

PLANNING BOARD POLICY 2022-01 DE MINIMIS PAYMENT UPDATE

Description

Request to amend Planning Board Policy 2022-01 to update the per linear foot de minimis payment rate consistent with the method for calculating future increases. De minimis payments may be accepted in lieu of constructing pedestrian and bicycle frontage improvements on very small residential and commercial projects. Planning Board Policy 2022-01 determines when to approve waivers for pedestrian and bicycle frontage improvements and how to calculate applicable de minimis payments.

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BACKGROUND

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De minimis payments may be accepted in lieu of constructing pedestrian and bicycle frontage improvements on very small residential and commercial projects. Planning Board [Policy 2022-01A](#) (Attachment A) determines when to approve waivers for pedestrian and bicycle frontage improvements and how to calculate applicable de minimis payments.

PURPOSE AND INTENT OF PLANNING BOARD POLICY 2022-01

The Planning Board adopted Policy 2022-01, De Minimis Criteria for Very Small Residential and Commercial Development Projects, in March 2022. In the preceding years, the Planning Department received requests for waivers from constructing all or parts of pedestrian and bicycle improvements along the property frontage as part of very small residential and commercial projects.

One of the most common reasons that applicants request waivers for pedestrian and bicycle frontage improvements is in instances where the cost of frontage improvements is excessive compared to the size and impact of the project. In these instances, the cost of the frontage improvements may outweigh the project's projected impacts.

[Policy 2022-01A](#) provides a consistent, criteria-based approach for determining when to approve these requests and how to set a de minimis payment.

The policy initially established a de minimis payment rate of \$115.20 per linear foot which was subsequently updated in June 2023 to \$137.92. The policy specifies that the Planning Board will adjust the payment every odd-numbered year based on the two-year cumulative change in the Engineering-News Record's Baltimore Construction Cost Index. The current rate expires on June 30, 2025.

ANALYSIS AND RECOMMENDATION

ANALYSIS

Planning staff adjusted the de minimis rates based on the two-year cumulative change in the Engineering-News Record's Baltimore Construction Cost Index. This is the same source used by the

Montgomery County Director of Finance to adjust Development Impact Taxes for Transportation Improvements and Public School Improvements. For the two-year period encompassing calendar years 2023 and 2024, the cumulative decrease is 5.42%. Applying this index to the \$137.91 per linear foot de minimis rate results in a decrease of \$7.48 to \$130.44 per linear foot.

Planning staff proposes the following edits to Policy 2022-01:

- Establishment of De Minimis Payments: The Planning Board will adjust the de minimis payment every odd-numbered year based on the two-year cumulative change in the Engineering-News Record's Baltimore Construction Cost Index. The de minimis payment will be ~~\$137.91~~ \$130.44 per linear foot through June 30, ~~2025~~ 2027.

RECOMMENDATION

Planning staff recommends increasing the de minimis rate by \$7.48 to \$130.44 per linear foot. The new de minimis rate will become effective July 1, 2025. The increased rate will apply to development applications accepted by the Planning Department beginning July 1, 2025. The proposed updated policy for De Minimis Criteria for Very Small Residential and Commercial Development Projects is included in Attachment B.

ATTACHMENTS

- Attachment A: Planning Board Policy on De Minimis Criteria (2022-01A)
- Attachment B: Revised Planning Board Policy on De Minimis Criteria (2022-01B)