 per square foot of
 1006 gross floor area proposed within a development
 1007 application to a CIP project within the same master
 1008 plan area.
- 1009 ii. Tier 2 must provide at least one of the following:
- 1010 (a) offsite streetscape improvements greater than 4,000
 1011 square feet, or with an estimated cost greater than or
 1012 equal to \$300,000 but less than \$500,000, that are
 1013 consistent with County guidelines or master plan
 1014 recommendations;
- 1015 (b) construct offsite bikeways greater than 1,000 linear
 1016 feet, or with an estimated cost greater than or equal
 1017 to \$300,000 but less than \$500,000, consistent with
 1018 the applicable master plan; or
- 1019 (c) contribute a minimum of \$1.00 per square foot of
 1020 gross floor area proposed within a development
 1021 application to a CIP project within the same master
 1022 plan area.
- 1023 iii. Tier 3 must provide at least one of the following:
- 1024 (a) offsite streetscape improvements greater than 5,000
 1025 square feet, or with an estimated cost greater than or
 1026 equal to \$500,000 but less than \$1,000,000, that are

consistent with County guidelines or master plan recommendations;

(b) construct offsite bikeways greater than 1,800 linear feet, or with an estimated cost greater than or equal to \$500,000 but less than \$1,000,000, that are consistent with the applicable master plan;

(c) contribute a minimum \$2.00 per square foot of gross floor area proposed within a development application to a CIP project within the same master plan area; or

(d) construct or upgrade an offsite stormwater management facility with an estimated cost greater than or equal to \$500,000 but less than \$1,000,000.

iv. Tier 4 must provide a major improvement or reinforcement to runoff conveyance or storage, or a stormwater treatment facility that is recommended in a master plan, with an estimated cost greater than \$1,000,000.

b. Public Facilities

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

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

- (a) dedicate land or construct a public facility such as a bus stop, BRT station, or bicycle parking, with an estimated cost greater than or equal to \$100,000 but less than \$300,000;
 - (b) underground or locate within a building existing electric transformers and other utility boxes located along a site frontage with an estimated cost greater than or equal to \$100,000 but less than \$300,000; or
 - (c) contribute a minimum of \$0.33 per square foot of gross floor area proposed within a development application to an identified county CIP project within the same master plan area.
- ii. Tier 2 must provide at least one of the following:
 - (a) dedicate land or construct a public facility such as a bus stop, BRT station, or bicycle parking, with an estimated cost greater than or equal to \$300,000 but less than \$500,000;
 - (b) underground, or locate within a building, existing electric transformers and other utility boxes located along a site frontage with an estimated cost greater than or equal to \$300,000 but less than \$500,000; or
 - (c) contribute a minimum of \$1.00 per square foot of gross floor area proposed within a development application to an identified county CIP project within the same master plan area.
- iii. Tier 3 must provide at least one of the following:

- (a) dedicate land or construct a public facility such as a BRT station, or enhance an existing light rail or metro rail station with an estimated cost greater than or equal to \$500,000 but less than \$1,000,000;
- (b) underground existing overhead utilities along a site frontage, or another location offsite within the master plan area, with an estimated cost greater than or equal to \$500,000 but less than \$1,000,000; or
- (c) contribute a minimum of \$2.00 per square foot of gross floor area proposed within a development application to an identified county CIP project within the same master plan area.

iv. Tier 4 must provide at least one of the following:

- (a) dedicate land and fully construct a major public facility such as a police or fire station, or a public parking garage, with an estimated cost greater than \$1,000,000; or
- (b) underground all existing overhead utilities along a site frontage, or another location offsite within the master plan area, with an estimated cost greater than \$1,000,000.

c. Street Grid and Multi-Modal Extensions

A development application that enhances the transportation network by completing missing sections of master planned transportation infrastructure or enhancing the quality of the area transportation network by providing new bike and pedestrian connections or reducing

the number of curb cuts into rights-of-way is eligible for incentive density.

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

(a) construct a publicly accessible trail greater than 2,500 linear feet but less than 3,500 linear feet in length or with an estimated cost greater than or equal to \$100,000 but less than \$300,000;

(b) contribute a minimum of \$0.33 per square foot of gross floor area proposed within a development application to a CIP project within the master plan area; or

(c) for redevelopment applications, reduce the number of existing curb cuts by 50%.

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

(a) construct a publicly accessible trail greater than or equal to 3,500 linear feet but less than 6,000 linear feet in length or with an estimated cost greater than or equal to \$300,000 but less than \$500,000;

(b) contribute a minimum of \$1.00 per square foot of gross floor area proposed within a development application to a CIP project within the master plan area; or

(c) build at least one new through street that bisects an existing block as recommended by an applicable master plan or meets the intersection spacing standards in Chapter 50 of the County Code. The

street must meet the preferred standards of the Complete Streets Design Guide.

iii. Tier 3 must provide at least one of the following:

(a) construct a publicly accessible trail greater than or equal to 6,000 linear feet in length or with an estimated cost greater than or equal to \$500,000 but less than \$1,000,000; or

(b) design a development site providing at least 2 new street connections, or future street connections such as a stub road, with an adjacent property as recommended by an applicable master plan or meeting the intersection spacing standards in Chapter 50 of the County Code. The streets must meet the preferred design standards of the Complete Streets Design Guide.

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

2. Complete Community Amenities

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

a. Art and Placemaking

A development application that installs public art, provides accessible programming in open spaces, or promotes the arts through providing

affordable housing, workspaces, and gallery space for the arts and theater is eligible for incentive density. Contributions for art or placemaking may be received by the Public Arts Trust Steering Committee (PATSC), an urban district, a business improvement district, an arts and entertainment district, or a Regional Services Center.

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

(a) provide artistic elements or treatments to the façade of buildings or parking garages, or freestanding within the streetscape that enhances the public realm;

(b) provide, at least monthly, recurring and publicly accessible programming in an open space for a minimum of 12 months of operation; or

(c) contribute a minimum of \$0.33 per square foot of gross floor area proposed within a development application for the purpose of providing and maintaining public art.

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

(a) install public art approved by the Art Review Panel, or partner with an Urban District, public agency, arts nonprofit, or Regional Services Center to install public art facing or accessible to the public;

(b) provide, at least monthly, recurring and publicly accessible programming in an open space for a minimum of 36 months; or

(c) contribute a minimum of \$1.00 per square foot of gross floor for the purpose of providing and maintaining public art.

iii. Tier 3 must provide at least one of the following:

(a) at least 5% of all units in a development application are restricted to artist housing, or as live/work units for artists earning 70% or less AML, in addition to any required MPDUs; or

(b) contribute a minimum of \$2.00 per square foot of gross floor area proposed within a development application for the purpose of providing and maintaining public art.

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

b. Neighborhood Services and Mixed Use

A development application that includes retail space or other non-residential space such as publicly usable community rooms or large facilities such as libraries or recreation centers is eligible for incentive density.

i. Tier 1 must provide at least one bay that is a minimum of 2,000 square feet for neighborhood serving uses, as defined by the Implementation Guidelines, and directly accessible from a street or public open space.

ii. Tier 2 must provide at least 3 bays that total a minimum of 10,000 square feet for neighborhood serving uses, as

defined by the Implementation Guidelines, that are directly accessible from a street or public open space.

iii. Tier 3 must provide a publicly usable space for a conference, event, or meeting, or space for neighborhood serving uses as defined by the Implementation Guidelines, that is a minimum of 15,000 square feet, either onsite or within the master plan area.

iv. Tier 4 must provide a major public facility such as a recreation center, library, or educational facility, at least 20,000 square feet in size, either onsite or within the master plan area.

c. Great Public Realm

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

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

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

(b) improve an existing park or privately-owned public open space with intergenerational amenities and inclusive design features over at least 0.25 acres

with an estimated cost greater than or equal to \$100,000 but less than \$300,000; or

- (c) contribute a minimum of \$0.33 per square foot of gross floor area proposed within a development application for creating or improving public spaces as recommended by an applicable master plan.

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

- (a) exceed the minimum required public open space for a development application by 50%, and include a privately-owned publicly accessible open space, or a dedicated, constructed, and conveyed park facility that is a minimum 0.25 acre Neighborhood Green as described in the Energized Public Spaces Design Guidelines; or

- (b) contribute a minimum of \$1.00 per square foot of gross floor area proposed within a development application for creating or improving public spaces as recommended by an applicable master plan.

iii. Tier 3 must provide at least one of the following:

- (a) provide a privately-owned publicly accessible open space, or a dedicated, constructed, and conveyed park facility that is a minimum 1.5-acre Civic Green/Plaza as described in the Energized Public Spaces Design Guidelines; or

- (b) contribute a minimum of \$2.00 per square foot of gross floor area proposed within a development

application for creating or improving public spaces
as recommended by an applicable master plan.

- iv. Tier 4 must provide a privately-owned publicly accessible open space, or a publicly dedicated, constructed, and conveyed park facility that is a minimum 3-acre Urban Recreational Park, as described in the Energized Public Spaces Design Guidelines.

d. Design Excellence

A development application that is designed to improve human health and well-being or achieving WELL Core certification is eligible for incentive density.

- i. Tier 1 must provide at least one of the following:
 - (a) substantially conform to any master plan design guidelines and implement at least 3 strategies from the Design Excellence list; or
 - (b) achieve WELL Core Bronze certification.
- ii. Tier 2 must provide at least one of the following:
 - (a) substantially conform to any master plan design guidelines and implement at least 5 strategies from the Design Excellence list; or
 - (b) achieve WELL Core Silver certification.
- iii. Tier 3 must provide at least one of the following:
 - (a) substantially conform to any master plan design guidelines and implement at least 7 strategies from the Design Excellence list; or
 - (b) achieve WELL Core Gold certification.
- iv. Tier 4 must provide at least one of the following:

- (a) substantially conform to design guidelines and
implement at least 9 strategies from the Design
Excellence list;
- (b) achieve WELL Core Platinum certification; or
- (c) achieve Living Building Challenge certification.

Sec. 5. DIVISION 59-5.3 is amended as follows:

* * *

Division 5.3. Commercial/Residential Floating Zones

* * *

Section 5.3.5 Development Standards

* * *

E. Public Benefits

1. Public Benefits Required

- a. [Development above the greater of 1.0 FAR or 10,000 square feet of gross floor area in the CRTF zone requires public benefits.
- b] Development above the greater of 0.5 FAR or 10,000 square feet of gross floor area in the CRTF and CRF zone requires public benefits.
- [c]b. When public benefits are required by development in the Commercial/Residential Floating zones, a sketch plan must be submitted under Section 7.3.3.

2. Public Benefit Points and Categories Required

- a. Public benefits under Division 4.7 must be provided according to [zone and tract size or maximum total] mapped FAR[,] and requested incentive density.[, whichever requires more public benefit points:]

| [Zone] | [Tract Size OR Max Total FAR] | [Public Benefit Points (min)] | [Number of Benefit Categories (min)] |
|--------|--------------------------------|-------------------------------|--------------------------------------|
| [CRTF] | [< 10,000 SF OR < 1.5 max FAR] | [25] | [2] |
| | [≥ 10,000 SF OR ≥ 1.5 max FAR] | [50] | [3] |
| [CRF] | [< 10,000 SF OR < 1.5 max FAR] | [50] | [3] |
| | [≥ 10,000 SF OR ≥ 1.5 max FAR] | [100] | [4] |

b. In the CRF zone, the purchase of BLTs is required under Section [4.7.3.F.1.a.] 4.5.4.A.2.b.

Sec. 6. DIVISION 59-5.4 is amended as follows:

* * *

Division 5.4. Employment Floating Zones

* * *

Section 5.4.5 Development Standards

* * *

D. General Requirements

1. Parking, recreation facilities, screening, and landscaping must be provided under Article 59-6 as required for the Euclidean zone that establishes uses under Section 5.4.3.

2. [Open Space

a. If public benefits are not required under Section 5.4.4.E, open] Open space must be provided under Section 4.6.3 [(for standard method)] as required for the Euclidean zone that establishes uses under Section 5.4.3.

[b. If public benefits are required under Section 5.4.4.E, open space must be provided under Section 4.6.4.B.1 (for optional method) as

required for the Euclidean zone that establishes uses under Section 5.4.3.]

3. The floating zone plan may provide for additional parking, open space, recreation facilities, screening, or landscaping, or further restrict lighting to allow the District Council to make the necessary findings of approval under Section 7.2.1.

[E. Public Benefits]

[1. Public Benefits Required]

- a. Development above the greater of 1.0 FAR or 10,000 square feet of gross floor area in the EOFF zone requires public benefits.
- b. Development above the greater of 0.5 FAR or 10,000 square feet of gross floor area in the LSCF zone requires public benefits.
- c. When public benefits are required by development in the Employment Floating zones, a sketch plan must be submitted under Section 7.3.3.]

[2. Public Benefit Points and Categories Required]

- a. Public benefits under Division 4.7 must be provided according to zone and tract size or maximum total mapped FAR, whichever requires more public benefit points:]

| [Zone] | [Tract Size OR Max Total FAR] | [Public Benefit Points (min)] | [Number of Benefit Categories (min)] |
|--------|--------------------------------|-------------------------------|--------------------------------------|
| [LSCF] | [< 10,000 SF OR < 1.5 max FAR] | [15] | [1] |
| | [≥ 10,000 SF OR ≥ 1.5 max FAR] | [30] | [2] |
| [EOFF] | [< 10,000 SF OR < 1.5 max FAR] | [30] | [2] |
| | [≥ 10,000 SF OR ≥ 1.5 max FAR] | [60] | [3] |

[b. In the LSCF zone, the purchase of BLTs is required under
Section 4.7.3.F.1.b.]

* * *

Sec. 7. DIVISION 59-8.1 is amended as follows:

Division 8.1. In General

Section 8.1.1. Applicability

The zones in Article 59-8, Sections 8.1 through 8.3, were applied by Local Map Amendment before this Zoning Ordinance was adopted. These zones may appear on the digital zoning map, but they cannot be requested by any property owner under a Local Map Amendment or confirmed or applied to any property under a Sectional Map Amendment adopted after October 30, 2014. Section 8.4, Optional Method Public Benefits, is the Public Benefit system in effect prior to {effective date} for optional method development projects in the Commercial/Residential and Employment zones.

* * *

Sec. 8. DIVISION 59-8.4 is added as follows:

Division 8.4. Optional Method Public Benefits

Section 8.4.1. General Provisions

A. Public Benefit Categories

1. Public benefits must be provided that enhance or contribute to the objectives of the zone among the following categories:

a. Major Public Facilities;

b. Transit Proximity;

c. Connectivity and Mobility;

d. Diversity of Uses and Activities;

e. Quality Building and Site Design;

f. Protection and Enhancement of the Natural Environment; and

g. Building Reuse.

2. The individual public benefits that may be accepted in each of these categories in each zone are in Section 8.4.3.

B. General Public Benefit Considerations

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

1. the recommendations and objectives of the applicable master plan;
2. the Commercial/Residential and Employment Zone Incentive Density Implementation Guidelines;
3. any design guidelines adopted for the applicable master plan area;
4. the size and configuration of the site;
5. the relationship of the site to adjacent properties;
6. the presence or lack of similar public benefits nearby; and
7. enhancements beyond the elements listed in an individual public benefit that increase public access to, or enjoyment of, the benefit.

C. Public Benefit Implementation Guidelines

The Planning Board must adopt, publish, and maintain guidelines that detail the standards and requirements for public benefits. The guidelines must:

1. be consistent with the objectives of Division 8.4;
2. be in addition to any standards, requirements, or rules of incentive density calculation included in Division 8.4, but must not conflict with those provisions; and
3. allow incentive FAR only for those public benefits listed in Section 8.4.3.

Section 8.4.2. Public Benefit Overview

The Planning Board must determine the public benefit points under optional method development from the following categories:

A. Major Public Facility

B. Transit Proximity

C. Connectivity and Mobility

1. Advance Dedication
2. Minimum Parking
3. Neighborhood Services
4. Public Parking
5. Through-Block Connection
6. Transit Access Improvement
7. Streetscape Improvement
8. Trip Mitigation
9. Way Finding

D. Diversity of Uses and Activities

1. Adaptive Buildings
2. Care Centers
3. Dwelling Unit Mix
4. Enhanced Accessibility for the Disabled
5. Live/Work
6. Moderately Priced Dwelling Units
7. Small Business Opportunity

E. Quality Building and Site Design

1. Architectural Elevations
2. Exceptional Design
3. Historic Resource Protection
4. Public Art

5. Public Open Space

6. Structured Parking

7. Tower Step-Back

F. Protection and Enhancement of the Natural Environment

1. Building Lot Terminations

2. Cool Roof

3. Energy Conservation and Generation

4. Habitat Preservation and Restoration

5. Recycling Facility Plan

6. Transferable Development Rights

7. Tree Canopy

8. Vegetated Area

9. Vegetated Roof

10. Vegetated Wall

G. Building Reuse

Section 8.4.3. Public Benefit Descriptions and Criteria

A. Major Public Facilities

1. Major public facilities include, but are not limited to, such facilities as a school, library, recreation center, park, County service center, bike share station, public transportation or utility upgrade, or other resource delineated in an applicable master plan. Major public facilities provide public services at a convenient location where increased density creates a greater need for civic uses and greater demands on public infrastructure.

2. If a major public facility is recommended for a property in a master plan, an applicant for a sketch plan and site plan on that property must

provide the major public facility unless the Planning Board finds that the facility:

- a. is infeasible;
- b. would not be accepted by the government department or agency responsible for operating the facility; or
- c. is no longer in the public interest.

3. If a proposed major public facility is not recommended in the applicable master plan, the Planning Board must find that the facility or improvement provides the community with a resource that is at least as beneficial as other major public facilities recommended in the applicable master plan. Additionally, any infrastructure upgrade may only receive incentive density for improvements beyond those required by any applicable adequate public facilities requirement to complete the proposed development.

4. Due to their significance in placemaking, the Planning Board may approve incentive FAR for:

- a. the conveyance of a site or floor area for a major public facility;
- b. the construction of a major public facility; or
- c. making a partial or full payment for a major public facility that is accepted for use or operation by an appropriate public agency, community association, or nonprofit organization.

5. Up to the following number of points may be awarded if the requirements of Section 8.4.4.A are met:

- a. 20 points in an LSC zone;
- b. 40 points in an EOF or CRT zone; and
- c. 70 points in a CR zone.

B. Transit Proximity

1. Transit proximity points are granted for proximity to existing or master planned transit stops based on transit service level and CRT, CR, LSC, and EOF zones. Public benefit points can only be granted for one transit stop.

a. Transit proximity is categorized in 3 levels:

i. Level 1 is proximity to an existing or master planned Metrorail Station.

ii. Level 2 is proximity to an existing or master planned station or stop along a rail or bus line with a dedicated, fixed path; this excludes a site that is within one mile of an existing or master planned MARC station.

iii. Level 3 is proximity to an existing or master planned MARC station.

All distances for transit proximity are measured from the nearest transit station entrance or bus stop entrance.

b. A project is abutting or confronting a transit station or stop if it shares a property line or easement line, or is separated only by a right-of-way from an existing or master-planned transit station or stop, and 100% of the tract in a single sketch plan application is within 1/4 mile of the transit portal.

c. For split proximity-range projects:

i. if at least 75% of the tract in a single sketch plan application is within the closer of 2 proximity ranges, the entire project may take the points for the closer range; or

ii. if less than 75% of the tract in a single sketch plan is within the closer of 2 proximity ranges, the points must be

calculated as the weighted average of the percentage of area in each range.

| | <u>Abutting or Confronting</u> | | | <u>Within 1/4 Mile</u> | | | <u>Between 1/4 and 1/2 Mile</u> | | | <u>Between 1/2 and 1 Mile</u> | | |
|---|---------------------------------------|-----------|------------|-------------------------------|-------------|------------|--|-----------|----------|--------------------------------------|------------|------------|
| <u>Transit Service Level Proximity</u> | <u>1</u> | <u>2</u> | <u>3</u> | <u>1</u> | <u>2</u> | <u>3</u> | <u>1</u> | <u>2</u> | <u>3</u> | <u>1</u> | <u>2</u> | <u>3</u> |
| <u>LSC</u> | <u>10</u> | <u>5</u> | <u>2.5</u> | <u>8</u> | <u>4</u> | <u>0</u> | <u>6</u> | <u>2</u> | <u>0</u> | <u>4</u> | <u>0</u> | <u>0</u> |
| <u>EOF or CRT</u> | <u>25</u> | <u>15</u> | <u>5</u> | <u>20</u> | <u>12.5</u> | <u>2.5</u> | <u>15</u> | <u>10</u> | <u>0</u> | <u>10</u> | <u>7.5</u> | <u>0</u> |
| <u>CR</u> | <u>50</u> | <u>30</u> | <u>10</u> | <u>40</u> | <u>25</u> | <u>5</u> | <u>30</u> | <u>20</u> | <u>5</u> | <u>20</u> | <u>15</u> | <u>2.5</u> |

C. Connectivity and Mobility

Development that enhances connectivity between uses and amenities; increases mobility options; encourages walking, cycling and transit; facilitates social interaction; provides opportunities for healthier living; and stimulates local businesses may achieve public benefit points.

1. Advance Dedication: Up to 8 points in the LSC zone, 15 points in the EOF zone, and 30 points in the CRT and CR zone for dedicating or providing a reservation for dedication for master-planned rights-of-way in advance of a preliminary or site plan application.

2. Minimum Parking: Up to 10 points for providing fewer than the maximum allowed number of parking spaces, where a maximum is applicable.

3. Neighborhood Services: When fewer than 10 different basic services exist within 1/4 mile, up to 15 points for providing retail bays appropriate for at least 10 different basic services on-site or within 1/4

mile, of which at least 4 have a maximum retail bay floor area of 5,000 square feet.

4. Public Parking: Up to 25 points for providing up to the maximum number of parking spaces allowed in the zone as public parking.

5. Through-Block Connections: Up to 20 points for safe and attractive pedestrian connections between streets.

6. Transit Access Improvement: Up to 20 points for constructing new or improving existing transit access.

7. Streetscape Improvement: Up to 20 points for construction of off-site improvements, excluding any streetscape improvements otherwise required.

8. Trip Mitigation: Up to 20 points for entering into a binding Traffic Mitigation Agreement to reduce the number of weekday morning and evening peak hour trips attributable to the site in excess of any other regulatory requirement; the agreement must result in a reduction of at least 50% for trips attributable to the site.

9. Way-Finding: Up to 10 points for design and implementation of a way-finding system orienting pedestrians and cyclists to major open spaces, cultural facilities and transit opportunities.

D. Diversity of Uses and Activities

Development that increases the variety and mixture of land uses, types of housing, economic variety and community activities; contributes to development of more efficient and sustainable communities; reduces the necessity for automobile use; and facilitates healthier lifestyles and greater social interaction.

1. Adaptive Buildings: Up to 15 points for constructing commercial or mixed use buildings with minimum floor-to-floor heights of at least 15 feet on any floor that meets grade and 12 feet on all other floors. Internal

structural systems must be able to accommodate various types of use with only minor modifications.

2. Care Centers: Up to 20 points for constructing a child, teen, or adult day care facility accommodating at least 15 users that satisfies State standards.

3. Dwelling Unit Mix: Up to 10 points for integrating a mix of residential market-rate unit types with at least 7.5% efficiency units, 8% one- and 2-bedroom units, and 5% three- or more bedroom units; the proportional number of MPDUs for each unit type must satisfy Chapter 25A.

4. Enhanced Accessibility for Seniors or the Disabled: Up to 20 points for constructing dwelling units with interiors that satisfy American National Standards Institute A117.1 Residential Type A standards or an equivalent County standard.

5. Live/Work: Up to 15 points for developments of up to 2.0 FAR total allowed density that provide at least 3 units or, for developments allowed greater than 2.0 FAR, 10% of the total unit count as live/work units.

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

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

b. An additional 2 points are granted for every 1% of 2-bedroom MPDUs not otherwise required.

- c. An additional 5 points are granted for every 1% of 3-bedroom MPDUs.
- d. For points to be awarded, at least one more MPDU than would be required at 12.5% must be provided to take advantage of the MPDU public benefit points in any zone.
- e. For a project providing a minimum of 15% MPDUs, one less benefit category than is required under Section 4.5.4.A.2 and Section 4.6.4.A.2 must be satisfied. A project that provides a minimum of 20% MPDUs does not have to satisfy any other benefit category under Section 4.5.4.A.2 and Section 4.6.4.A.2.

7. Small Business Opportunities: Up to 20 points for providing on-site space for small, neighborhood-oriented businesses.

E. Quality Building and Site Design

High quality design is especially important in urban, integrated-use settings to ensure that buildings and uses are visually compatible with each other and adjacent communities and to provide a harmonious pattern of development. Due to increased density in these settings, buildings tend to be highly visible and high quality design helps attract residents, patrons and businesses to these areas. Location, height, massing, facade treatments and ornamentation of buildings all affect sense of place, orientation and the perception of comfort and convenience. The quality of the built environment affects light, shadow, wind and noise, as well as the functional and economic value of property.

1. Architectural Elevations: Up to 20 points for providing elevations of architectural facades and agreeing to be bound by particular elements of design, such as minimum amount of transparency, maximum separation between doors, awning provisions, sign restrictions, or

lighting parameters that affect the perception of mass, pedestrian comfort, or enhance neighborhood compatibility.

2. Exceptional Design: Up to 10 points for building or site design whose visual and functional impacts exceptionally enhance the character of a setting per the purposes listed in Section 8.4.4.E.

3. Historic Resource Protection: Up to 20 points for the preservation or enhancement of, or payment towards preservation or enhancement of, a historic resource or a contributing element within an historic district designated in the Master Plan for Historic Preservation.

4. Public Open Space: Up to 20 points for providing, or making a payment for, public open space in excess of the minimum open space requirement of the zone.

5. Public Art: Up to 15 points for installing public art reviewed for comment by the Art Review Panel under The Public Art Guidelines approved by the Planning Board, or for paying a fee accepted by the Public Arts Trust Steering Committee.

6. Structured Parking: Up to 20 points for placing parking in an above or below grade parking structure.

7. Tower Step-Back: Up to 10 points for stepping back a building's upper floors by a minimum of 6 feet behind the first floor facade. The step-back must begin at a height no greater than 72 feet.

F. Protection and Enhancement of the Natural Environment

Protection and enhancement of natural systems and reduced energy consumption help mitigate or reverse environmental impacts such as heat island effects from the built environment, inadequate carbon-sequestration, habitat and agricultural land loss, and air and water pollution caused by reliance on the automobile.

1. Building Lot Termination (BLT): Up to 30 points for the purchase of BLT easements or payment to the Agricultural Land Preservation Fund (ALPF).

a. In the CR zone:

i. An applicant must purchase BLT easements, or make payments to the ALPF, in an amount equal to 7.5% of the incentive density floor area under the following parameters:

(a) one BLT, equivalent to 9 points, must be purchased or equivalent payment made for every 31,500 square feet of gross floor area comprising the 7.5% incentive density floor area;

(b) a private BLT easement must be purchased in whole units; or

(c) BLT payments must be made to the ALPF, based on the amount established by Executive Regulations under Chapter 2B; if a fraction of a BLT easement is needed, a payment based on the gross square footage of incentive density must be made for at least the fraction of the BLT easement.

ii. Up to 25 points for the purchase of BLTs or equivalent payments to the ALPF may be made for any incentive density above 7.5%. Each BLT easement purchase or payment is equivalent to 9 points, or such proportionate points represented by a fractional BLT purchase or payment.

b. In the LSC zone:

- i. An applicant must purchase BLT easements, or make payments to the ALPF, in an amount equal to 50% of the incentive density under the following parameters:
- (a) for any floor area above 0.50 FAR, one BLT, equivalent to 9 points, must be purchased or an equivalent payment made for:
- (1) each 31,500 square feet of floor area of residential, nonresidential, and Life Sciences between 0% and 40% of the project's floor area; and
- (2) each 60,000 square feet of Life Sciences between 40% and 50% of the project's floor area.
- (b) any private BLT easement must be purchased in a whole unit; or
- (c) BLT payments must be made to the ALPF, based on the amount established by Executive Regulations under Chapter 2B; if a fraction of a BLT easement is needed, a payment based on the gross square footage of incentive density must be made for at least the fraction of the BLT easement.
- ii. Floor area restricted to the following uses is subtracted from the total density before calculating the required BLTs:
- (a) workforce housing units;
- (b) MPDUs;

- (c) Hospitals, including the Hospital's accessory uses, other than medical office buildings;
- (d) educational facilities for non-life sciences; and
- (e) Life Sciences in excess of 50% of the project's total floor area.

c. In the CRT and EOF zones, BLT payments are optional; each BLT easement purchase or payment is equal to 9 points, or such proportionate points represented by a fractional BLT purchase or payment.

2. Cool Roof: Up to 10 points for constructing any roof area that is not covered by a vegetated roof with a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum SRI of 25 for slopes above 2:12.

3. Energy Conservation and Generation: Up to 15 points for constructing buildings that exceed the energy-efficiency standards for the building type by 17.5% for new buildings or 10% for existing buildings. At least 15 points for providing renewable energy generation facilities on-site or within 1/2 mile of the site for a minimum of 2.5% of the projected energy requirement for the development.

4. Habitat Preservation and Restoration: Up to 20 points for protection, restoration or enhancement of natural habitats, on-site or within the same local watershed, which are in addition to requirements of the Forest Conservation Law or other County laws.

5. Recycling Facility Plan: Up to 10 points for providing a recycling facility plan to be approved as part of a site plan for buildings that satisfies Montgomery County Executive Regulation 15-04AM or Montgomery County Executive Regulation 18-04.

- 6. Transferable Development Right:** For a property that is in a TDR Overlay zone, up to 20 points for the purchase of TDRs under Section 4.9.15.B. Every TDR purchased is worth one point.
- 7. Tree Canopy:** Up to 15 points for protecting tree canopy coverage with at least 15 years of growth per Trees Technical Manual approved by the Planning Board, as amended, on at least 25% of the on-site open space.
- 8. Vegetated Area:** Up to 10 points for installation of plantings in a minimum of 12 inches of soil, covering at least 5,000 square feet. This does not include vegetated roofs or stormwater management facilities.
- 9. Vegetated Roof:** Up to 15 points for installation of a vegetated roof with a soil depth of at least 4 inches covering at least 33% of a building's roof, excluding space for mechanical equipment.
- 10. Vegetated Wall:** Up to 10 points for the installation and maintenance of a vegetated wall that covers at least 30% of any blank wall or parking garage facade that is at least 300 square feet in area and is visible from a public street or open space.

G. Building Reuse

Up to 100 points for reuse of an existing building that satisfies the following:

1. 75% of the structural system of the building must be retained; and
2. An architectural deconstruction company must be used to remove reusable and recyclable materials before any demolition.
3. Although up to 100 points may be obtained, public benefit category minimums must be met.

* * *

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

This is a correct copy of Council action.

Sara R. Tenenbaum
Clerk of the Council

September 17, 2024

To: The Honorable Andrew Friedson
President, Montgomery County Council
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

From: Montgomery County Planning Board

Subject: Incentive Zoning Update

BOARD RECOMMENDATION

The Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission met on June 20, 2024, and by a vote of 5:0 recommended transmittal of recommendations for updates to the county's public benefits point system for Commercial/Residential and Employment Zones. These recommendations will modernize the county's incentive zoning policy and align the delivery of public benefits such that new development provides needed amenities within existing communities while moving the needle on key policy priorities outlined in *Thrive Montgomery 2050* and the county's Climate Action Plan.

These recommendations were developed through rigorous analysis with the assistance of a real estate consultant, stakeholder and community input, and peer jurisdiction comparative research. The Planning Board vetted the recommendations over the course of three work sessions on June 6, 13, and 20. The Planning Board's draft recommendations are described in the attached executive summary and various planning staff reports are included for reference as well.

The Planning Board looks forward to the PHP Committee's review of these recommendations, followed by full Council deliberations. Should Council approve the recommendations, a zoning text amendment will need to be created and adopted to implement the final recommendations and the Implementation Guidelines will need to be updated as well.

CERTIFICATION

This is to certify that the attachments are true and correct copies of the technical staff reports 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, June 20, 2024.



Artie L. Harris
Chair

Enclosure

Incentive Zoning Update Project Summary and Planning Board Draft Recommendations

Incentive Zoning Update Appendices:

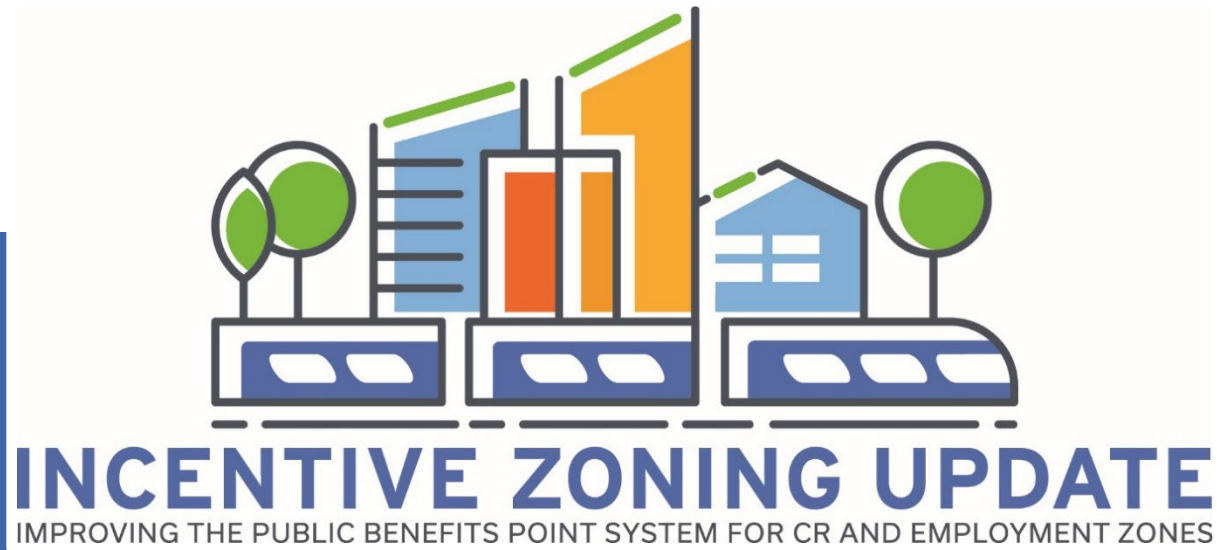
Appendix A – Three Planning Board Work Sessions Staff Reports for Reviewing Draft
Recommendations (June 2024)

Appendix B – Planning Board Staff Report for Summary of Analysis (December 2023)

Appendix C – Planning Board Staff Report for Project Scope of Work (April 2023)

Appendix D – Correspondence and Letters of Support

Appendix E – Proposed Public Benefits crosswalk approach for existing master/sector plans to
migrate to the new menu.



Project Summary and Planning Board's Draft Recommendations 2024

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OVERVIEW

Montgomery County is undertaking a review of its public benefits point system (point system) for Commercial-Residential and Employment Zones. This project was approved as a part of the Planning Department's FY2023 annual work program by the county council. This document summarizes the project's goals, key takeaways from analysis conducted by Planning Staff and the consultant, various outreach and engagement efforts undertaken to date, and the recommendations as approved by the Planning Board after a series of working sessions with Planning Staff. The intent of this document is to provide readers with a comprehensive understanding of the project, the Planning Board's draft recommendations and next steps anticipated for County Council's review, adoption, and roll out of the updated policy.

PROJECT CONTEXT

The point system currently applies to four zones: the Commercial Residential (CR); Commercial Residential Town (CRT); Life Science Center (LSC); and Employment Office (EOF) zones. A central goal for creating these zones was to promote infill development throughout the commercial areas of the county that would deliver a mix of uses and public benefits commensurate with an appropriate range

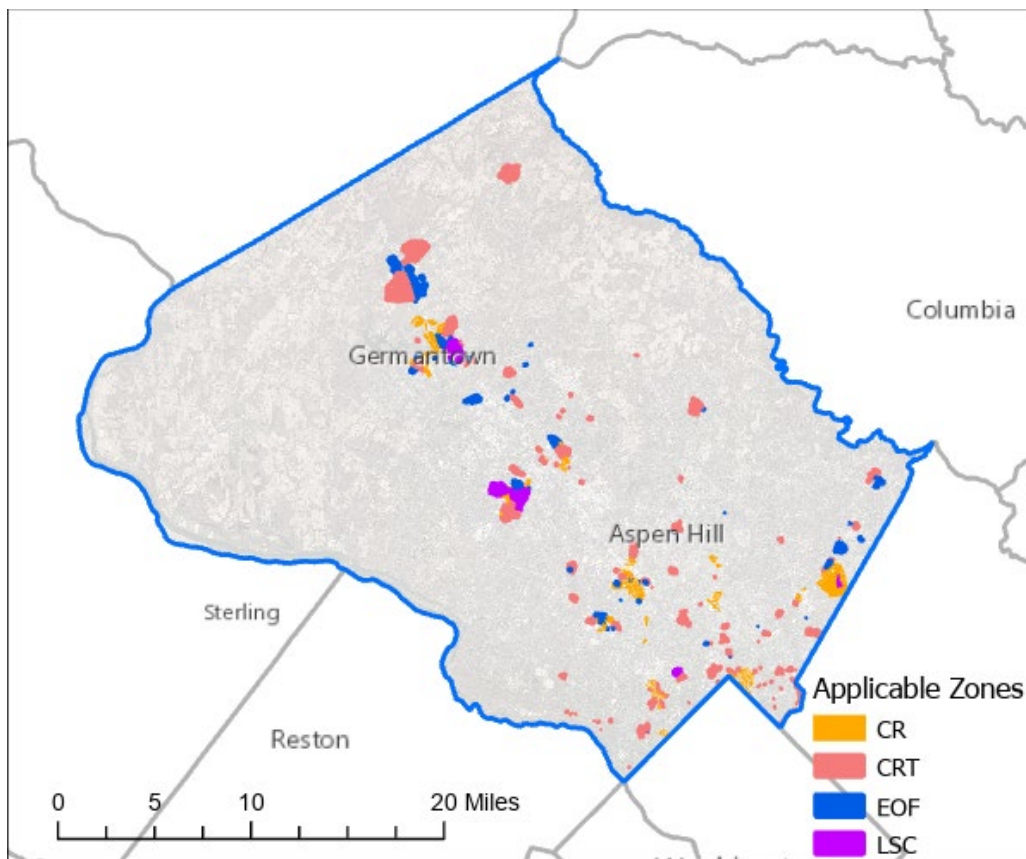


Figure 1 - The optional method of development is applicable to the Commercial Residential (CR), Commercial Residential Town (CRT), Life Science Center (LSC), and Employment Office (EOF) zones.

of densities. The point system was designed to evaluate these public benefits and provide greater transparency regarding what developers were being asked to provide as a condition of approval. Another key goal was to ensure a faster and more efficient development review process while keeping the community informed regarding the delivery of public benefits in exchange for the approved density.

Currently, the public benefits are selected from a menu with seven categories for public benefits, organized generally under planning themes such as mixed-use development, transportation etc. Since the policy's inception in 2010, Montgomery Planning has implemented this policy as delineated in Section [59.4.5](#) of the Zoning Ordinance and further elaborated in the [Incentive Density Implementation Guidelines \('CR Guidelines'\)](#). The CR Guidelines state that in approving any incentive density based on the provision of public benefits, the Planning Board must consider the policy objectives and priorities of the applicable master or sector plan and design guidelines, among other factors related to the size and context of the project. This directive therefore establishes a key role master and sector plans are expected to play in prioritizing which public benefits are considered during the optional method of development approval process.

Over the past fourteen years, the policy has been incrementally adjusted but has not benefitted from a comprehensive review. In the past five years, a series of countywide policies have been adopted including Thrive Montgomery 2050 and the Climate Change Action Plan, which set an ambitious course for the county's future. An update is therefore necessary to modernize the policy and align it with evolving county priorities and market conditions, particularly as it governs some of the largest and most economically significant developments in the County. This will also ensure the policy continues to support high density development in the strategically located CR and Employment Zones.

MECHANICS OF THE CURRENT POLICY

Following the Zoning Ordinance update of 2014, the standard and optional methods of development were applied to four zones: Employment Office (EOF), Life Sciences (LSC), Commercial Residential (CR), and Commercial Residential Town (CRT). Development in these zones is based on Floor Area Ratio.

DEVELOPMENT OPTIONS

Any given development within these four zones may be allowed under the standard method (typically limited to 0.5 or 1 FAR, zone dependent) or an optional method above that threshold which requires the provision of public benefits.

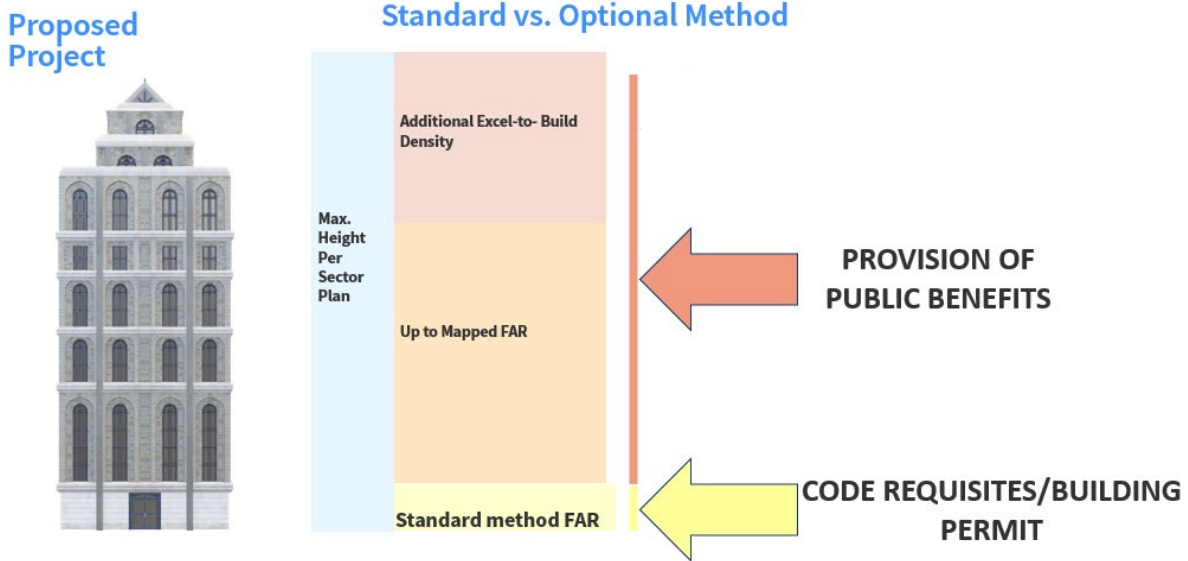


Figure 2 –Development scenarios for Standard and Optional Method within the four incentive zones

Standard method of development can potentially move forward to the Department of Permitting Services for building permit without any review by the Planning Department or Planning Board, however there are several nuances in the zoning ordinance based on proximity to residential zones, height, and overlay zones that may require standard method of development receive a site plan approval from the Planning Board.

Optional method of development applies when a project proposes density above the standard method. Standard method development limits density to 0.5 FAR or 10,000 square feet (whichever is greater) in the CR and LSC zones, and 1.0 FAR or 10,000 square feet in the CRT and EOF zones. Optional method projects require a Sketch Plan and Site Plan approval from the Planning Board and provision of public benefits based on the CR Guideline categories and points.

| Commercial/Residential and Employment Zones Incentive Density Implementation Guidelines September 2017 | | | |
|--|-----------------------------|---------------------------------|------------------------------|
| Zone | Tract Size or Max Total FAR | Public Benefit Points (minimum) | Number of Benefit Categories |
| CRT | < 10,000 SF OR <1.5 max FAR | 25 | 2 |
| | ≥10,000 SF OR ≥1.5 max FAR | 50 | 3 |
| CR | < 10,000 SF OR <1.5 max FAR | 50 | 3 |
| | ≥10,000 SF OR ≥1.5 max FAR | 100 | 4 |
| LSC | < 10,000 SF OR <1.5 max FAR | 15 | 1 |
| | ≥10,000 SF OR ≥1.5 max FAR | 30 | 2 |
| EOF | < 10,000 SF OR <1.5 max FAR | 30 | 2 |
| | ≥10,000 SF OR ≥1.5 max FAR | 60 | 3 |

Figure 3- Existing Implementation Guidelines and the Public Benefits Calculation Table

Additional Excel-to-Build Density is a newer approach that has been employed by the 2017 *Bethesda Downtown Sector Plan*, where a project may exceed the optional method mapped FAR by providing a benefit beyond the typical public benefits. In Bethesda's case, this is administered through the Bethesda Overlay Zone and the additional public benefit is a Park Impact Payment. Excel-to-Build Density is likely to be utilized by more master and sector plans in the future.

CODE REQUISITES

For projects that require site plan review, whether it is for standard method or optional method of development, there is a significant amount of technical review and findings that the Planning Board must make to approve a project. These criteria are referred to as "Code Requisites", enumerated in the list below. These requisites ensure that the project is meeting all the base requirements relative to the County's environmental regulations, historic preservation law, transportation, safety, and development standards as well as master and sector plan recommendations. These requirements have grown over time as codes have been updated and expectations for development in the County have increased.

- Chapter 22 (Forest Conservation Law)
- Growth and Infrastructure Policy (GIP)
- Local Area Transportation Review (LATR)
- Historic Preservation
- Chapter 25A (MPDU LAW)
- Agency Approval (SWM/FDA/DOT/DPS/DHCA)
- Complete Streets Guide/ROW dedication
- Sector Plan conformance:
 - Streetscape standards
 - Through block connections
 - Open space/parks
 - Design guidelines and/or Design Advisory Panel
 - Green cover/tree canopy/environmental enhancement

PROJECT GOALS

The Planning Board's draft recommendations identify best practices and recommend actionable changes to the point system while ensuring a balance between the public benefits required, the costs of development, and county policy priorities. The overarching goals are:

- Align the Point System with updated county priorities, including guidance from:
 - Thrive Montgomery 2050
 - Climate Action Plan
 - County's Racial Equity and Social Justice law
 - Master and Sector Plan Recommendations

- Modernize the Point System to address current real estate and building industry practices.
- Develop clear standards to effectively maximize the positive impact of public benefits.
- Improve coordination of the Point System with existing legislation including:
 - Inclusionary Zoning Law
 - Preservation Programs including Building Lot Termination (BLTs) & Transfer of Development Rights (TDRs).

ENGAGEMENT AND INTERAGENCY COORDINATION

Equitable and impactful community engagement is central to Montgomery Planning's work. Accordingly, planning staff used a multi-pronged approach to engage stakeholders and community members. In addition to the data analysis, the project team relied upon input from the following internal and external stakeholders to gain a fuller understanding of the issues to be considered and the potential impacts of proposed changes.

- An internal working group of staff from various divisions provided insights to the project team regarding the strengths and weaknesses of the current system as experienced during the master planning process, and shared obstacles faced during implementation of the current policy through regulatory review. The internal working group also acted as a fact checking body for the project team's analysis and assumptions and identified potential enhancements for all deliverables.
- A technical working group representing frequent users and monitors of the current point system including real estate and design professionals, county agency and government representatives, land use attorneys and policy experts etc. shared lessons learned from utilizing the current policy, related the experience of working under similar programs in peer jurisdictions, and highlighted the greatest needs this update should address.
- One-on-one meetings with various interest groups with a stake in specific aspects of the current point system, including public agencies, non-profits, advocacy groups, and business representatives etc. helped staff gain a deeper understanding of the various considerations to be accounted for while drafting recommendations.
- Virtual open houses invited the public into the planning process and provided opportunities to question, comment, and share ideas about the current policy and potential updates.
- Interagency coordination with partners at the Department of Permitting Services, Department of Transportation, Department of Housing and Community Affairs, Department of Environmental Protection, Office of Agriculture, Montgomery Parks, and the Arts and Humanities Council helped refine specific recommendations to make them better aligned with other county laws and ensure the proposed public benefits are easily implementable.

SUMMARY OF ANALYSIS

Staff and the real estate consultant [Hayat Brown](#) spent significant effort analyzing the current policy. The list below summarizes the range of analytical efforts conducted:

- Review of the performance of the policy since 2010 in terms of total development and public benefits approved under the Optional Method.
- Evaluation of the clarity, quality, and practicality of the implementation guidelines and requirements, as well as the rubric and structure of public benefits menu.
- Assessment of the cost to provide public benefits, with special focus on understanding the cost of providing MPDUs for points.
- Financial feasibility analysis of prototypical standard method and optional method projects to understand the value of incentive density, the ability to support additional costs, and the impacts of including public benefits in a pro forma.
- Study of other successful incentive zoning programs nationwide for benchmarking and identifying best practices to consider as a part of this update.
- Comprehensive review of the regulatory processes in neighboring jurisdictions to review high density development near transit in exchange for public benefits.

The Planning Board reviewed this analysis in December of 2023, and the major takeaways are summarized below:

- There has been uneven development activity across the four incentive zones. A majority of the approved optional method projects with public benefits are located in the CR zone. Of the 67 projects approved, 53 have been in the CR zone, 13 in the CRT zone, 1 in the EOF zone, and no projects in the LSC zone.
- Montgomery County has the largest menu of discrete, defined public benefits compared to all regional and national jurisdictions reviewed in this study.
- Despite the vast menu, optional method projects have repeatedly delivered a handful of public benefits regardless of the underlying zone or market conditions.
- Master plans have prioritized specific public benefits but have not always been effective at ensuring their delivery.
- Considerations of cost and feasibility were not a key determinant in the creation of the current system. This is in stark contrast to many national and regional jurisdictions, particularly in Virginia, where development applications are required to submit financial data related to the cost of providing public benefits and the value of incentive density in order to ensure a sense of proportionality.
- Montgomery County is unique in that negotiations for public benefits take place after the incentive zoning has already been mapped to a parcel through a sector plan's Sectional Map Amendment or a Local Map Amendment. In most other jurisdictions, this process takes place during an active rezoning application.

- A stronger alignment between public benefits and updated county policy goals as outlined in documents such as Thrive Montgomery 2050 and the Climate Action Plan is needed.

These major takeaways from the analysis, stakeholder input, and guidance received from the Planning Board informed Staff's approach while drafting recommendations. Full documentation of the analysis can be found in Attachment C.

KEY RECOMMENDATIONS

The following represent the Planning Board's key draft recommendations to update this policy. Each is further described in greater detail later in the document.

- Streamline the menu of public benefits and align it with county policy priorities by organizing public benefits under four categories:
 - Housing For All
 - Environmental Resilience
 - Infrastructure for Compact Growth
 - Complete Community Amenities
- Under the four new categories, consolidate the number of public benefits from thirty-six to thirteen, with tiered options for participation in each benefit.
- Shift from an indirect, point-based calculation for evaluating public benefits to a more direct and proportional, FAR based approach.
- Apply the policy strategically across the four zones:
 - Remove the optional method of development requirement from EOF zoned properties. Enable projects to build up to the mapped FAR under Standard Method with a Site Plan requirement above 0.5 FAR.
 - Regulate the delivery of public benefits in LSC zoned properties through the Great Seneca Life Sciences (GSLs) Overlay Zone. Remove the optional method of development requirement for LSC zoned properties outside the GSLs Overlay Zone but continue to require a Site Plan application above 0.5 FAR.
 - Lower the optional method threshold in the CRT zone from greater than 1 FAR to greater than 0.5 FAR to align with CR zone.
- Require all optional method projects in the CR and GSLs Overlay Zone to purchase BLTs or TDRs and allow the Agricultural Land Preservation Fund (ALPF) to buy and sell both BLTs and TDRs on behalf of development applicants and farmland owners.
- Allow applicants to request Excel-To-Build Density beyond the mapped FAR in the CR and CRT zones, where permitted by the master or sector plan.
- Offer payment-in-lieu options where practical.
- Utilize Alternative Compliance framework in Division 4.7 of the zoning code to provide flexibility during regulatory review.
- Create a real time data hub to track public benefits.

- Perform a periodic review of the overall policy every five years. Updates may require amendments to the zoning code. Public Benefit Categories, Tiered Structure and Public Benefit descriptions should be defined in the zoning code. Public benefit details and evaluation process should be included within the Implementation Guidelines.
- For Existing Masterplans:
 - o The Implementation Guidelines should provide a “cross walk” between the existing and updated menu of public benefits. (See draft crosswalk memo as Appendix E)
 - o Some plans may require a ZTA to update certain Overlay Zone requirements etc. where applicable, related to public benefits.
- For New Masterplans:
 - o New masterplans can either adopt the new menu of public benefits as is or adjust it through a mechanism such as an overlay zone. (example: GSLS Overlay Zone)
 - o If a new masterplan modifies the menu, it should include updated guidance as a part of its own Implementation Section.
- Incentivize needed benefits, even if they are regulatory requirements and allow “double-dipping” where it makes practical sense.

APPLYING THE UPDATED POLICY TO THE FOUR ZONES

ZONE BY ZONE RECOMMENDATIONS

Planning staff’s analysis uncovered that while the optional method of development is allowed in four zones (EOF, LCS, CR and CRT), there has been uneven development activity across the four zones. Optional method development chiefly occurs in only two of the zones, CR and CRT. This is not surprising since the point system was initially created for the CR zone within the *2010 White Flint Sector Plan* and later expanded to include other zones across the County. The EOF and LSC zones also cater to a specific type of development with unique considerations relative to investment and financial feasibility. Given these variations, it is recommended that this updated system of public benefits be applied in a more strategic manner for each zone.

EMPLOYMENT OFFICE ZONE (EOF)

Properties within the EOF zone are typically developed with older Class B or C office buildings or light-industrial warehouse type facilities within the mid and upper areas of the County. While critical to the county’s tax base, these assets have struggled in the current market conditions and consequentially properties have aged with little reinvestment. A deeper spatial and zoning analysis revealed that over 80% of the properties within the EOF Zone are not zoned at a sufficient FAR that would allow for Optional Method Development (Optional Method above 1 FAR). Only one optional method project has been approved in the EOF zone since 2010, and that property has since been rezoned to CR. Additionally, this zone is no longer being applied by Staff during the creation of new master or sector plans.



Figure 4 - Typical properties within the EOF Zone.

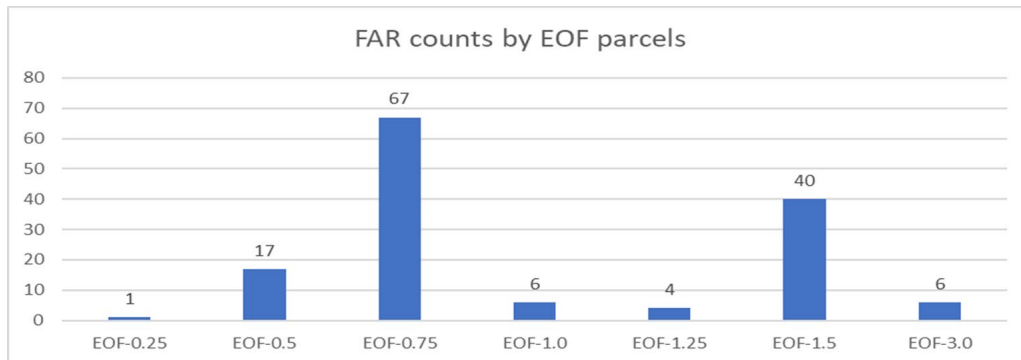


Figure 5 - Chart showing the distribution of Mapped FAR across the various EOF parcels in the County.

EOF Recommendations:

Based on the extremely limited use of the Optional Method of development and the financial feasibility considerations relative to the typical building types found in this zone, the Planning Board recommends the following:

- 1) Remove EOF from zones that require the Optional Method of Development.
- 2) Allow existing EOF properties to develop up to the full mapped FAR through the Standard Method of Development.
- 3) Require a Site Plan for development above 0.5 FAR to ensure Code Requisites are still being met.

LIFE SCIENCES (LSC)

Properties with LSC zoning are predominantly located within the Midcounty Planning Area, specifically within the boundary of the *2010 Great Seneca Science Corridor Master Plan*. Only three other LSC zoned properties exist outside of the *2010 Great Seneca Science Corridor Master Plan* boundary, and each of these properties is either already built out or has a limited zoning capacity or conditions of approval that would preclude its ability to develop under the Optional Method. The Midcounty Planning Team is currently undertaking an update to the *2010 Great Seneca Science Corridor Master Plan* and proposing an overlay zone that would require specific public benefits that are critical to the success of this life science hub. The Incentive Zoning Update team collaborated

closely with Midcounty Planning Team to ensure that the public benefits required by the overlay zone generally align with recommendations to update the overall menu of public benefits.



Figure 6 - Typical properties within the LSC Zone

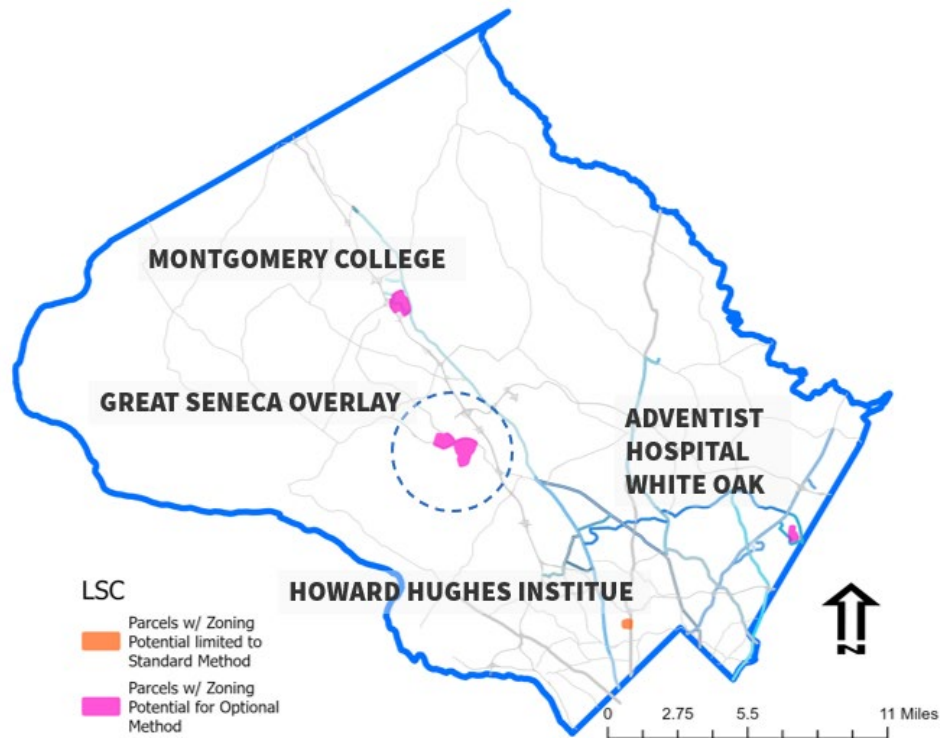


Figure 7 - Map showing the distribution of LSC zoned parcels across the county. Only three LSC properties are not covered by the boundary of the proposed GSLS Overlay Zone.

LSC Recommendations:

Given the geographic concentration of LSC zoned properties within the Great Seneca Plan area, the proposal for an overlay zone and the unlikely application of this zone to additional parts of the county, the Planning Board recommends the following:

- 1) Regulate Optional Method Development and delivery of public benefits for LSC properties through the GSLS Overlay Zone.
- 2) Exempt remaining (three) LSC properties from providing public benefits under the Optional Method of Development.
- 3) Require a Site Plan for development above 0.5 FAR to ensure Code Requisites are still being met.

COMMERCIAL RESIDENTIAL (CR) & COMMERCIAL RESIDENTIAL TOWN (CRT)

The CR & CRT zones are intended to facilitate mixed use infill development near transit. Of the two, the CR zone is intended to support the highest densities. Parcels within this zone range in FAR from 0.5 to 8.0 with most properties zoned with sufficient FAR to pursue the Optional Method of development (development greater than 0.5 FAR). The CR Zone has received the largest number of development approvals through the Optional Method process and the zone is consistently applied to properties through the master and sector planning processes.



Figure 8 - Development in the CR zone has a wide range of intensity and uses.

The CRT zone is intended to be a less intense version of the CR zone in terms of density and permitted uses. However, development and zoning data shows that this zone has been applied to a large range of FAR (0.25-4.75 FAR) as well. We have seen some significant projects built with this type of zoning. A

key difference between the CR and CRT zones is the threshold for Optional Method of development. In the CR zone, projects greater than 0.5 FAR must pursue the Optional Method and provide public benefits while in the CRT zone, the threshold is set at greater than 1.0 FAR. This is an important distinction since almost 60% of parcels within the CRT zone are currently zoned lower than 1.0 FAR and presently could be developed using the Standard Method of development. Many large properties have CRT zoning and significant projects can be built below the 1.0 FAR threshold, without the provision of any public benefits. We anticipate this zone will continue to be used by master and sector plans, particularly along growth corridors in the county. It is appropriate to expect CRT projects building to densities above 0.5 FAR to provide public benefits, similar to the CR zoned properties.

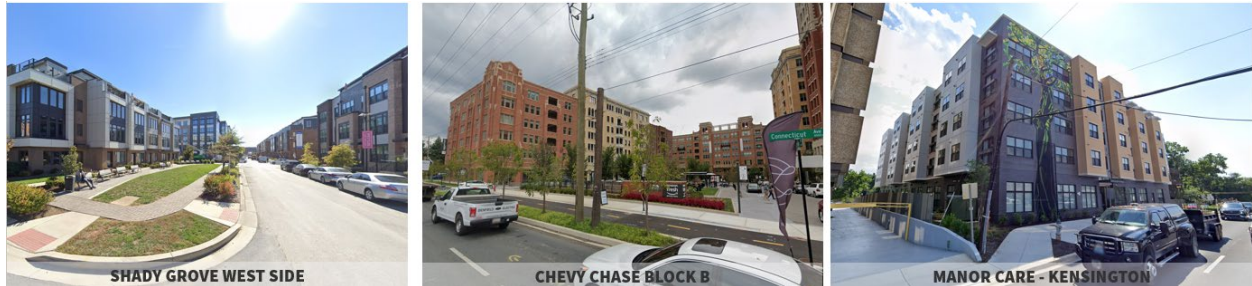


Figure 9 - The CRT zone has seen a mix of mid to high density development.

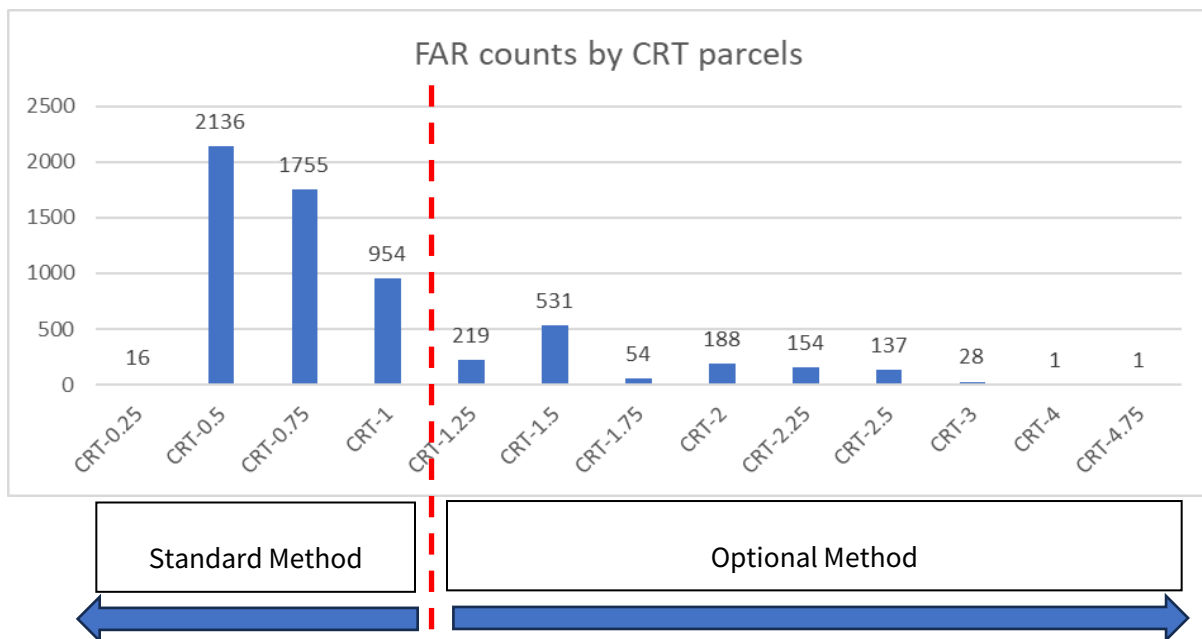


Figure 10 - Chart showing the distribution of Mapped FAR across the various CRT parcels in the county. A majority of CRT parcels have a mapped FAR that can be fully built under the Standard Method.

CR & CRT Recommendations:

Given the similar characteristics and expected continued application of both these zones to additional properties across the county near transit, the Planning Board recommends the following for both CR and CRT zones:

- 1) Establish a standardized Optional Method threshold set at greater than 0.5 FAR for both CR and CRT zones.
- 2) Continue to use a density framework that includes standard method FAR, incentive density up to the mapped FAR per parcel, and additional Excel-To-Build density, established per master and sector plans.
- 3) Approve Incentive Density in FAR increments in exchange for scalable public benefits, enabling applicants to earn the right to build up to the mapped FAR or utilize Excel-To-Build density once the mapped FAR has been fully utilized.
- 4) Continue to use a menu-based approach but grant masterplans the flexibility to modify the menu of public benefits for their applicable geography.
- 5) Prescribe maximum heights during master planning with room for some additional Excel-To-Build density where appropriate.

RECOMMENDATIONS RELATED TO BLTS AND TDRS IN THE CR AND GSLS OVERLAY ZONE

The current point system incentivizes the preservation of agricultural land through two programs: Building Lot Termination (BLTs) and Transferable Development Rights (TDRs). The Optional Method of development requires the purchase of BLTs in the CR and LSC zones in exchange for public benefit points. In the CR zone, an applicant must purchase BLT easements, or make payments to the Agricultural Land Preservation Fund (ALPF), in an amount equal to 7.5 percent of the incentive density floor area. In the LSC zone, that requirement is for an amount equal to 50 percent of the incentive density floor area, with stipulations.

TDRs are also included as an optional public benefit on the menu but are not a mandatory requirement for any zone. It is therefore not surprising that while many projects have purchased BLTs, not a single Optional Method project has included the purchase of TDRs as a public benefit. Essentially, BLTs and TDRs currently “compete” with each other on the public benefit menu even though they are intended to achieve the same goal of preserving farmland in the county.

Staff worked collaboratively with the Office of Agriculture to propose recommendations to restructure the requirement for the BLTs and TDRs in the CR and GSLS Overlay Zone. The Planning Board recommends removing BLTs and TDRs from the public benefit menu and instead making it a code requisite for Optional Method of Development in CR and GSLS Overlay Zone. To provide flexibility and stimulate demand equally for both programs, the Board recommends that projects be allowed to purchase either BLTs or an equivalent dollar amount of TDRs. Under this setup, all CR and GSLS

zoned properties would qualify as receiving areas for the purchase of BLTs and TDRs. Projects may purchase one or a combination of BLTs and TDRs as described below:

IN THE CR AND GSLS OVERLAY ZONE:

- a. An applicant must purchase BLT easements, or make payments to the Agricultural Land Preservation Fund (ALPF), in an amount equal to 7.5 percent of the incentive density floor area under the following parameters:
 - i. One BLT must be purchased, or equivalent payment made for every 31,500 square feet of gross floor area comprising the 7.5 percent incentive density floor area.
 - ii. A private BLT easement must be purchased in whole units.
 - iii. BLT payments must be made to the ALPF, based on the amount established by Executive Regulations under Chapter 2B; if a fraction of a BLT easement is needed, a payment based on the gross square footage of incentive density must be made for at least the fraction of the BLT easement.
- b. Alternatively, applicants may purchase an equivalent dollar amount of TDRs directly from a farmland owner or make payments to the ALPF. The ALPF may purchase TDRs from farmland owners and sell whole TDRs to an applicant at the same cost as the purchase price paid by the ALPF. Partial TDRs must be rounded up to the next whole TDR. TDRs purchased will provide bonus density to the optional method project under the following parameters:
 1. Each TDR purchased qualifies for 4,400 sf of additional bonus density.
 2. TDR bonus density may be used towards any permitted use within the zone applicable to the optional method project.

These recommendations will equally stimulate demand for both preservation programs and simplify the process for applicants to purchase TDRs and receive the additional density bonus which could be used to build more housing or job creating commercial uses near transit. These recommendations have been reviewed by the Office of Agriculture and the Agricultural Preservation Advisory Board has provided a letter of support for these recommended updates to the policy (Appendix D).

PROPOSED STRUCTURE OF THE UPDATED PUBLIC BENEFITS MENU

PROPOSED PUBLIC BENEFIT CATEGORIES FOR THE CR AND CRT ZONES

The structure of the new system has been simplified and aligned with the county's key policy priorities. The existing system has seven categories for public benefits, organized generally under planning themes such as mixed-use development, transportation etc. The Planning Board is proposing to consolidate the categories to four topics that better align with the county's key policy priorities and also represent critical local needs highlighted through master and sector plans:

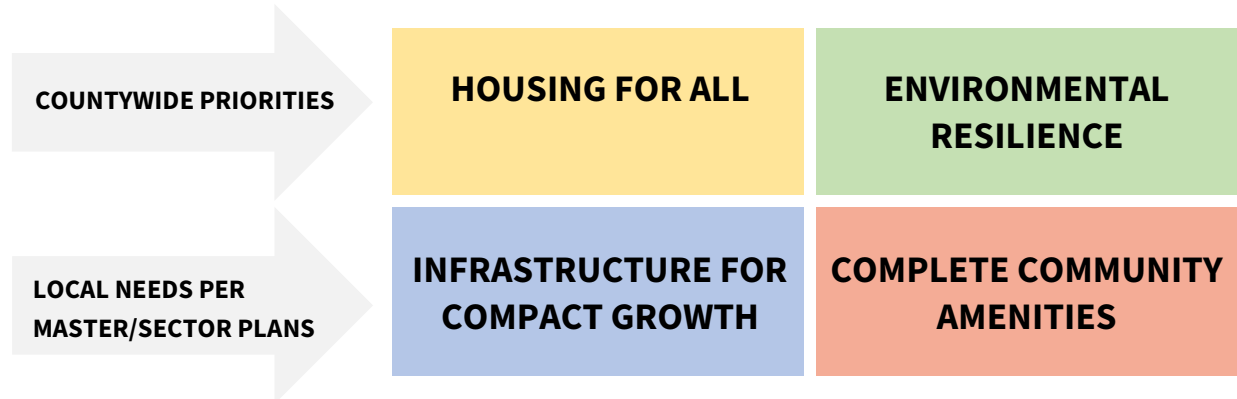


Figure 11 – Proposed four categories that align with Countywide priorities and local needs per Master and Sector Plans.

Most importantly, these four categories reflect key elements needed to implement the vision outlined in Thrive Montgomery 2050 and the County's Climate Action Plan. Thrive calls for focusing future growth along our transit corridors in a compact footprint and ensuring existing and new neighborhoods enjoy the benefits of Complete Communities with access to daily needs within a 15-minute walk or a 5-minute bike ride. The Climate Action Plan has set an ambitious target to eliminate greenhouse gas emissions by 2035. The four proposed categories will strongly align the public benefits with countywide goals and ensure that all new Optional Method development moves the needle on achieving these critical outcomes. Staff also considered the proposed categories and benefits from an equity lens. For example, the provision of affordable housing and larger family sized units in high income areas with amenities and transit will provide access to these resources to a broader swath of the county's population. Similarly, the delivery of sustainable buildings, parks and green site design features will increase green cover and improve air quality within our Equity Focus Areas, and the mixing of uses in walkable settings will encourage physical activity, improve public health, and build social capital.

PROPOSED PUBLIC BENEFITS FOR THE CR AND CRT ZONES

Each category will continue to have a list of focused public benefits. Currently there are thirty-six public benefits in the menu and the Planning Board is proposing to reduce that to thirteen distinct public benefits under the four main policy categories as follows:

| | |
|---|--|
| HOUSING FOR ALL MPDUs Family sized units Deeper levels of affordability | ENVIRONMENTAL RESILIENCE Energy Green Buildings Sustainable Site Design |
| INFRASTRUCTURE FOR COMPACT GROWTH Offsite Improvements Public Facility Street Grid and Trail Extensions | COMPLETE COMMUNITY AMENITIES Art and Placemaking Neighborhood Services & Mixed Use Great Public Realm Design Excellence |

Figure 12 - Chart showing the distribution of proposed public benefits within the four categories.

It must be noted that while the recommendation is for a shorter list of public benefits, each benefit has been outlined in a “Four-Tier Structure”, providing even greater flexibility for applicants to deliver public benefits through a range of options. Payment-in-lieu alternatives have also been included where appropriate for added flexibility. Additionally, an alternative compliance pathway is recommended as a backup option in situations where the Planning Board determines that there is a unique site, a use characteristic, a unique benefit to the public, or a development constraint.

A TIERED APPROACH TO EVALUATING PUBLIC BENEFITS FOR THE CR AND CRT ZONES

Currently, the system calculates the public benefit points required based on tract size or square footage proposed. While there is a prescriptive range of required points, in practice, projects typically are required to provide the maximum public benefit points (100 points for the CR zone and 50 points for the CRT zone). This requirement does not consider whether a project proposes a low or a high FAR. Essentially, the requirement for public benefits does not scale effectively with the intensity of development and it sometimes results in asking too much of smaller projects and not enough from larger projects.

The Planning Board is proposing to modernize the calculation of public benefits in alignment with regional and national best practices, based on FAR. As a project increases the proposed FAR, it will need to provide greater public benefits commensurate with the scale of development. The delivery of each public benefit will earn the applicant the right to build up to a certain amount of mapped FAR. Under each public benefit, there will be four tiers of participation. The lower tiers are assigned a lower FAR and therefore require a project to deliver a less intense public benefit. Higher tiers unlock greater amounts of FAR but also require more intensive public benefits. Each public benefit includes a Tier 4, referred to as a “Top Tier”. If a Project delivers this level of an extraordinary public benefit, understanding this involves considerable cost, no other public benefits will be required of the Project. This is very similar to the current provision in the CR Guidelines that state if a project delivers 20% MPDUs, no other public benefits are required.

| PUBLIC BENEFIT CATEGORY | |
|-------------------------------------|---|
| PUBLIC BENEFIT | |
| TIER 1 0.25 FAR | Small scale public benefit incorporated into the project. |
| TIER 2 1.0 FAR | Medium scale public benefit incorporated into the project. |
| TIER 3 1.5 FAR | Substantial public benefit incorporated into the project. |
| TIER 4/TOP TIER Up to mapped FAR | An extraordinary public benefit incorporated into the project. No payment in lieu options. NO OTHER PUBLIC BENEFITS REQUIRED |

Figure 13 – Table showing structure of proposed tiered evaluation system for each public benefit. As the intensity of the public increases, projects earn the right to build a greater portion of their mapped FAR or additional Excel-To-Build density as permitted by the applicable master or sector plan.

PUBLIC BENEFITS DETAILS FOR THE CR AND CRT ZONE

As described previously, the proposed menu for the CR and CRT zones consists of thirteen distinct public benefits under the four overall categories. Each benefit offers participation at four tiers as summarized above. A project can earn the right to build a certain amount of its mapped FAR based on the public benefit it provides. This section describes each public benefit in detail. Implementation

related criteria will be included within the Implementation Guidelines, which staff will update once the final version of this policy is approved and adopted by County Council.

HOUSING FOR ALL

The Housing for All category incentivizes the delivery of affordable housing at varying levels for rent and for sale, as well as the provision of units that can house families and intergenerational households near transit. Thrive Montgomery 2050 states that a variety of housing types priced for a range of incomes is essential to integration and equity and highlights how our current housing supply does not meet the needs of our current or future households. Thrive stresses that the County needs more of every type of rental and for-sale housing. These public benefits were developed in coordination with the Department of Housing and Community Affairs (DHCA) and Countywide Planning & Policy Staff to ensure the benefits directly align with needs within the County. Please note, these recommended benefits do not change the current requirements of Chapter 25A, as reviewed and administrated by DHCA. Similarly, these benefits do not change the bonus density or height provisions contained in the Zoning Ordinance for Optional Method Development in the CR and CRT Zone. These recommendations also do not alter the bonus density provisions as outlined in the recently adopted House Bill 538.

Public Benefit Categories

| | | |
|---|---|---|
| Greater percentages or more affordable MPDUs than code/sector plan requirements | Family sized market rate & affordable units for rent & sale | Deeper levels of affordability as average AMI |
|---|---|---|



Figure 14 – Table showing recommended public benefits under the Housing For All category.

Providing greater percentages or more affordable MPDUs than code/sector plan requirements

The current CR Guidelines allow projects to receive incentive points for providing more than 12.5% MPDUs, even in High-Income Areas of the County where the minimum MPDU requirement has been

increased to 15% MPDUs at 70% Average Median Income. The Planning Board recommends keeping the incentive for including MPDUs within a project but only approving Optional Method FAR for providing MPDUs beyond what is currently required by the code or applicable sector plan, whichever is greater. This would allow projects that provide MPDUs beyond the base requirements in increments of 2.5% to earn the right to build a portion of their mapped FAR. For example, in an area where the base MPDU requirement is 12.5%, providing 15% MPDUs currently awards 30 points. In the proposed system, delivering 15% MPDUs in such a project would earn the right to build 1.25 FAR of the projects Optional Method density.

Family sized market rate and affordable units for rent and sale.

The current CR Guidelines incentivize a ‘dwelling unit mix’. This public benefit was not commonly used, and it required a percentage of units to be studios, 1 bedroom, 2 bedrooms, and 3/4 bedrooms. Almost all residential developments in the CR and CRT zone automatically provide a mix of studios, 1 bedroom, and 2-bedroom units to cater to market demand and diversify their offerings. In consultation with DHCA, it was determined that the greatest gap in demand and supply of affordable units lies in larger bedroom units that can accommodate families and intergenerational households. Since these units are more costly to build-and-operate on a per square foot basis, the Planning Board recommends incentivizing their delivery in both market rate and affordable unit types. As proposed, the menu would award the right to build up to 0.25 FAR to projects that deliver at least 5% of their total units (market rate and affordable) as three bedroom or larger and up 1.0 FAR to projects that deliver at least 10% of their units as three bedroom or larger in multifamily apartment buildings. Similarly, in single family, townhomes and two-over-twos, projects could earn the right to build 0.25 FAR or 1 FAR for providing a minimum of 5% or 10% of all MPDUs with 4 bedrooms or greater.

Deeper levels of affordability as Average Median Income (AMI)

Current MPDU law (Chapter 25A) allows MPDUs to be marketed to those with an average median income of 70%. According to DHCA’s 2023 Rent and Income Limits, the Area Median Income (for a family of four) in Montgomery County was \$152,100. Given this high countywide AMI, MPDUs providing deeper levels of affordability than 70% AMI are greatly needed. This public benefit will incentivize projects that target their MPDUs to an average 60% AMI. Participation in this benefit will be available in three tiers, with the right to build up to 1.0 FAR being applied to projects that provide at least 15% MPDUs at an average 60% AMI (Tier 2), and the right to build up to 1.5 FAR being awarded to projects that provide 20% MPDUs at an average 60% AMI (Tier 3).

The Tier 4 public benefit is defined as a project that provides at least 25% MPDUs at an average 60% AMI. Projects that deliver this substantial public benefit will not be required to provide any other public benefits. There are several important factors that have led to the Planning Board’s recommendation for this Top Tier. Recently, the State adopted House Bill 538, which allows qualifying projects providing 20% affordable units to households earning 60% AMI to receive a 30% additional density bonus, in addition to the Bonus Density and Height provisions already contained in our Zoning Ordinance. Additionally, in Planning Staff’s review of Optional Method projects, it was observed that

projects either provided 15%-17.5% MPDUs or scaled up to provide 25% MPDUs, which is the threshold at which they also qualified to receive County Impact Tax credits.

AFFORDABLE HOUSING: Performance Thresholds & “Earned” FAR increments.

| MPDU % | Total "Earned" FAR |
|--|--------------------|
| Min. Requirement per MPDU Law or Sector Plan | - |
| Min. Req. +2.5% | 1.25 |
| Min. Req. +5.0% | 1.5 |
| Min. Req. +7.5% | 1.75 |
| Min. Req. +10% | 2.0 |
| 25% MPDUs at avg. 60% AMI | Up To Mapped FAR |

Notes:

- “Earned” FAR does not include the MPDU density bonus.
- Qualifying projects providing 20% MPDUs receive a 30% additional density bonus per House Bill 538.
- Projects providing 25% MPDUs receive impact tax reductions.
- Projects providing 25% MPDUs at various levels of affordability averaging at 60% of AMI receive impact tax reductions and do not need to provide any additional public benefits.

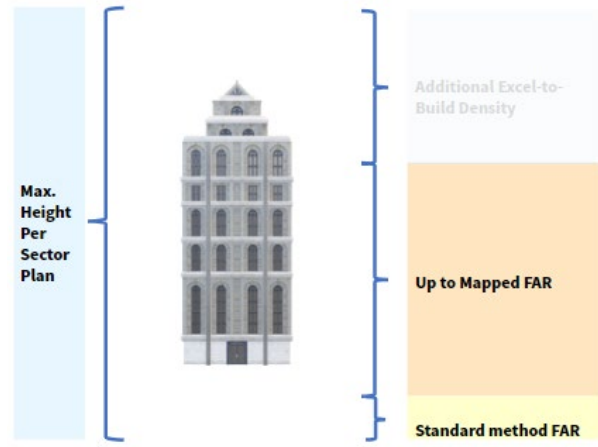


Figure 15– Table showing recommended Optional Method Density for providing MPDUs beyond the base requirements per the MPDU Law or the applicable master or sector plan.

ADDITIONAL HOUSING AGREEMENTS: Performance Thresholds & “Earned” FAR increments.

| TIERS | Additional Housing Related Public Benefits |
|----------------------------|---|
| TIER 1 0.25 FAR | <ul style="list-style-type: none"> • In multifamily apartment buildings, provide a minimum of 5% of all units (Market Rate + MPDUs) with 3 bedrooms or greater. Provide a proportional number of units with 3 bedrooms or greater as MPDUs, or • In single family, townhomes, and two-over-tuos, provide a minimum of 5% of all MPDUs with 4 bedrooms or greater. |
| TIER 2 1.0 FAR | <ul style="list-style-type: none"> • In multifamily apartment buildings, provide a minimum of 10% of all units (Market + MPDUs) with 3 bedrooms or greater. Provide a proportional amount of units with 3 bedrooms or greater as MPDUs, or • In single family, townhomes, and two-over-two’s, provide a minimum of 10% of all MPDUs with 4 bedrooms or greater. or • Enter into an agreement with DHCA to provide at least 15% of the dedicated MPDUs at various levels of affordability averaging at 60%. |
| TIER 3 1.5 FAR | <ul style="list-style-type: none"> • Enter into an agreement with DHCA to provide at least 20% of all units as MPDUs at various levels of affordability averaging at 60% of AMI. |
| TIER 4 Up to Mapped FAR | <ul style="list-style-type: none"> • Provide a minimum of 25% of all units as MPDUs at various levels of affordability averaging at 60% of AMI. |

Figure 16 – Table showing additional housing related public benefits at various tier of participation as recommended by the Planning Board.

ENVIRONMENTAL RESILIENCE

The Environmental Resilience category incentivizes energy efficient buildings, the use of renewable energy and incorporation of sustainable site design principles. The County’s Climate Action Plan has ambitious targets to cut greenhouse gas emissions 80% by 2027 and 100% by 2035. The building and transportation sectors are major contributors of greenhouse gases within the county. By incentivizing projects within the CR and CRT zones to pursue clean energy, electrification, enhanced environmental performance, sustainable site design, and flood risk mitigation, these recommendations aim to align the public benefits system with the most critical objectives of the Climate Action Plan. These public benefits were developed in coordination with the Sustainability, Energy, and Mechanical Team within the Division of Commercial Building Construction and the Water Resources Section at the Department of Permitting Services (DPS) as well as Department of Environmental Protection (DEP) staff. DPS staff are proposing broader updates to the County’s Construction Code and Green code as well to ensure that all new buildings are built and perform to the required standards of sustainability such that the county can achieve its Climate Action Plan Goals. The public benefit system incentivizes projects to exceed those base code requirements. It is anticipated that these public benefits will need to be reevaluated with successive code cycle updates that typically occur every three years to ensure they remain achievable and align with the updated Construction Code and Green code.




| ENERGY | GREEN BUILDING | SUSTAINABLE SITE DESIGN |
|--|--|--|
| Exceed energy efficient standards. Use renewables and/or generate onsite energy to work towards net zero target. | Meet/Exceed Alternative Compliance Path through LEED Certification or other DPS approved certification programs. | Green site design principles such as: biophilic design, enhanced green roof, bird friendly design, pervious pavement, tree save, and adaptive reuse. |
|  |  |  |

Figure 17 – Table showing recommended public benefits for Environmental Resilience category with examples of green design features.

Energy Efficiency

This public benefit incentivizes the delivery of energy efficient buildings beyond what is required by the County Construction Code and Green Code. Projects earn the right to build a portion of their mapped FAR by providing levels of energy efficient buildings. As projects exceed the base code requirements by a greater percentage, they earn the right to build a greater portion of their mapped FAR. The Top Tier benefit in this category is awarded to a building that can achieve net zero energy performance. In that case, the project would not be expected to provide any other public benefit. The current system incentivizes buildings that exceed energy efficiency standards and the Bethesda Downtown Sector Plan made this category a requirement for a portion of the plan area. The Planning Board recommends this valuable public benefit should be continued with the proposed update.

ENERGY: Performance Thresholds & “Earned” FAR increments

| TIER | ENERGY EFFICIENCY |
|----------------------------|--|
| TIER 1 0.25 FAR | Exceed current energy efficient standards by 10% |
| TIER 2 1.0 FAR | Exceed current energy efficiency standards by 17.5% |
| TIER 3 1.5 FAR | Exceed current energy efficiency standards above 25% |
| TIER 4 Up to mapped FAR | Achieve a net zero energy performance |

Note: Thresholds to be reviewed with code cycle updates.

Figure 18 – Table showing recommended tiers of participation under the Energy Efficiency Public Benefit.

Renewable Energy

This proposed public benefit incentivizes projects that utilize renewable energy from within the regional catchment area or generate renewable energy onsite. The more renewable energy a project utilizes or generates onsite, the more FAR is awarded to the project. The Top Tier level of participation under this public benefit is awarded to a project that would generate 100% of their renewable energy onsite. In that case, the project would not be expected to provide any other public benefit.

ENERGY: Performance Thresholds & “Earned” FAR increments

| TIER | RENEWABLE EFFICIENCY |
|----------------------------|---|
| TIER 1 0.25 FAR | Utilize or generate 1/3 of renewable energy onsite or within regional catchment area. (PJM or Maryland SREC market) |
| TIER 2 1.0 FAR | Utilize or generate 2/3 of renewable energy onsite or within regional catchment area. (PJM or Maryland SREC market) |
| TIER 3 1.5 FAR | Utilize or generate 3/4 of renewable energy onsite or within regional catchment area. (PJM or Maryland SREC market) |
| TIER 4 Up to mapped FAR | Generate 100% renewable energy onsite. |

Note: Thresholds to be reviewed with code cycle updates.

Figure 19 – Table showing recommended tiers of participation under the Renewable Efficiency Public Benefit.

Green Buildings

This public benefit incentivizes projects that achieve the Alternative Compliance Path for Green Buildings by pursuing a LEED certification or other DPS approved certification programs. LEED has several levels of compliance. Projects could earn the right to build a smaller portion of their mapped FAR by achieving a lower-level certification like LEED Silver while a LEED GOLD certification would earn projects the right to build a greater portion of the mapped FAR. The Top Tier participation in this public benefit would be awarded to a LEED Platinum project. DPS staff currently accepts Alternative Compliance through LEED certification, and this public benefit will incentivize projects to perform beyond the base code requirements while using a nationally recognized sustainability standard.

It is important to note that a project can be LEED certified but not necessarily be energy efficient. If a project were designed to be both energy efficient and LEED certified, the project may earn FAR for both public benefits.

GREEN BUILDINGS: Performance Thresholds & “Earned” FAR increments.

| TIER | GREEN BUILDING |
|----------------------------|--|
| TIER 1 0.25 FAR | Meet Alternative Compliance Path for Green Code and achieve LEED Silver + 21 points. |
| TIER 2 1.0 FAR | Meet Alternative Compliance Path for Green Code and achieve LEED Gold |
| TIER 3 1.5 FAR | Meet Alternative Compliance Path for Green Code and achieve LEED Gold and one of the following: full electrification or mass timber construction |
| TIER 4 Up to mapped FAR | Meet Alternative Compliance Path for Green Code and achieve LEED Platinum |

Note: Thresholds to be reviewed with code cycle updates

Figure 20 – Table showing recommended tiers of participation under the Green Building Public Benefit.

Sustainable Site Design

This public benefit is intended to incentivize projects that incorporate sustainable features into their site design. Elements being incentivized in this category include the following:

- Biophilic design where architecture and landscape enhance exposure of users to natural elements, promoting health and wellness.
- Enhanced green roofs to provide passive cooling, capture stormwater and provide habitat using native plantings.
- Bird friendly building and site design to protect local and migratory birds from deadly strikes.
- Pervious pavement to increase stormwater retention on site and minimizing runoff.
- Retaining existing trees on site with adequate soil volumes to ensure plant health.

- Adaptively reusing a building on site or within the plan area that reuses existing structures, thereby lowering the embodied energy of a project.

Each of these elements contains criteria for compliance within the four tiers. Projects that include small scale criteria of these elements would earn the right to build a smaller portion of the mapped FAR. As the earned FAR increases, more criteria from multiple elements are required. To achieve the Top Tier in this category, at least four elements of sustainable design must be incorporated into a project, or at least 100,000 square feet of an existing building must be adaptively reused. In that case, the project would not be expected to provide any other public benefit.

SUSTAINABLE SITE DESIGN: Performance Thresholds & “Earned” FAR increments.

| TIER | SUSTAINABLE SITE DESIGN |
|----------------------------|---|
| TIER 1 0.25 FAR | Design a site that includes one of the following sustainable elements: <ul style="list-style-type: none"> - 2 principles of Biophilic design - Enhanced green roof with a minimum coverage of 20% of the roof (min. 6 inches in depth) - 2 categories of bird friendly design - Pervious pavement for 10% of the surfaces - Retain min. 10% DBH of existing trees on site with adequate soil volume (All trees 3”-24” DBH) <p>- OR adaptively reuse at least 10,000 SF of floor area of an existing building onsite or within the plan area.</p> |
| TIER 2 1.0 FAR | Design a site that includes two of the following sustainable elements: <ul style="list-style-type: none"> - 4 principles of Biophilic design - Enhanced green roof with a minimum coverage of 40% of the roof (min. 6 inches in depth) - 3 categories of bird friendly design - Pervious pavement for 25% of the surfaces - Retain 10%-30% DBH of existing trees on site with adequate soil volume (All trees 3”-24” DBH) <p>- OR adaptively reuse at least 50,000 SF of floor area of an existing building onsite or within the plan area.</p> |
| TIER 3 1.5 FAR | Design a site that includes three of the following sustainable elements: <ul style="list-style-type: none"> - 6 principles of Biophilic design - Enhanced green roof with a minimum coverage of 50% of the roof (min. 6 inches in depth) - 4 categories of bird friendly design - Pervious pavement for 40% of the surfaces - Retain 30%-50% DBH of existing trees on site with adequate soil volume (All trees 3”-24” DBH) <p>- OR adaptively reuse at least 75,000 SF of floor area of an existing building onsite or within the plan area</p> |
| TIER 4 Up to mapped FAR | Design a site that includes four of the following sustainable elements: <ul style="list-style-type: none"> - 6 principles of Biophilic design - Enhanced green roof with a minimum coverage of 60 % of the roof (min. 6 inches in depth) - 5 categories of bird friendly design - Pervious pavement for 50% of the surfaces - Retain >50% DBH of existing trees on site with adequate soil volume (All trees 3”-24” DBH) <p>- OR adaptively reuse at least 100,000 SF of floor area of an existing building onsite or within the plan area.</p> |

Figure 21 – Table showing recommended tiers of participation under the Sustainable Site Design public benefit.

INFRASTRUCTURE FOR COMPACT GROWTH

The public benefits contained in this category are focused on delivering facilities that enhance connectivity and create an infrastructure framework to support compact growth as outlined in Thrive. Projects that provide offsite improvements for pedestrian, cycling, and transit access facilities including bus/BRT stops, or improve streetscapes by undergrounding utilities, providing seating, tree plantings, lighting etc. could earn the right to build varying levels of their mapped FAR. FAR may also be approved for projects that build out a compact grid of streets or extend trails to fill in key missing segments of the overall street and trail network.

This category, along with Complete Community Amenities, is intended to be a roadmap for the creation of fifteen-minute neighborhoods along the county's growth corridors. The proposed list of public benefits below should be tailored based on the needs of the applicable Sector Plan, specifying critical trails, roadways and transportation related public facilities needed for the given area.

It should be noted that certain public benefits listed under this category may be "recommended" per a master or sector plan or be "required" for meeting the Local Area Transportation Review (LATR). Projects meeting certain LATR requirements are eligible for impact tax reductions although such reductions may or may not cover the entire cost of providing the required infrastructure. The Planning Board recommends that such elements if provided should still be incentivized by enabling the project to earn the right to build a portion of its mapped FAR.


| Offsite Improvements | Public Facility | Grid and trail extensions |
|---|---|--|
| Provide offsite streetscape improvements along a public street. Construct offsite bicycle improvements. Upgrade offsite stormwater facilities or runoff conveyance/storage. | Dedicate land and/or financially contribute to a major public facility per the Sector Plan or a Functional Plan. Underground utilities along site frontage of Subject Property and/or offsite. | Reduce curb cuts or construct a portion of trail or contribute to an existing CIP. Construct new public streets that provides through block connectivity with preferred intersection spacing per the Complete Streets Design Guide or contribute to an existing CIP. Provide a major connection over an environmentally sensitive area or major arterial highway that will highly contribute to the network. |
|  |  |  |

Figure 22 – Table showing recommended public benefits related to Infrastructure For Compact Growth with examples of facility improvements to the public realm

Offsite Improvements

With offsite improvements, projects that deliver streetscape, bicycle, stormwater management improvements or flood conveyance / storage upgrades may receive incentive density for these improvements. The improvements are scaled to provide a lower square foot of improvement for the lower tiers and as the area of improvements increase, so does the achievable FAR. The Top Tier in this category would be a major improvement to a stormwater or flood management facility such as installing significant offsite bioretention areas or runoff storage facilities on public or private property, daylighting and/or increasing the carrying capacity of piped stream etc., as recommended in a master or sector plan.

This public benefit introduces the option of payment in lieu, for added flexibility. The preference is for public benefits to be constructed and delivered with the project, however there are cases where financial contribution may be preferred. Payment in lieu is further discussed under the section titled “Ensuring Flexibility”. In that case, the contribution shall be based on a cost per square foot and paid based on the entire project’s proposed density, with the cost per square foot increasing with the FAR tier proposed. The Planning Board suggests that payment-in-lieu options may be useful when a receiving CIP project exists, and the public benefit is so large that no individual property can single-handedly deliver the required feature or amenity.

OFFSITE IMPROVEMENTS: Performance Thresholds & “Earned” FAR increments.

| TIERS | Offsite Improvements |
|--------------------|--|
| TIER 1 0.25 FAR | Provide offsite streetscape improvements at least 2,000 square feet or Contribute a minimum of \$0.33 per s.f. of gross floor area to a CIP project within the plan area |
| TIER 2 1.0 FAR | Provide offsite streetscape improvements for at least 4,000 square feet or Construct offsite bicycle infrastructure improvements for at least 1,000 linear feet or Provide offsite stormwater management upgrades with an estimated cost of at least \$300,000 or Contribute a minimum of \$1.00 per s.f. of gross floor area |
| TIER 3 1.5 FAR | Provide offsite streetscape improvements for at least 5,000 square feet or Construct offsite bicycle infrastructure improvements for at least 1,800 linear feet or Provide offsite stormwater management upgrades with an estimated cost of at least \$500,000 or Contribute a minimum of \$2.00 per s.f. of gross floor area |
| TIER 4 2.0 FAR | Provide a major improvement or reinforcement to run off conveyance/storage and/or stormwater treatment facility as recommended in a Sector Plan. |

Figure 23 – Table showing recommended tiers of participation under the Offsite Improvements Public Benefit.

Public Facilities

The public benefits within this category will depend largely on the needs of a given master or sector plan. The Planning Board recommends that within the lower FAR tiers, smaller public facilities such as bus/BRT stops and bike parking be eligible to earn the right to build a small portion of the mapped FAR. Earned FAR will increase with the size and complexity of the public facility, with the Top Tier benefit being a potential police station or structured public parking garage with an estimated cost of at least 1 million dollars. Tiers 2 and 3 allow FAR for projects that will underground existing transformers, utility boxes and overhead utilities along the Site frontage or offsite within the plan area.

PUBLIC FACILITY: Performance Thresholds & “Earned” FAR increments.

| TIERS | Public Facility |
|--------------------|--|
| TIER 1 0.25 FAR | Dedicate land and/or construct a public facility like a bus stop/BRT station, bike parking, etc. with an estimated cost of at least \$100,000 or Contribute a min. of \$0.33 per s.f. of gross floor area to a CIP project within the plan area |
| TIER 2 1.0 FAR | Dedicate land and/or construct a public facility like a bus stop/BRT station, bike parking, etc. with an estimated cost of at least \$300,000 or Underground all transformers and utility boxes located along site frontages or Contribute a min. of \$1.00 per s.f. of gross floor area to a CIP project within the plan area |
| TIER 3 1.5 FAR | Dedicate land and/or construct a public facility like a new BRT station or enhancing a light rail or metro station etc. with an estimated cost of at least \$500,000 or Provide undergrounding of utilities along site frontage of Subject Property and/or offsite, with an estimated cost of at least \$500,000 or Contribute a min. of \$2.00 per s.f. of gross floor area to a CIP project within the plan area |
| TIER 4 2.0 FAR | Dedicate and fully construct a major public facility like a police station or a structured public parking garage with an estimated cost of at least \$1,000,000 or Provide undergrounding of utilities along site frontage of Subject Property and/or offsite, with an estimated cost of at least \$1,000,000. |

Figure 24– Table showing recommended tiers of participation under the Public Facility public benefit.

Grid and Trail Extensions

This public benefit incentivizes projects that enhance the larger transportation network by extending or building missing pieces of Complete Street grids and trails. In the lower tiers of this category, projects that provide trail extensions on private or public property and/or projects that reduce curb cuts along their frontage may receive smaller amounts of FAR. As projects provide larger connective facilities like a public street or a grid of multiple public streets, the achievable FAR also increases, with the Top Tier being the construction of a street connection over/under a major arterial or through an

environmentally sensitive area that will be very expensive to build but highly contribute to a multimodal network.

GRID AND TRAIL EXTENSIONS: Performance Thresholds & “Earned” FAR increments.

| TIERS | Grid and Trail Extensions |
|--------------------|---|
| TIER 1 0.25 FAR | Construct a trail extension on private property with a cost of at least \$100,000 or Construct a public trail extension for a minimum 2,500 linear feet or Contribute a minimum of \$0.33 per s.f. of gross floor area to a CIP project within the plan area or Within a project design, reduce existing curb cuts by 50%. |
| TIER 2 1.0 FAR | Construct a public trail extension for a minimum 3,500 feet linear feet or Contribute a minimum of \$1.00 per s.f. of gross floor area or Build one new public street that provides through block connectivity as recommended by the Complete Streets Design Guide. |
| TIER 3 1.5 FAR | Construct a public trail extension for a minimum 6,000 linear feet or Within a proposed subdivision design, provide a grid of public streets as recommended by the Complete Streets Design Guide. |
| TIER 4 2.0 FAR | Provide a major connection over an environmentally sensitive area or major arterial highway that will highly contribute enhancing the bike, pedestrian and/or transit network. |

Figure 25 – Table showing recommended tiers of participation under the Grid and Trail Extensions public benefit.

AMENITIES FOR COMPLETE COMMUNITIES

This category focuses on public benefits that help achieve Thrive Montgomery 2050’s goal of creating complete communities where residents can easily walk or bike to services and fulfill their daily needs. Accordingly, public benefits range from providing neighborhood retail and services, including public art, cultural programming and placemaking, and delivering high quality buildings and open spaces accessible to the public. Similar to the Infrastructure for Compact Growth Category, these public benefits are meant to be tailored to the needs of the local community through the master or sector plan process.



| Art and Placemaking | Neighborhood Services & Mixed Use | Great Public Realm | Design Excellence |
|--|--|---|--|
| Provide artistic elements in projects, install public art, or organize publicly accessible programming. Affordable housing for artists. Arts or cultural public facilities like theater, art gallery, performance venue etc. | Provide retail uses, space for community meeting rooms and events, or a major public facility like a library or a recreation center. | Improve an existing park or provide a new park or privately owned public open space with high quality features and amenities. | Substantially conform to Design Guidelines and implement design excellence strategies related to building footprint, massing, architecture, parking, wellness etc. |

Figure 26 – Table showing recommended public benefits for Complete Communities with examples of features that support placemaking and a strong public realm.

Art and Placemaking

The current CR Guidelines incentivize projects that provide public art reviewed by the Art Review Panel. The proposed update would expand this benefit to include public benefits that support the ecosystem the arts need to thrive holistically. The proposed public benefit would incentivize the provision of art, placemaking and cultural programming activities, and broaden the options to financially contribute to organizations including the Public Arts Trust Steering Committee, Urban Districts, Arts and Entertainment Districts and regional service centers. Each of these entities may further partner with a local arts nonprofit to implement art and programming within the sector plan area.

The FAR achievable in the lower tiers would be for providing placemaking and programming activities that are short-term and less cost intensive or for simply including artistic elements within the building and site design. A project could earn the right to build to a higher level of its mapped FAR if it does provide public art reviewed by the Art Review Panel or partner with one of the above-mentioned agencies to install public art within the plan area. Tier 3 level contemplates more permanent amenities like affordable artist housing or larger payment-in-lieu contributions. The top tier participation in this benefit would be awarded to a project that would provide a major public facility for the creating and exhibition of arts such as a theatre, art gallery, or performance space at least 20,000 s.f. in size. In that case, the project would not be expected to provide any other public benefit.

ART AND PLACEMAKING: Performance Thresholds & “Earned” FAR increments.

| TIERS | Art and Placemaking |
|----------------------------|---|
| TIER 1 0.25 FAR | Provide artistic elements on buildings, garages or within streetscapes facing the public realm. or Provide (at least) monthly recurring publicly accessible programming such as Farmers' Market, Concerts etc. for min. 1year. or Contribute a min. of \$0.33 per s.f. of gross floor area for art or placemaking to the PATSC, an urban district, an arts & entertainment district, or a regional service center. |
| TIER 2 1.0 FAR | Install public art reviewed by the Art Review Panel or partner with an urban district, an arts nonprofit, or a regional service center to install art facing the public realm. or Provide (at least) monthly recurring publicly accessible programming such as Farmers' Market, Concert Series etc. for min. 3 years. or Contribute a min. of \$1.00 per s.f. of gross floor area for art or placemaking to the PATSC, an urban district, an arts & entertainment district, or a regional service center. |
| TIER 3 1.5 FAR | Provide at least 5% of units as artist housing or live/work units for artists earning up to 70% AMI in addition to the MPDUs provided. or Contribute a min. of \$2.00 per s.f. of gross floor area for art or placemaking to the PATSC, an urban district, an arts & entertainment district, or a regional service center. |
| TIER 4 Up to Mapped FAR | Provide a major Public Facility like a theater, art gallery, or a performance venue at least 20,000 s.f. in size onsite or within the plan area. |

*Figure 27– Table showing recommended tiers of participation under the Art and Placemaking public benefit.***Neighborhood Services and Mixed Use**

These public benefits would incentivize projects to provide uses desired by a master or sector plan, typically neighborhood serving retail and services. The lower tier FAR is for projects that would provide a smaller space for retail and as the dedicated space for retail or community use in the project grows, the projects would earn the right to build to a higher portion of their mapped FAR. The top tier in this category is a major public facility that would benefit a community such as a recreation center or library at least 20,000 s.f. in size. In that case, the project would not be expected to provide any other public benefit.

NEIGHBORHOOD SERVICES & MIXED USE: Performance Thresholds & “Earned” FAR increments.

| TIERS | Neighborhood Services & Mixed Use |
|---------------------------------|---|
| TIER 1 0.25 FAR | Provide at least one bay of min. 2,000 s.f. within project for retail use, directly accessible by the public from a street/open space. |
| TIER 2 1.0 FAR | Provide at least three bays for a total of 10,000 s.f. within project for retail uses, directly accessible by the public from a street or open space. |
| TIER 3 1.5 FAR | Provide at least 15,000 SF within project for public use (Conference space, meeting rooms, event space etc.) onsite or within the plan area. |
| TIER 4 2.0 FAR or Mapped FAR | Provide a major public facility like a recreation center, library, educational facility etc. at least 20,000 s.f. in size onsite or within the plan area. |

Figure 28 – Table showing recommended tiers of participation under the Neighborhood Services and Mixed Use public benefit.

Great Public Realm

The current CR Guidelines incentivize projects that provide more public open space than required. This recommended public benefit expands on that concept to incentivize projects that would provide well designed public open space with inclusive design features and/or intergenerational amenities. The lower tiers of participation are focused on smaller public open spaces like a neighborhood or pocket park and as the FAR increases, the required public open space increases in size to include park types such as a civic green. Projects will have the option to improve an existing facility, construct and own it as a privately owned public space, or convey the built facility to public ownership. The top tier of participation would require a project to construct an Urban Recreational Park of a minimum of 3 acres. Like other public benefits within this category, the master or sector plan should adjust the requirements to ensure they meet the vision outlined through the planning process.

GREAT PUBLIC REALM: Performance Thresholds & “Earned” FAR increments.

| TIERS | Great Public Realm |
|------------------------------------|--|
| TIER 1 0.25 FAR | Provide intergenerational amenities and inclusive design features within the public open space provided onsite. Min 0.25 acres. or Improve an existing park or public open space with intergenerational amenities and inclusive design features. Min 0.25 acres. or Contribute a min. of \$0.33 per s.f. of gross floor area for creating or improving public space. |
| TIER 2 1.0 FAR | Exceed the minimum required % of public open space on site by at least 50% as a min. 0.25 Acre Neighborhood Green per Energized Public Spaces Design Guidelines. or Contribute a minimum of \$1.00 per s.f. of gross floor area. |
| TIER 3 1.5 FAR | Provide a POPS or dedicate land, construct, and convey a park facility as a min. 1.5-acre Civic Green/Plaza per Energized Public Spaces Design Guidelines. or Contribute a min. of \$2.00 per s.f. of gross floor area creating or improving public space. |
| TIER 4 2.0 FAR or Mapped FAR | Provide a POPS or dedicate land, construct and convey a park facility as an “Urban Recreational Park” (minimum 3 acres), with approval on location and design from planning and parks staff. |

Figure 29 – Table showing recommended tiers of participation under the Great Public Realm public benefit.

Design Excellence

The current CR Guidelines incentivize design excellence based on a list of criteria that at times can be subjective. Also, all master and sector plans now produce accompanying Design Guidelines that cover several aspects of design that are currently included within the menu. Therefore, the recommended list of design strategies is intended to be more straight forward, less subjective, and easier to review and implement. Planning Board approved Planning Staff’s list of ten distinct and objective strategies intended to deliver high quality architecture and site design. Projects can earn the right to build up to

their mapped FAR by including some or all of these strategies within a project. The more strategies from this list are integrated into a project's design, the more FAR is approvable for a project. Alternatively, a project could also achieve WELL Core certification at varying levels. WELL is a performance-based system for measuring, certifying, and monitoring features of the built environment that impact human health through well-being focused metrics such as air, water, nourishment, light, fitness, comfort and mind.

The top tier participation in this public benefit requires a project to achieve at least nine design strategies from the list or achieve WELL CORE Platinum Certification or Living Building Challenge Certification. These certifications are different than LEED in that they focus on regenerative design practices, meaning that instead of minimizing negative building impacts in LEED, the building will create a positive impact on the users of the building and the community its located in.

DESIGN EXCELLENCE: Performance Thresholds & “Earned” FAR increments.

| TIERS | Design Excellence |
|----------------------------|--|
| TIER 1 0.25 FAR | Substantially conform to design guidelines and implement at least 3 strategies from the list or Achieve WELL CORE Bronze certification. |
| TIER 2 1.0 FAR | Substantially conform to design guidelines and implement at least 5 strategies from the list or Achieve WELL CORE Silver Certification. |
| TIER 3 1.5 FAR | Substantially conform to design guidelines and implement at least 7 strategies from the list or Achieve WELL CORE Gold Certification |
| TIER 4 Up to Mapped FAR | Substantially conform to the applicable design guidelines and implement 9 strategies from the list or Achieve WELL Platinum Certification or Living Building Challenge certification for the project. |

List of Implementation Strategies

- Designing a building with a clear base, middle and top.
- Providing human scaled architectural elements along the ground floor facing all streets and public open spaces.
- Providing direct entry to all ground floor residential units lining a street or public open space.
- Adjusting the building massing and facade design to respond to the context of surrounding buildings.
- Lining at least 75% of the ground floor with active uses along all streets and major public spaces and providing ground floor entrances into the building every 100 feet.
- Placing all onsite parking below ground or lining all sides facing a street or open space with active uses like residential or commercial floor spaces.
- Designing the footprint, massing, and building facades to respond to solar orientation and local climate.

- Reducing the floor plate for the top two floors by at least 20% to create terraces and an interesting skyline.
- Designing all structured parking to be adaptable for alternative uses in the future.
- Using modular, prefabricated, or other innovative design and construction strategies to expedite project delivery.

Figure 30 – Table showing recommended tiers of participation under the Design Excellence public benefit.

ENSURING FLEXIBILITY

PAYMENT IN LIEU OPTIONS

It is preferred that public benefits are constructed and delivered by projects pursuing the Optional Method of development. However, payment in lieu may be a suitable option when certain criteria apply:

- The sector plan contemplates the creation of larger-scale facilities or amenities and creates a mechanism to receive payments in lieu.
- A capital improvement project exists to utilize the payments within the master or sector plan area.
- The public benefit under consideration is located off-site.

Planning Board recommends that a payment in lieu could be considered for the following public benefits:

- Infrastructure for Compact Growth Category:
 - Offsite Improvements
 - Public Facility
 - Grid and Trail Extensions
- Complete Community Amenities Category:
 - Art and Placemaking
 - Great Public Realm

Planning Board recommends that a payment in lieu should be based on a per square foot basis, pegged to the overall gross square footage of the project. This would enable the benefits to scale and be proportional to the proposed development. The Planning Board also recommends that the rate of payments be adjusted biannually based on *Engineering News Record's Baltimore Construction Cost Index*, which is also utilized to benchmark other payment-based programs within the county such as the Growth and Infrastructure Policy.

ALTERNATIVE COMPLIANCE OPTION

The Planning Board recommends utilizing an alternative compliance framework in Division 4.7 of the zoning code to provide flexibility during regulatory review. The Planning Board recommends that this update enable the board to approve an alternative method of compliance for the provision of a specific public benefit from the menu as modified by the applicable master/sector plan or functional plan, if it determines that there is a unique site, a use characteristic, a unique benefit to the public, or a development constraint. The Planning Board must also determine that the unique site, use characteristic, benefit to the public, or development constraint precludes the delivery of a standard public benefit from the applicable menu as modified by the Sector Plan and the alternative design or public benefit will:

- Satisfy the intent of the public benefit category it is within.
- Aligns with the overall vision of the applicable master/sector plan or functional plan.
- Enhances the applicable functional results or performance standards for the public benefit category.
- Be in the public interest.

CONCEPTUAL IMPLEMENTATION OF OPTIONAL METHOD FOR CR AND CRT ZONES

Under the proposed system, projects in the CR and CRT zones will be required to provide public benefits when building above the standard method threshold of 0.5 FAR. The amount of public benefits required will depend upon how much of the mapped FAR beyond 0.5 FAR a project is seeking to be approved by the Planning Board. If the applicable sector plan offers additional Excel-To-Build Density, a project may request additional FAR, once the mapped FAR has been fully utilized. Public benefits must be provided for the Excel-To-Build density as well. Essentially, projects will need to provide public benefits to earn the right to build beyond the 0.5 Standard Method FAR.

The Planning Board has proposed one exception to this requirement to account for small parcels in downtown locations which may have a very high mapped FAR, given the combination of their proximity to transit, small parcel size, and a tall, mapped height. For example, several parcels in downtown Bethesda, Silver Spring, and Wheaton have a mapped FAR in the 5.0-8.0 range and are only 5,000-40,000 square feet in size. For such parcels to utilize the Optional Method of development and fully utilize the mapped FAR, requiring public benefits beyond 0.5 FAR may impact feasibility. The Planning Board is therefore recommending that for properties with a mapped FAR of greater than 4.0 and a site size of less than 1-acre, public benefits must be provided to earn the right to build above 2.0 FAR, instead of 0.5 FAR, if the project is maximizing its mapped FAR. All other requirements for the Optional Method of development would still be effective beyond the 0.5 FAR threshold.

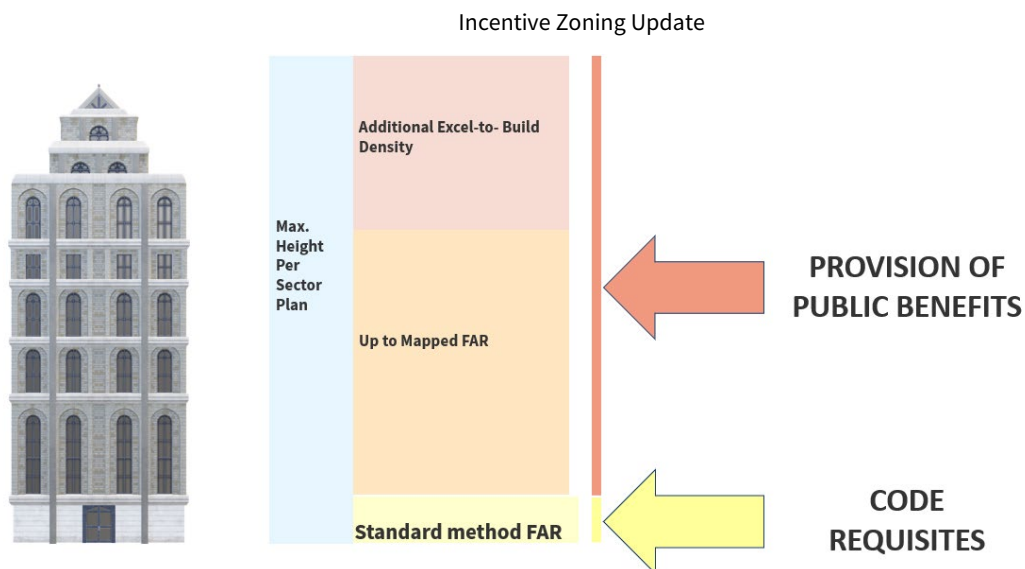


Figure 31 - Diagram showing how Optional Method projects will be required to provide public benefits to earn the right to build beyond the 0.5 Standard Method FAR.

Projects will have the option to choose from the menu of public benefits. However, a project must provide at least one public benefit from Housing For All or Environmental Resilience Categories and provide at least one public benefit from Infrastructure for Compact Growth or Complete Community Amenities Categories. This is an important requirement to ensure that every project delivers benefits that align with our countywide priorities, but also provides local infrastructure and amenities identified through the applicable master or sector plan. However, if a project provides an extraordinary, Tier 4 public benefit in any category, it will be exempt from providing any other public benefit.

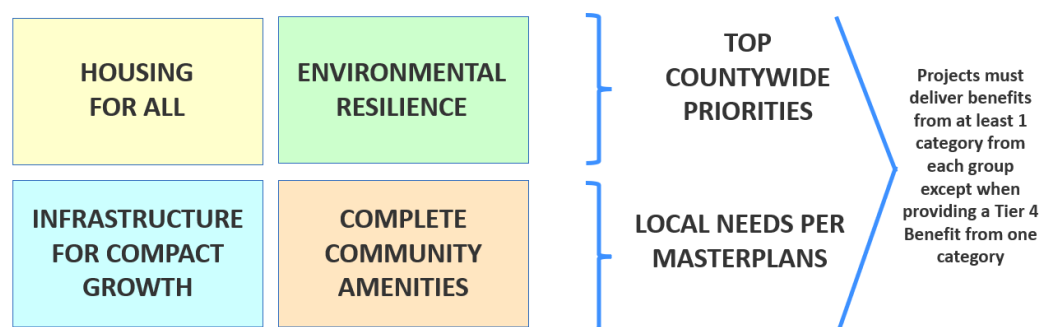


Figure 32– Diagram showing how Optional Method projects must provide benefits that address countywide priorities as well as community needs identified through the applicable master or sector plan.

As described previously, for each of the 13 benefits, there will be four tiers of participation available and providing each tier will earn the right to build a certain amount of FAR. Projects will be able to propose various combinations of benefits at different tiers to earn the right to build up to the total FAR being requested for approval. This approach will provide flexibility and maintain a sense of proportionality between the incentive density being requested and public benefits being provided.

| HOUSING FOR ALL | ENVIRONMENTAL RESILIENCE |
|-----------------------------------|-----------------------------------|
| MPDUs | Energy |
| Family sized units | Green Buildings |
| Deeper levels of affordability | Sustainable Site Design |
| INFRASTRUCTURE FOR COMPACT GROWTH | COMPLETE COMMUNITIES |
| Offsite Improvements | Art and Placemaking |
| Public Facility | Neighborhood Services & Mixed Use |
| Street Grid and Trail Extensions | Great Public Realm |
| | Design Excellence |

Figure 33 - Chart showing the distribution of proposed public benefits within the four categories.

PROJECT EXAMPLE

Let's assume a project is zoned CR 3.0 C3.0 R3.0 H250 and wants to build up to its maximum mapped FAR of 3.0. The Project will be required to provide public benefits that earn the right to build at least 2.5 FAR (3 FAR minus 0.5 (standard method)). This could be achieved in a variety of scenarios:

Scenario 1: A “Mixed Bag Approach” would allow the project to provide several lower tier benefits from all four categories. A project must provide at least one public benefit from Housing For All or Environmental Resilience Categories and provide at least one public benefit from Infrastructure for Compact Growth or Complete Community Amenities Categories.

Scenario 2: A “Limited Categories Approach” would allow the project to perhaps focus on only two categories and provide substantial public benefits that fall in the Tier2-Tier3 range. A project must provide at least one public benefit from Housing For All or Environmental Resilience Categories and provide at least one public benefit from Infrastructure for Compact Growth or Complete Community Amenities Categories.

Scenario 3: A “Top Tier Approach” would allow the project to provide an extraordinary Tier 4 public benefit from just one category and be exempt from providing any other benefits.

Incentive Zoning Update

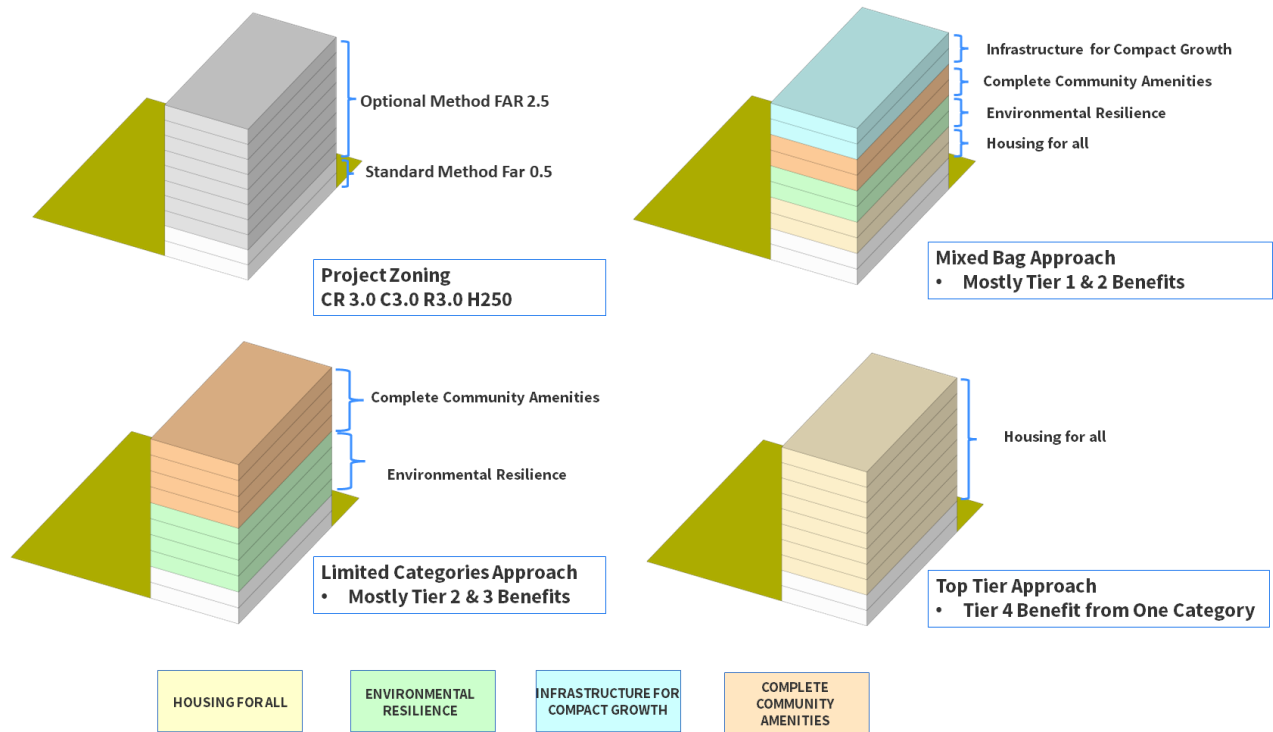


Figure 34 - Diagram showing how Optional Method projects could provide public benefits in a variety of ways to earn the right to build beyond the 0.5 Standard Method FAR.

Each of these would be an acceptable approach for providing public benefits, based on the menu as finalized by the applicable master or sector plan. Planning staff worked with the real estate consultant to conduct feasibility analysis for the various combinations of public benefits that could be provided per the recommendations.

COMPARING THE DELIVERY OF PUBLIC BENEFITS UNDER THE EXISTING SYSTEM VS. PROPOSED UPDATES

Planning staff used a case study approach to show how the new system would theoretically apply to a project that was approved by the Planning Board under the current public benefit point system. This comparative analysis highlights the strengths of the proposed updates. The case study project, Ava Wheaton, was approved in 2014 for the construction of up to 350,000 square feet of residential density for up to 324 units with 12.5% MPDUs on approximately 4.5 acres of CR 4.0 zoned land.



Figure 35 – Image of Ava Wheaton, approved and constructed under the existing CR Guidelines

The Project resulted in a total FAR of 1.75 and is a mid-rise residential apartment building with wood-over-concrete construction. The Project was reviewed under the existing CR Guidelines and provided the following list of public benefit points:

Table 1 – Approved Public Benefits for Ava Wheaton

| Public Benefits | Points approved |
|---------------------------|------------------------|
| Transit Proximity | 30 |
| Through Block Connection | 7 |
| Wayfinding Signage | 5 |
| Dwelling Unit Mix | 5 |
| Enhanced Accessibility | 6.5 |
| Streetscape | 0.4 |
| Structured Parking | 10 |
| Public Open Space | 2 |
| Exceptional Design | 2.5 |
| Architectural Elevations | 5 |
| Building Lot Terminations | 5 |
| Vegetated Wall | 5 |
| Tree Canopy | 7.5 |
| Vegetated Area | 5 |
| Cool Roof | 5 |
| Recycling Facility Plan | 10 |
| Total | 110.9 |

This list of public benefits highlights several shortcomings of the current system uncovered in the Analysis Phase of the Project. This Project was required to provide the maximum 100 public benefit points, even though it proposed to build only 1.75 FAR of its total mapped FAR of 4.0. Essentially, the requirement for public benefit did not scale with a less intense project than the mapped FAR. On the other hand, while the project was able to qualify for 16 distinct public benefits, the scale and quality of these benefits fell short of providing meaningful amenities or services to the greater community beyond the project's residents. Most "public benefits" provided with this project were either internal to the building (Cool Roof, Recycling Plan, Enhanced Accessibility, Dwelling Unit Mix etc.), inherent to the construction of the project itself (Transit Proximity, Structured Parking etc.), or of a quality that compromised its utility for the greater public (Through Block Connection, Wayfinding Signage etc.).

Under the proposed new structure, the approved project would be required to provide fewer but more meaningful public benefits totaling up to 1.25 FAR (1.75 FAR (Proposed FAR) minus 0.5 (Standard Method FAR)). Based on the three scenarios provided above, the Project could achieve its mapped FAR in the following ways:

Scenario 1: A "Mixed Bag Approach"

The mixed bag approach with this project would provide smaller public benefits across the four categories. Even with the lower tier public benefits, these would provide benefits that align with county priorities and are beneficial for both residents of the project and the surrounding community.

Table 2 – Public Benefits that would achieve proposed FAR in a Mixed Bag Approach

| Public Benefit | FAR |
|---|-------------|
| Standard Method | 0.5 |
| Tier 1: 5% dwellings larger bedroom | 0.25 |
| Tier 1: Energy efficiency: Exceed current code by 10% | 0.25 |
| Tier 1: Public facility: Bus Stop | 0.25 |
| Tier 1: Public Facility Bike Parking | 0.25 |
| Tier 1: Public Realm: Intergenerational amenities | 0.25 |
| Total FAR | 1.75 |

Scenario 2: A “Limited Categories Approach”

If the Project were to achieve their mapped FAR by only providing two public benefits, it could deliver a medium scale Tier 2 benefit from the Environmental Category such as a LEED Gold certified building, and a Tier 1 benefit from the Infrastructure Category to provide offsite streetscape improvements for improving pedestrian safety within downtown Wheaton. While this list would be shorter than Scenario 1, the two public benefits provided would be significantly impactful in lowering the greenhouse gas emissions of this project, providing healthy and sustainable residential living arrangements, and improving the walkability of the neighborhood.

Table 3 – Public Benefits that would achieve proposed FAR in a Limited Categories Approach

| Public Benefit | FAR |
|---------------------|-------------|
| Standard Method | 0.5 |
| Tier 2: LEED Gold | 1.0 |
| Tier 1: Streetscape | 0.25 |
| Total FAR | 1.75 |

Scenario 3: A “Top Tier Approach”

In case the project chose to provide a higher percentage of affordable housing, it could potentially qualify for Top Tier public benefit by providing 25% MPDUs at an average of 60% AMI. (This may make sense for projects that are built as public private partnerships or qualify for government financing and subsidies.) The analysis below shows the potential impact and bonus square footage as a result of the recently passed House Bill 538 and existing provisions in the Zoning Ordinance for bonus density.

Table 4 – Public Benefits that would achieve proposed FAR in a Top Tier Approach

| Public Benefit | FAR |
|------------------------------|----------------------|
| Standard Method | 0.5 |
| Tier 4: 25% MPDUs at 60% AMI | Up to the mapped FAR |
| Total FAR | 3.0 |

If this Project commits the Top Tier option by providing 25% MPDUs at an average of 60% AMI, the Project would be eligible for bonus density from both the state and local level. The Zoning Ordinance allows bonus density at an increasing rate for projects that project MPDUs in excess of the

requirements of Chapter 25A, resulting in 35% of bonus density for a project that provides 25% MPDUs. The recently adopted State Bill 538 allows 30% of bonus density for projects that provide a minimum of 20% affordable units to households at or below 60% of AMI, in addition to the bonus density allowed by the Zoning Ordinance. Given the way that the State calculates affordability at 60%, MPDUs fit under the criteria and the project would be eligible for both the State and Local bonus density. When these bonus densities compound, as allowed, a significant increase in density can be achieved.

When applied to this Project that originally was approved for 350,000 square feet, the combined bonus density for providing 25% MPDUs would enable it to build up to 577,500 square feet. This would increase the Project's FAR from 1.75 to 3 FAR. The Top Tier requires that 25% of the total units be MPDUs targeted at an average 60% AMI. The project would also benefit from reduction in impact taxes, a significant financial incentive and the applicant will not be required to provide any other public benefit. It is not inconceivable that given the combination of a robust density bonus and financial impact tax reduction incentives, the project could have built up to a 3.0 FAR, providing considerably more housing in a transit serviced downtown location near parks, neighborhood retail and amenities like a library and a recreation center, thereby directly implementing the recommendations of Thrive Montgomery 2050, the 2012 Wheaton CBD and Vicinity Sector Plan, and the Climate Action Plan.

The calculations for bonus density are detailed below for reference:

Original Density: 350,000 square feet

*Zoning Ordinance Section 59.4.5.2.C for Bonus Density in the CR Zone with 25% MPDUs = 350,000 * 35% (30% plus 0.1% for each 0.1% increase in MPDUs above 20%) = 122,500 sf of local Bonus Density*

*State Bill 538 Bonus Density = (350,000) * 30% = 105,000 sf of additional state level density*

Original density (350,000) with Local bonus density (122,500) and State bonus density (105,000) = 577,500 sf

NEXT STEPS & ROLL OUT OF THE UPDATED POLICY

Several steps will be required to enact the recommended updates and roll out the new version of the policy:

- **County Council Review:** This project summary and additional attachments represent the Planning Board's draft recommendations. County council staff is anticipated to schedule working sessions with the Planning, Housing, & Parks Committee in the fall of 2024, followed by deliberations by full council.
- **Zoning Text Amendment Process:** Following Council's review, a zoning text amendment (ZTA) will be needed to update the various sections of County Code that the policy currently

references. The ZTA will then go through the required public hearing and Council’s review process prior to being approved. As proposed, the adoption of the recommendations will also require updates to the County’s Farmland Preservation Laws governing the BLT and TDR programs. Depending on guidance by the County Council, these may be covered within the same ZTA or require a separate ZTA to ensure that the recommendations related to these programs and the Optional Method of development can be successfully implemented. Planning staff anticipates this process to occur in the winter of 2024-25.

- **Update to Implementation Guidelines:** Upon adoption of the ZTA(s), Planning staff will create a new version of the Implementation Guidelines to provide guidance to applicants, Planning Staff, the Board, and other county agencies to apply the updated version of the policy. Staff anticipates this work to occur in the spring of 2025 with the roll out to occur by fall of 2025.

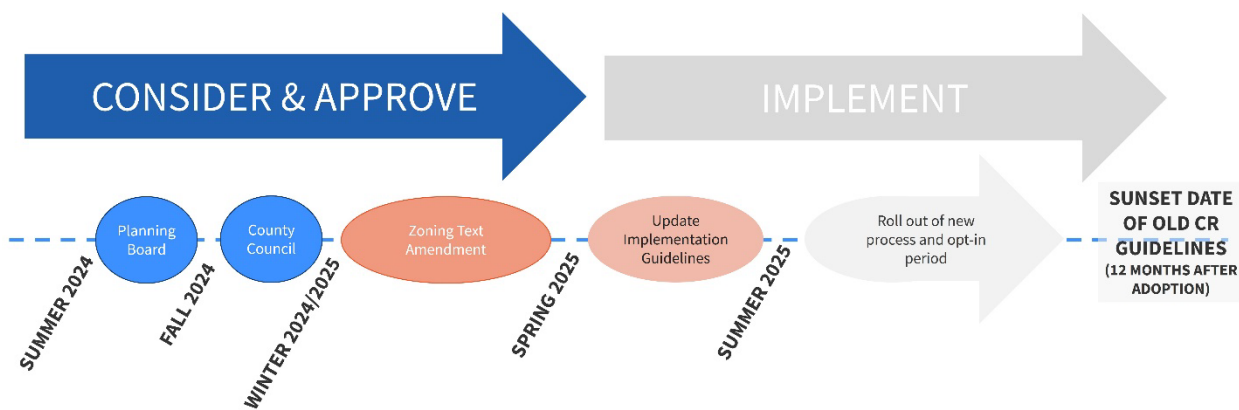


Figure 36 – Anticipated timeline for implementation

UPDATING THE IMPLEMENTATION GUIDELINES

The Implementation Guidelines are key to ensuring that projects are reviewed consistently throughout the process and noting where flexibility is appropriate. Development of the updated Guidelines will require additional outreach with the numerous agencies that have been consulted in the drafting of these recommendations. The Guidelines will need to address the following:

- **Criteria for review:** A standard set of criteria for each of the public benefits, submission materials for each application phase, and interagency coordination processes.
- **Project Amendments:** How amendments to Projects that were approved under the old guidelines should be reviewed and establish a threshold for when amendments would be subject to the new Guidelines.
- **Role of Sector Plans:** The Planning Board is proposing that sector plans be given more flexibility to tailor public benefits to the needs of the local communities as determined through the master or sector planning process. The Guidelines will address how the menu of

public benefits can be tailored by master or sector plans to ensure that public benefits meet local needs while also moving the needle on the County's key policy priorities.

- **“Crosswalk” of Public Benefits for Existing Master/Sector Plans:** Several Master/Sector Plans recommended and/or prioritized certain public benefits that should be delivered in Optional Method projects. The Implementation Guidelines will include a “crosswalk” between the existing and updated menu of public benefits so Master/Sector Plans approved prior to this update can transition to utilizing the new menu. It should be noted that some Master/Sector Plans may require a ZTA to update the Overlay Zone requirements etc. related to public benefits. (Please see Appendix E for a draft cross walk approach.)
- **Future updates to the Implementation Guidelines:** Additionally, the Planning Board recommends this policy be reviewed and updated periodically so it remains nimble and responsive to changing construction and energy codes, real estate market dynamics, planning priorities etc. Planning Board recommends an assessment of the policy every five years. The Planning Board also recommends that the rate of payments be adjusted biannually based on *Engineering News Record's Baltimore Construction Cost Index*. The Implementation Guidelines will be updated as needed to reflect future adjustments to the policy.

ROLL OUT OF THE NEW POLICY

The Planning Board recognizes that this is a comprehensive update to the policy and is therefore recommending an “opt-in” period to provide a flexible and smooth transition from the current to the proposed version. The Planning Board recommends that there be an “opt-in” period of 12 months from the passing of the ZTA when new development applications can choose to be reviewed under the existing or updated version of the policy. The Implementation Guidelines will provide a “cross walk” between the existing and updated menu of public benefits. Some plans may require a ZTA to update the Overlay Zone requirements etc. related to public benefits.

New masterplans can either adopt the new menu of public benefits as is or adjust it through a mechanism such as an overlay zone. (example: GSLS Overlay Zone). If a new masterplan modifies the menu, it should include updated guidance as a part of its own Implementation Section.

After the end of the opt-in period, all Optional Method developments should utilize the updated version of the policy for the CR and CRT zones, as amended by the applicable master or sector plans. As a reminder, the EOF zone will not be required to provide public benefits and the Great Seneca Life Science Overlay zone will regulate the delivery of public benefits within its boundaries.

MONITORING OF THE POLICY AND UPDATES

During the Project's analysis phase, Planning Staff encountered several challenges in collecting data related to the approval of public benefits, which was eventually pulled together from Planning Board

resolutions, staff reports, and building permit documents. This data was then entered into an online central data hub where all information can be easily accessed and parsed by geography, sector plan, type of benefit etc. Continued use of this online data hub will be valuable to gauge the performance of the new system and the Planning Board recommends it be utilized to track public benefits as they are approved under the Optional Method of Development in the CR and CRT zones this new version. As the Planning Board approves sketch and/or site plans under the Optional Method, the associated public benefits would be entered into the data base on a rolling basis. Planning staff will create this data hub after the ZTA is approved.

It is recommended that the policy be assessed every five years, with the assistance of the data hub to analyze how the policy has been applied and adjusted by various master plans and evaluate what public benefits have been received to determine if public benefit categories require updating. An intermittent check-in may be needed if significant changes are made to the County's Construction and Green Codes since those will impact some of the proposed benefits under the Environmental Resilience category.