

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



### Description

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

ZTA 23-02 & SRA 23-01  
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Montgomery County  
Planning Board  
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### ZTA SPONSORS

Lead Sponsors: Councilmember Sayles and Vice President Friedson

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

### INTRODUCTION DATE

March 28, 2023

### REVIEW BASIS

Chapter 59

Chapter 50

Chapter 25A



### Summary:

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

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## SECTION 1: BACKGROUND

### RATIONALE FOR INTRODUCTION

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

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

## SECTION 2: ZTA & SRA AS INTRODUCED

### ZTA NO. 23-02 AS INTRODUCED

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

### DIVISION 1 GENERAL ZONING PROVISIONS

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

## DIVISION 3 USES AND USE STANDARDS

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

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

## DIVISION 4 DEVELOPMENT STANDARDS

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

## DIVISION 7 ADMINISTRATION AND PROCEDURES

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

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

## A. Applicability

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

## B. Application Requirements

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

## C. Hearing Date

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

## D. Review and Recommendation

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

## E. Necessary Findings

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

## F. Decision

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

## G. Conforming Permits

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

## H. Duration of Approval

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

## I. Recording Procedures

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

## J. Amendments

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

## K. Compliance and Enforcement

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

## Notice Required

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

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

### SRA NO. 23-01 AS INTRODUCED

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

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

## SECTION 3: ZTA & SRA ANALYSIS AND RECOMMENDATIONS

### ZTA 23-02 ANALYSIS AND RECOMMENDATIONS

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

#### AFFORDABILITY THRESHOLDS

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

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



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

### Existing Affordable Programs

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

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

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

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

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

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

## ZTA 23-02 Proposed Affordability Thresholds

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

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

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

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

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

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

## Other Affordability Threshold Options

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

### Modify Option 1.

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

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

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

### Modify Option 2.

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

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

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

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

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

## COMMERCIAL SPACES

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

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

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

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

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

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

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

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

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

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

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

**NEW USE TYPE**

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

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

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

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

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

## MISCELLANEOUS

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

### Use Name – Mixed-Use Housing Community

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

### Proliferation of New Regulatory Plan Types

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

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

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



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

### Expedited Plan Reviews

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

---

### SRA 23-01 ANALYSIS AND RECOMMENDATIONS

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

## SECTION 4: LEGISLATED ANALYSIS

### CLIMATE ASSESSMENT

Bill 3-22, passed by the County Council on July 12, 2022, requires the Planning Board to prepare a climate assessment for each zoning text amendment, master plan, and master plan amendment, effective March 1, 2023. Each climate assessment must include the potential positive or negative effects a ZTA may have on climate change (including greenhouse gas emissions) and upon community resilience and adaptive capacity. The climate impact assessment for ZTA 23-02 is attached in Attachment B. ZTA 23-02 simply expedites the development review process for existing allowed combinations of uses. As such, Montgomery Planning anticipates that the ZTA, as written, will have insignificant to no impact on the county's goals regarding greenhouse gas emissions and sequestration and on community resilience and adaptive capacity.

### RACIAL EQUITY AND SOCIAL JUSTICE (RESJ)

As of the posting of this staff report, the Office of Legislative Oversight has not completed a Racial Equity and Social Justice analysis for ZTA 23-02.

## SECTION 5: CONCLUSION

Despite the lengthy discussion on recommended amendments to ZTA 23-02, staff recommends the Board support the ZTA's intent and framework with the recommendations of this report. Incentivizing the production of affordable housing and new commercial activity centers are both valuable and worthy goals but it is important to get these regulations right to maximize the chance of seeing positive results. Given the difficulties with retail developments discussed herein, the simplest amendments to this ZTA are to focus on the affordable housing aspect. Planning staff are interested and willing to work with the Board and the District Council on alternative ways to increase access to commercial developments and create the complete communities envisioned by Thrive Montgomery 2050.

## ATTACHMENTS

*Attachment A: Zoning Text Amendment 23-02 and Subdivision Regulation Amendment 23-01 Intro Packet*

*Attachment B: Environmental Impact Statement*

*Attachment C: Recently Built and Pipeline Affordable Housing Projects*



**Committee:** PHP  
**Committee Review:** At a future date  
**Staff:** Livhu Ndou, Legislative Attorney  
**Purpose:** To introduce agenda item – no vote expected  
**Keywords:** #MixedUse #MPDU #RegulatoryApprovals  
#AffordableHousing

AGENDA ITEMS#4A & 4B  
March 28, 2023  
**Introduction**

## SUBJECT

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

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

Lead Sponsors: Councilmembers Sayles and Friedson

Co-Sponsors: Councilmembers Luedtke and Stewart

## EXPECTED ATTENDEES

None

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

To introduce ZTA and SRA – no votes expected

## DESCRIPTION/ISSUE

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

## SUMMARY OF KEY DISCUSSION POINTS

- ZTA 23-02, Regulatory Approvals - Mixed-Use Housing Community, will create an expedited approval process for projects that contain a specified percentage of affordable housing as well as 2 commercial uses.
- SRA 23-01 will create an administrative subdivision process for a Mixed-Use Housing Community plan to ensure that the timelines are compatible in the event subdivision is necessary.
- A public hearing is tentatively scheduled for May 2, 2023.

## This report contains:

Staff Report  
ZTA 23-02  
SRA 23-01

Pages 1-2  
© 1  
© 22

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**MEMORANDUM**

March 23, 2023

TO: County Council

FROM: Livhu Ndou, Legislative Attorney

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

PURPOSE: Introduction – no Council votes required

Zoning Text Amendment (ZTA) 23-02, Regulatory Approvals - Mixed-Use Housing Community and Subdivision Regulation Amendment (SRA) 23-01, Administrative Subdivision - Mixed-Use Housing Community, lead sponsors Councilmembers Sayles and Friedson, co-sponsors Councilmembers Luedtke and Stewart, is scheduled for introduction on March 28, 2023. ZTA 23-02 will define a Mixed-Use Housing Community and provide an expedited approval process for a Mixed-Use Housing Community plan. SRA 23-01 will create an administrative subdivision process for a Mixed-Use Housing Community plan.

Public hearing is tentatively scheduled for May 2, 2023.

**BACKGROUND**

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

- at least 150,000 square feet of new commercial and residential floor area;
- containing Multi-Unit Living under Section 3.3.1.E and at least 2 commercial uses;
- with 30 or more dwelling units; and either:
  - 50% of the units satisfying the requirements for an MPDU in Chapter 25A or a DHCA equivalent; or

- 35% of the units satisfying the requirements for an MPDU in Chapter 25A or a DHCA equivalent with 15% of the total units affordable to a household with a household income of 30% percent of Area Median Income (AMI) or below for at least 30 years.

Other provisions include a waiver of the parking requirement if within ½ mile of a red policy area or a planned or existing Bus Rapid Transit route. The Planning Board will be able to grant an exception to the commercial requirement if certain conditions are met. This use would be allowed in all zones where Multi-Unit Living is currently allowed. The commercial uses must be uses that are already allowed in the underlying zone.

SRA 23-01 will add a Mixed-Use Housing Community plan to the list of administrative subdivision plans in Chapter 50, Subdivision of Land. This will ensure that in the event subdivision is required the timelines for review will be compatible.

This packet contains:

ZTA 23-02  
SRA 23-01

Circle #

© 1  
© 23

Ordinance No.: \_\_\_\_\_  
Zoning Text Amendment No.: 23-02  
Concerning: Regulatory Approvals –  
Mixed-Use Housing  
Community  
Revised: 3/14/2023 Draft No.: 1  
Introduced: March 28, 2023  
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**

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Lead Sponsors: Councilmembers Sayles and Friedson  
Co-Sponsors: Councilmembers Luedtke and Stewart

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

- (1) define a Mixed-Use Housing Community;
- (2) provide an expedited approval process for a Mixed-Use Housing Community plan;  
and
- (3) generally amend the development standards for mixed-use properties.

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

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

And by adding the following sections:

Section 3.3.4.  
Section 7.3.7.

“Mixed-Use Housing Community”  
“Mixed-Use Housing Community”

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

#### ORDINANCE

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



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

2   **Division 1.4. Defined Terms**

3   \*   \*   \*

4   **Section 1.4.2. Specific Terms and Phrases Defined**

5   \*   \*   \*

6   Mixed-Use Housing Community: See Section 3.3.4.

7   \*   \*   \*

8           **Sec. 2. DIVISION 59-3.1 is amended as follows:**

9   **Division 3.1. Use Table**

10   \*   \*   \*

11   **Section 3.1.6. Use Table**

12   The following Use Table identifies uses allowed in each zone. Uses may be  
13   modified in Overlay zones under Division 4.9.

14

USE OR USE GROUP	Definitions and Standards	Ag	Rural Residential			Residential												Commercial / Residential			Employment				Industrial			
						Residential Detached						Residential Townhouse			Residential Multi-Unit													
			AR	R	RC	RNC	RE-2	RE-2C	RE-1	R-200	R-90	R-60	R-40	TLD	TMD	THD	R-30	R-20	R-10	CRN	CRT	CR	GR	NR	LSC	EOF	IL	IM
* * *																												
RESIDENTIAL																												
* * *																												
Accessory Residential Uses	3.3.3																											
* * *																												
Mixed-Use Housing Community	3.3.4														⌊	⌊	⌊	⌊	⌊	⌊	⌊	⌊	⌊	⌊	⌊	⌊	⌊	
* * *																												

15

16           **Sec. 3. Division 59-3.3 is amended as follows:**

17   **Division 3.3. Residential Uses**

18   \*   \*   \*

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

20   **A.    Defined**

21           Mixed-Use Housing Community means at least 150,000 square feet of new  
22           commercial and residential floor area containing Multi-Unit Living under  
23           Section 3.3.1.E and at least 2 commercial uses allowed in the underlying  
24           zone. A Mixed-Use Housing Community must have 30 or more dwelling  
25           units and either:

- 26           1.    50% of the units must satisfy the requirements for an MPDU in  
27           Chapter 25A or a DHCA equivalent; or
- 28           2.    35% of the units must satisfy the requirements for an MPDU in  
29           Chapter 25A or a DHCA equivalent with 15% of the total units  
30           affordable to a household with a household income of 30% percent of  
31           Area Median Income (AMI) or below for at least 30 years.

32   **B.    Exemptions**

- 33           1.    A sketch plan and a site plan are not required for a Mixed-Use  
34           Housing Community if the Planning Board approves a Mixed-Use  
35           Housing Community plan under Section 7.3.7.
- 36           2.    After a Mixed-Use Housing Community is approved, subsequent  
37           additions or expansions of the Mixed-Use Housing Community  
38           building or buildings, in any size or amount, will be processed under  
39           Section 7.3.7 as amendments. The plan, as amended, must still qualify  
40           as a Mixed-Use Housing Community plan under Section 3.3.4.A.
- 41           3.    No off-street parking is required for a Mixed-Use Housing  
42           Community that is located on property:

- 43 a. within a red policy area including contiguous properties
- 44 separated from a red policy area only by a public right-of-way;
- 45 or
- 46 c. within ½ mile of a planned or existing Bus Rapid Transit route
- 47 including the Corridor Connectors.

48 4. The Planning Board may grant a waiver of the commercial use  
 49 requirement if:

- 50 a. the maximum residential density allowed is used; and
- 51 b. the commercial space requirement would result in particular or
- 52 unusual practical difficulty, exceptional or undue hardship, or
- 53 significant economic burden.

54 \* \* \*

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

56 **Division 4.4. Residential Zones**

57 \* \* \*

58 **Section 4.4.2. Optional Method Development**

59 \* \* \*

60 **A. Optional Method MPDU Development**

61 \* \* \*

62 **1. Development Approval Procedure**

63 Site plan approval under Section 7.3.4 is required unless a Mixed-Use  
 64 Housing Community plan is approved under Section 7.3.7.

65 \* \* \*

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

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

68 \* \* \*

69 **Section 4.5.4. Optional Method Development**

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

71 **A. General Requirements**

72 **1. Procedure for Approval**

73 A sketch plan must be approved under Section 7.3.3, unless a  
74 Signature Business Headquarters plan is approved under Section  
75 7.3.5, [or] a Biohealth Priority Campus plan is approved under  
76 Section 7.3.6, or a Mixed-Use Housing Community plan is approved  
77 under Section 7.3.7. A site plan must be approved under Section 7.3.4  
78 for any development on a property with an approved sketch plan.

79 \* \* \*

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

81 **Division 4.6. Employment Zones**

82 **Section 4.6.4. Optional Method Development**

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

84 **A. General Requirements**

85 **1. Procedure for Approval**

86 A sketch plan must be approved under Section 7.3.3, unless a  
87 Signature Business Headquarters plan is approved under Section  
88 7.3.5, [or] a Biohealth Priority Campus plan is approved under  
89 Section 7.3.6, or a Mixed-Use Housing Community plan is approved  
90 under Section 7.3.7. A site plan must be approved under Section 7.3.4  
91 for any development on a property with an approved sketch plan.

92 \* \* \*

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

94 **Division 7.3. Regulatory Approvals**

95 \* \* \*

96 **Section 7.3.3. Sketch Plan**

97 **A. Applicability and Description**

98 1. Development under optional method in the CRT, CR, EOF, or LSC  
99 zone requires approval of a sketch plan, unless the development is  
100 approved as a Signature Business Headquarters plan under Section  
101 7.3.5, [or] a Biohealth Priority Campus plan under Section 7.3.6[.], or  
102 a Mixed-Use Housing Community plan under Section 7.3.7.

103 \* \* \*

104 **Section 7.3.7. Mixed-Use Housing Community Plan**

105 **A. Applicability and Description**

106 A Mixed-Use Housing Community plan provides a detailed overview of a  
107 proposed Mixed-Use Housing Community. A Mixed-Use Housing  
108 Community plan review will be used to determine if the proposed  
109 development satisfies current laws, regulations, and this Chapter, and  
110 substantially conforms with the intent of the applicable master plan and  
111 approved guidelines.

112 **B. Application Requirements**

113 **1. Ownership**

114 **a. An applicant must own the subject property or be authorized by**  
115 **the owner to file the application.**

116 **b. If any land or right-of-way encompassed by a Mixed-Use**  
117 **Housing Community plan application is owned or controlled by**  
118 **the State, County, or any other entity or agency, a written**  
119 **agreement or authorization from that entity or agency must be**  
120 **submitted with the Mixed-Use Housing Community plan**  
121 **application.**

122 **2. A Mixed-Use Housing Community plan application must include:**

- 123 a. a legally binding commitment or other evidence accepted by the  
 124 Planning Director that the Mixed-Use Housing Community will  
 125 meet the requirements of Section 3.3.4;
- 126 b. an application form and fees required by the Planning Director;
- 127 c. a vicinity map at 1" = 200", and a site map showing existing  
 128 buildings, structures, circulation routes, significant natural  
 129 features, historic resources, and zoning and legal descriptions  
 130 on the proposed development site and within 500 feet of the  
 131 perimeter boundary;
- 132 d. a list of abutting and confronting property owners in the State  
 133 tax records;
- 134 e. a list of any civic, homeowners, and renters associations that  
 135 are registered with the Planning Department and located within  
 136 ½ mile of the site;
- 137 f. documentation of property interest in the proposed development  
 138 site under Section 7.3.7.B.1 and, if applicant is not the property  
 139 owner, documentation from the property owner authorizing the  
 140 application;
- 141 g. a statement of justification outlining how the proposed  
 142 development satisfies the standards and criteria required to  
 143 grant the application;
- 144 h. verification that the applicant has posted notice on the property,  
 145 notified affected properties, and held a pre-submittal  
 146 community meeting that followed the Planning Department's  
 147 Administrative Procedures for Development Review process;
- 148 i. a Traffic Statement or Study accepted by the Planning Director,  
 149 if not submitted with a previous or concurrent application;

- 150 j. environmental documentation or exemption for:  
 151 i. an approved Natural Resources Inventory/Forest Stand  
 152 Delineation;  
 153 ii. a Stormwater Management Concept Application or, if  
 154 required, a Water Quality Plan Application; and  
 155 iii. a final Forest Conservation Plan application;  
 156 k. existing and proposed dry and wet utility plan;  
 157 l. plans of proposed development showing:  
 158 i. use, ground-floor layout, building footprints, massing,  
 159 and heights of all on-site buildings and structures, and  
 160 approximate footprints and height for buildings located  
 161 on abutting and confronting lots;  
 162 ii. required open spaces and recreational amenities;  
 163 iii. detailed layout and dimensions for all sidewalks, trails,  
 164 paths, roadways, parking, loading, and bicycle storage  
 165 areas;  
 166 iv. grading;  
 167 v. landscaping and lighting; and  
 168 m. a development program and inspection schedule detailing the  
 169 construction schedule for the project.  
 170 3. The applicant must submit an initial application to the Planning  
 171 Director for approval of completeness. The Planning Director must  
 172 review the application for completeness within 3 business days after  
 173 receipt. An application is incomplete if any required element is  
 174 missing or is facially defective, e.g., a drawing that is not to scale or  
 175 lacks proper signatures. The assessment of completeness must not  
 176 address the merits of the application.



- 177           4.     The applicant must submit any required revisions to the Planning  
178                     Director. The Planning Director must review the revised application  
179                     for completeness within 2 business days after receipt.
- 180           5.     Once the Planning Director verifies that the application is complete,  
181                     the applicant must file the final application with the Planning  
182                     Director, who will accept the application and establish a hearing date  
183                     under Section 7.3.7.C.
- 184           6.     Public notice is required under Division 7.5.

185     **C.   Hearing Date**

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

192     **D.   Review and Recommendation**

- 193           1.     State and County Agencies
- 194                     a.     Reviewing State and County agencies and utilities must submit  
195                             comments within 15 days after the date an application is  
196                             accepted. If no comments are submitted within that time, the  
197                             reviewing agency or utility's portion of the application is  
198                             deemed approved.
- 199                     b.     The applicant must submit revised drawings to address the  
200                             comments a minimum of 25 days before the date of the hearing.  
201                             The Planning Director may extend the deadline if the applicant

202 submits a written request within 5 days after the revised  
203 drawings were due.

204 2. Planning Director

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

207 3. Withdrawal of an Application

208 The Planning Board must send a notice to all parties entitled to notice  
209 of the hearing when an applicant withdraws an application for an  
210 Mixed-Use Housing Community plan.

211 **E. Necessary Findings**

212 To approve a Mixed-Use Housing Community plan, the Planning Board must find  
213 that the proposed development:

214 1. satisfies any previous approval that applies to the site, unless exempt  
215 under Section 3.3.4 or amended;

216 2. satisfies the applicable use and development standards and general  
217 requirements of this Chapter;

218 3. satisfies the applicable requirements of Chapter 19 and Chapter 22A;

219 4. provides safe, well-integrated parking, circulation patterns, building  
220 massing, and site amenities;

221 5. substantially conforms with the intent of the applicable master plan,  
222 existing and approved or pending adjacent development, the  
223 requirements of this chapter, and any guidelines approved by the  
224 Planning Board that implement the applicable plan;

225 6. if on a property in a master plan area that requires staging based on  
226 Non-Auto Driver Mode Share (NADMS), is exempt from the staging  
227 requirement if:

- 228 a. the applicant agrees to enter into a Transportation Demand  
229 Management plan that provides an action plan for substantial  
230 achievement of the applicable NADMS goal;  
231 b. parking below the minimum required under Section 6.2.4 is  
232 provided; and  
233 c. transit, bicycle, and pedestrian infrastructure required by the  
234 applicable stage of the master plan is funded in the Capital  
235 Improvements Program or Consolidated Transportation  
236 Program, or provided by the applicant; and  
237 7. will be served by adequate public services and facilities, including  
238 schools, police and fire protection, water, sanitary sewer, public roads,  
239 storm drainage, and other public facilities.

240 **F. Decision**

- 241 1. The Planning Board must act upon the close of the record of the  
242 public hearing by majority vote of those present to approve, approve  
243 with modifications or conditions, or deny the application. The  
244 Planning Board must issue a resolution reflecting its decision within 7  
245 days of the Planning Board vote.  
246 2. Any party aggrieved by a decision of the Planning Board may file a  
247 petition for judicial review of the decision within 30 days after the  
248 Planning Board's action.  
249 3. Within 30 days of submission, the final Mixed-Use Housing  
250 Community plans must be certified by the Planning Director to  
251 confirm that the drawings reflect the Planning Board's approval. If the  
252 certified plans do not address or comply with the Planning Board's  
253 approval, the plans will be rejected with comments for the applicant to

254 address. If no action is taken by the Planning Director within 30 days,  
 255 the plan is deemed approved and certified.

256 **G. Conforming Permits**

257 For any development requiring a Mixed-Use Housing Community plan, DPS must  
 258 not issue a sediment control permit, building permit, or use-and-occupancy permit  
 259 unless the Planning Board has approved a Mixed-Use Housing Community plan  
 260 and a bond has been approved under Section 7.3.7.K.4.

261 **H. Duration of Approval**

- 262 1. A Mixed-Use Housing Community plan expires unless a certified  
 263 Mixed-Use Housing Community plan is approved by the Planning  
 264 Director within 24 months after the date the resolution is mailed.
- 265 2. A Mixed-Use Housing Community plan does not become effective  
 266 until a record plat, if required, is recorded that satisfies any approved  
 267 subdivision plan for the subject property. If no record plat is required,  
 268 then the Mixed-Use Housing Community plan becomes effective  
 269 upon certification under Section 7.3.6.F.3.
- 270 3. Development activities under Section 7.3.6 must satisfy the certified  
 271 Mixed-Use Housing Community plan and any conditions of approval.
- 272 4. If the Planning Board approves a Mixed-Use Housing Community  
 273 plan, the applicant must have a building permit application, accepted  
 274 by DPS, that includes the core and shell of the principal building  
 275 within two years of the date of the Planning Board's resolution.  
 276 Within two years after DPS accepts the building permit application  
 277 that includes the core and shell of the principal building, the applicant  
 278 must obtain that building permit.
- 279 5. The deadlines under Section 7.3.6.H may be extended with approval  
 280 of the Planning Board by up to 18 months.

281           6.     If an applicant fails to comply with any of the deadlines within this  
 282                     section, the Mixed-Use Housing Community plan approval shall be  
 283                     revoked. The applicant may request reinstatement of a revoked  
 284                     approval within 30 days of revocation. After holding a hearing on the  
 285                     reinstatement, the Planning Board may reinstate the approval and  
 286                     extend the deadline for good cause shown.

287     **I.     Recording Procedures**

288     The certified Mixed-Use Housing Community plan and Planning Board resolution  
 289     must be maintained in the permanent files of the Planning Department.

290     **J.     Amendments**

291     Any property owner may apply for a Mixed-Use Housing Community plan  
 292     amendment to change a certified Mixed-Use Housing Community plan. There are  
 293     two types of amendments: a major and a minor amendment.

294           1.     Major Amendment

- 295           a.     A major amendment includes any request to:
  - 296                     i.     increase density or height by more than that allowed  
 297                             under a minor amendment (Section 7.3.6.J.2);
  - 298                     ii.    decrease open space;
  - 299                     iii.   deviate from a condition of approval; or
  - 300                     iv.   alter a basic element of the plan.
- 301           b.     Public notice is required under Division 7.5.
- 302           c.     A major amendment must follow the same hearing procedures  
 303                     and satisfy the same necessary findings as the original Mixed-  
 304                     Use Housing Community plan.

305           2.     Minor Amendment

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

- 307 i. increase density by up to 10% or 15,000 square feet,  
308 provided the increase is less than or equal to the total  
309 mapped density, including any density increases or  
310 bonuses;
- 311 ii. increase height by up to 10%, provided the height is less  
312 than or equal to the height and any increases allowed  
313 under Section 3.5.8.D;
- 314 iii. change an ancillary use, a parking or loading area,  
315 landscaping, sidewalk, recreational facility or area,  
316 configuration of open space, or any other plan element  
317 that will have a minimal effect on the overall design,  
318 layout, quality or intent of the plan; or
- 319 iv. a reduction in approved parking to satisfy Article 59-6,  
320 but not any change that prevents circulation on any street  
321 or path.
- 322 b. Public notice is required under Division 7.5.
- 323 c. A minor amendment may be approved by the Planning Director  
324 without a public hearing if no objection to the application is  
325 received within 15 days after the application notice is sent. If an  
326 objection is received within 15 days after the application notice  
327 is sent, and the objection is considered relevant, a public  
328 hearing is required. A public hearing must be held under the  
329 same procedures as an original application.

330 **K. Compliance and Enforcement**

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

- 333 under development is not in compliance with a certified Mixed-Use  
 334 Housing Community plan, it may:
- 335 a. impose a civil fine or administrative civil penalty authorized by  
 336 Chapter 50 (Section 50.10.6.D);
  - 337 b. suspend or revoke the non-compliant portion of the Mixed-Use  
 338 Housing Community plan approval;
  - 339 c. order a compliance program that would permit the applicant to  
 340 take corrective action to satisfy the certified Mixed-Use  
 341 Housing Community plan;
  - 342 d. allow the applicant to propose modifications to the certified  
 343 Mixed-Use Housing Community plan; or
  - 344 e. take any combination of these actions.
- 345 2. If the Planning Board or its designee finds that the applicant has failed  
 346 to comply with a compliance program approved under Section  
 347 7.3.6.K.1.c, the Planning Board may, without holding any further  
 348 hearing, take any of the actions identified in Section 7.3.6.K.1.a  
 349 through Section 7.3.6.K.1.e.
- 350 3. If the Planning Board suspends or revokes all or any portion of a  
 351 Mixed-Use Housing Community plan, DPS must immediately  
 352 suspend any applicable building permit under which construction has  
 353 not been completed or withhold any applicable use-and-occupancy  
 354 permit, until the Planning Board reinstates the applicable portion of  
 355 the Mixed-Use Housing Community plan or approves a new plan for  
 356 the development.
- 357 4. The Planning Board may require the applicant to post a commercially  
 358 acceptable form of surety securing compliance with and full  
 359 implementation of specified features of the certified Mixed-Use

360                    Housing Community plan in an amount set by the Planning Board. If  
361                    such surety is required, DPS must not issue a building permit or use-  
362                    and-occupancy permit until such surety is accepted.

\* \* \*



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

365 **Division 7.5. Notice Standards**

366 **Section 7.5.1. Notice Required**

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

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

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

368 **KEY:** x = Required

369

\* \* \*

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

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

Ordinance No.: \_\_\_\_\_  
Subdivision Regulation Amendment No.: 23-01  
Concerning: Administrative Subdivision –  
Mixed-Use Housing Community  
Revised: 3/9/2023 Draft No.: 1  
Introduced: March 28, 2023  
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**

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Lead Sponsors: Councilmembers Sayles and Friedson

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**AN AMENDMENT to:**

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

By amending

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

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

ORDINANCE

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

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

2   \*   \*   \*

3   **DIVISION 50.6. Administrative Subdivision Plan**

4   \*   \*   \*

5   **Section 6.1. Applicability**

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

9   \*   \*   \*

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

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

24   \*   \*   \*

25           **Sec. 2. Effective Date.** This amendment takes effect 20 days after the date of  
26 Council adoption.

 **Montgomery Planning****CLIMATE ASSESSMENT FOR  
ZTA 23-02, REGULATORY APPROVALS – MIXED-USE HOUSING  
COMMUNITIES****PURPOSE OF CLIMATE ASSESSMENTS**

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

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

**SUMMARY**

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



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## BACKGROUND AND PURPOSE OF ZTA 23-01

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

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## VARIABLES THAT COULD AFFECT THE ASSESSMENT

### CLIMATE-RELATED VARIABLES

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

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

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

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

### OTHER VARIABLES

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

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## ANTICIPATED IMPACTS

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

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

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

#### COMMUNITY RESILIENCE AND ADAPTIVE CAPACITY

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

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

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

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

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#### RECOMMENDED AMENDMENTS

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

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

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## SOURCES OF INFORMATION, ASSUMPTIONS, AND METHODOLOGIES USED

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

## Recently Built and Pipeline Affordable Housing Projects

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

\*Pipeline and/or Under Construction

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

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

\*Pipeline and/or Under Construction