INCENTIVE ZONING UPDATE:

WORK SESSION #2

INCENTIVE ZONING UPDATE

IMPROVING THE PUBLIC BENEFITS POINT SYSTEM FOR CR AND EMPLOYMENT ZONES

Draft Recommendations for each public benefit proposed for the CR and CRT zones as a part of the Incentive Zoning Update Study.

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Incentive Zoning Update:
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SUMMARY

- Staff will present the thirteen public benefits proposed under the four overall categories and explain the proposed tiered structure for each public benefit. Staff will also provide an overview of the financial feasibility analysis and development prototypes that were created to test the proposed public benefit recommendations. At this session, Staff requests the Planning Board provide input on the various public benefits, tiers of participations and payment-in-lieu options.

ATTACHMENTS

Attachment A – Detailed Tables outlining Proposed Public Benefits within a 4-Tier Structure

Attachment B – Interagency coordination with MCDOT

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RECAP OF WORKSESSION #1

PROPOSED CATEGORIES

As a reminder from Work Session #1, Staff is recommending to not require public benefits from EOF zoned properties and regulate the delivery of public benefits in the LSC zone through the Great Seneca Life Science Overlay Zone as proposed by the team updating the Great Seneca Plan. For the CR and CRT zone, Staff is recommending simplifying the structure of the new system and better align with the county's key policy priorities. In doing so, we are proposing to consolidate the menu of public benefits under four categories that align with the County's key policy priorities outlined in Thrive and the Climate Action Plan and also represent critical local needs highlighted through sector plans. The chart below summarizes these four categories and the thirteen distinct public benefits they contain.

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

Figure 1 - Chart showing the distribution of proposed public benefits within the four categories.

STRUCTURE FOR TIERED FAR EVALUATION FOR THE CR AND CRT ZONE

Staff is proposing to modernize the calculation of public benefits in alignment with regional and national best practices, based on FAR. Projects looking to build beyond the proposed Standard Method threshold of 0.5 FAR in the CR and CRT zone will be required to provide public benefits to earn the right to build to the higher 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 2 - 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.

RECOMMENDED PUBLIC BENEFITS AND TIERS FOR THE CR AND CRT ZONE

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. More details are contained in the tables included as Attachment A. 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.

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 and Countywide Planning 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.

RECOMMENDED PUBLIC BENEFITS FOR HOUSING		
Providing MPDUs greater than required by code/sector plan.	Family sized market rate and affordable units for rent and sale.	Deeper levels of affordability as Average Median Income (AMI).

Figure 3 – Table showing recommended public benefits for Housing with examples of low-, mid-, and high-rise multifamily development

Providing MPDUs greater than required by Code/Sector Plan

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. Staff 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 intergeneration household. Since these units are more costly to build and operate on a per square foot basis, Staff 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 Staff'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 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.

ENVIRONMENTAL RESILIENCE

The Environmental Resilience category incentivizes energy efficient buildings, the use of renewable energy and incorporation of green 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, green site design, and flood risk mitigation,

Staff aims 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.

RECOMMENDED PUBLIC BENEFITS FOR ENVIRONMENTAL RESILIENCE		
Energy	**Green Buildings**	**Sustainable Site Design**
Exceed energy efficiency standards. Use renewables and/or generate onsite energy to work towards net zero target.	Meet/Exceed Alternative Compliance Path through LEED Certification other DPS approved certification programs.	Green site design principles such as tree retention, biophilic design, enhanced green roof, bird friendly design, pervious pavement surfaces, and adaptive reuse of buildings.

Figure 4 – Table showing recommended public benefits for Environmental Resilience with examples of green design features

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 Efficiency

This public benefit incentivizes the delivery of energy efficient buildings beyond what is required by the base County Construction Code and Green Code. Similar to the Renewable Energy public benefit, projects earn the right to build a certain amount of their mapped FAR by providing different 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. It should be noted that the current system also incentivizes buildings that exceed energy efficiency standards and that the Bethesda Downtown Sector Plan made this category a requirement for certain projects within the plan area. This is a valuable public benefit and should be continued with this proposed update.

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.

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, details of which can be found in Attachment A. 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.

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 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 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. Staff's current recommendation is 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 but are requesting guidance from the Planning Board on this approach. In the past, regulatory reviewers have avoided "double-dipping", i.e., giving points for some public benefits that are a regulatory requirement, but have not done so consistently. Staff's perspective is that this policy should be focused on getting the needed public benefits regardless of whether they a regulatory requirement or an optional element that can be included within a project.

RECOMMENDED PUBLIC BENEFITS FOR INFRASTRUCTURE FOR COMPACT GROWTH		
Offsite Improvements	**Public Facilities**	**Grid and Trail Extensions**
Offsite improvements including streetscapes, bicycle facilities and flood conveyance, storage, and stormwater management facilities.	Public Facilities such as bus/BRT stations, fire/EMS stations and undergrounding of utilities.	Extension of the street grid and network of trails.

Figure 5 – Table showing recommended public benefits related to Infrastructure 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. 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. Staff believes 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.

Public Facilities

The public benefits within this category will depend largely on the needs of a given master or sector plan, however staff is recommending that within the lower FAR tiers, smaller public facilities such as bus/BRT stops and bike parking be eligible to earnt 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 parking garage with an estimated cost of at least 1 million dollars. Tiers 2 and 3 alow FAR for projects that will underground existing transformers, utility boxes and overhead utilities along the Site frontage or offsite within the plan area.

Street 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.

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.

RECOMMENDED PUBLIC BENEFITS FOR COMPLETE COMMUNITIES			
Art & Placemaking	**Neighborhood Services & Mixed Use**	**Great Public Realm**	**Design Excellence**
Provide public art, placemaking activities, affordable housing for artists, and cultural 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.	Implement design excellence strategies related to building footprint, massing, architecture, parking, wellness etc.

Figure 6 – 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 local arts nonprofits that may provide such amenities within the applicable master or 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.

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.

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.

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. Staff created a list of nine 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 and well-being, through air, water, nourishment, light, fitness, comfort and mind.

The top tier participation in this public benefit requires a project to achieve all 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.

DEVELOPMENT SCENARIOS AND FEASIBILITY ANALYSIS

To evaluate the recommended structure and proposed public benefits, Staff utilized the same development scenarios used in the analysis phase to evaluate the current system of public benefit points. Working alongside our real estate consultant, Hayat Brown, the project team compared the costs to provide public benefits under the current menu and the proposed version and analyzed what impact the provision of public benefits had on each development scenario's financial feasibility. Staff adjusted the recommended public benefits iteratively to ensure projects remained financially feasible while delivering public benefits commensurate with the value of the incentive density being approved. To account for variations in market conditions and construction typologies, development scenarios are representative of typical developments with a variety of building types in locations across the County:

1) **Urban High Rise 0.75 Acres** scenario is representative of a project located in a Central Business District such as Bethesda, that delivered the highest level of density on the smallest site studied, using concrete and steel high rise construction.
2) **Urban High Rise 1.66 Acres** scenario is representative of a project within a downtown area that delivered a substantial amount of density on a slightly larger site, using concrete and steel high rise construction as well.
3) **TOD Multi Block 25 Acres** scenario is representative of a larger site typically found in the Midcounty area that would provide a large multiphase development of medium FAR, using a combination of concrete and steel high rise construction as well as mid-rise wood-over-concrete construction.
4) **Suburban Podium 3 Acres** scenario is representative of a typical mid-rise project with an average site of 3 acres and medium density, using a mid-rise, wood-over-concrete construction.
5) **Exurban Multi Block 25 Acres** scenario is representative of a larger site typically found in the Upcounty area that would provide a multiphase development with lower FAR comprising mostly of townhouses and two-over-twos.

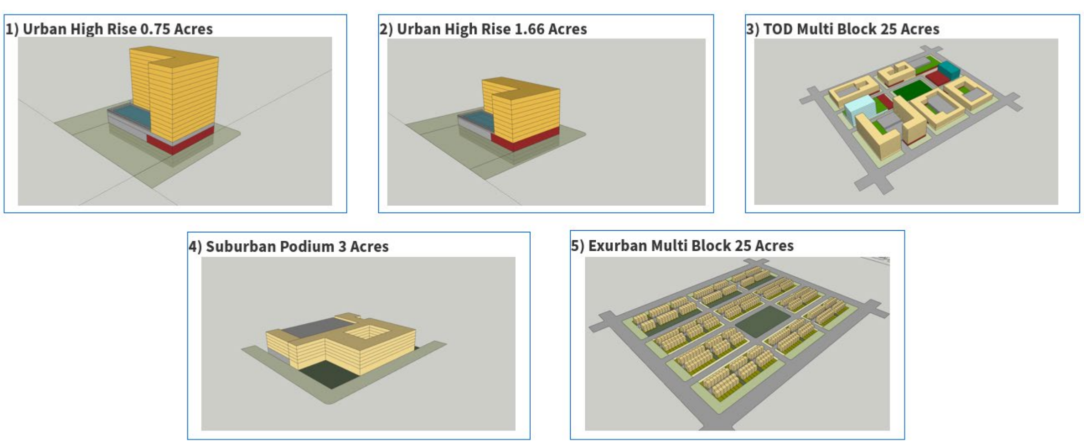

Figure 7 – Five development scenarios were created to test the feasibility of typical projects while providing public benefits under the existing and proposed system

The feasibility analysis was developed to estimate the value of incentive density and its relationship to the cost of providing public benefits. Planning staff prepared these five detailed development scenarios, as mentioned above, with each scenario including one standard method development prototype and at least one optional method prototype. The difference between the feasibility surplus or gap[1] of standard method prototypes and the larger optional method prototypes served as the estimate for the value of incentive density. While there is no target value that would incentivize the choice of an optional method project over a standard method project, this analysis did establish a sense of scale for the value of the incentive density.

This analysis also estimated the amount development costs could increase by, while remaining within a target Return on Cost[2] (ROC). ROC is typically presented as a percentage. Lenders and developers seek a minimum ROC to determine whether their project is feasible, with the target ROC depending on the product type. Housing products tend to have lower minimum ROC thresholds than nonresidential products because housing development is less risky from a financial perspective. This analysis calculated the dollar amount by which development costs could increase by while remaining within the target ROC.

PROVISION OF PUBLIC BENEFITS

A FLEXIBLE APPROACH TO DELIVERING PUBLIC BENEFITS

In Work Session #1, Staff presented three ways that projects could utilize the new system to achieve their mapped FAR: a Mixed Bag Approach, Limited Categories Approach, and a Top Tier Approach. While there are more ways that a Project could utilize the new system, Staff developed these three to demonstrate how it is intended to be flexible based on various development scenarios at play.

[1] Feasibility surplus or gap is equal to Total Development Costs minus Market Value for each prototype.
[2] Return on Cost (ROC) is equal to net operating income (NOI) divided by total development costs in rental products, and sale proceeds divided by total development costs in for-sale products.

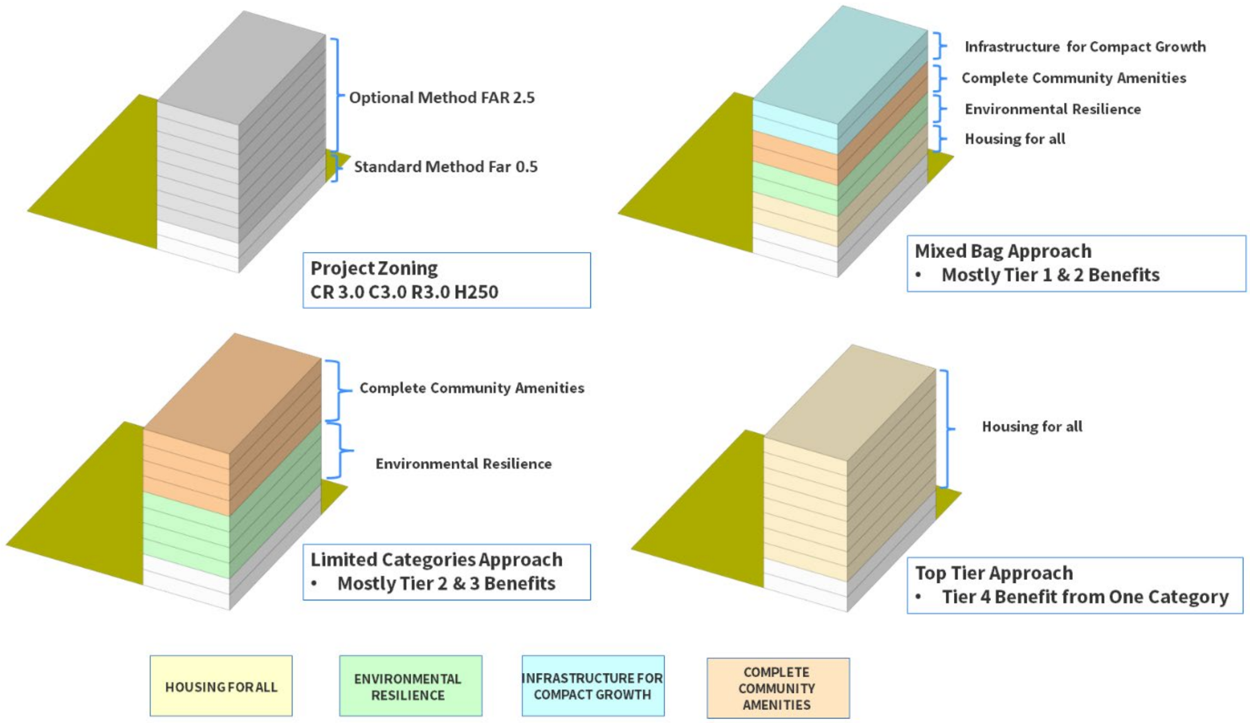

Figure 8 - Diagram showing how Optional Method projects could provide public benefits in a variety of ways to earn the right to build beyond the 0.5 Standard Method FAR.

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.

Staff has identified the following public benefits where a payment in lieu could be considered:

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

- Great Public Realm

Staff 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. Staff also recommends that the rate of payments be adjusted annually 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.

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

Staff will use 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 will highlight 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 9 – Image of Ava Wheaton, approved and constructed under the existing CR Guidelines

The Project resulted in a total FAR of 1.75 and is representative of development scenario #3, 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. 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 public sector 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.t

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

At the next work session Staff will outline the plan for implementation, which will address next steps for County Council review and development of the Zoning Text Amendment necessary to bring the recommendations to fruition. This will also address the future development of Implementation Guidelines, and how to transition from the old system to fully integrate the new system in the regulatory review process.