



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

Attachment A

AGENDA ITEM #13A

December 2, 2025

Introduction

SUBJECT

Zoning Text Amendment (ZTA) 25-14, Optional Method Public Benefits – Overlay Zones

Lead Sponsor: Planning, Housing, and Parks (PHP) Committee

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- To introduce agenda item – no vote expected

DESCRIPTION/ISSUE

ZTA 25-14 will amend the Overlay Zones to make them consistent with the new Optional Method Public Benefits system.

SUMMARY OF KEY DISCUSSION POINTS

- In July 2025, the Council adopted [ZTA 25-05, Development Standards – Optional Method Public Benefits](#). That ZTA created new Optional Method Public Benefits standards. At that time, Planning and Council Staff recommended the PHP Committee and District Council first make decisions on the new system, and then subsequently introduce a ZTA to apply the new system to the Overlay Zones. The Overlay zones to be amended made localized changes to the prior public benefits points system and required additional review to ensure that those specific standards fit within the new system. The Committee agreed and now requests the introduction of that promised measure.
- ZTA 25-05 is not effective until January 1, 2026, to reduce the delay between when it goes into effect, adoption of the Implementation Guidelines, and introduction of this overlay zone ZTA. Until that effective date, persons should reference the adopted [ZTA 25-05](#) instead of [AmLegal](#), the County's online website for the current Zoning Ordinance; since AmLegal reflects effective laws.
- ZTA 25-14 will apply the new Optional Method Public Benefits standards adopted in ZTA 25-05 to the Overlay zones. The impacted Overlay zones are the: Bethesda (B) Overlay Zone; Downtown Silver Spring (DSS) Overlay Zone; Germantown Transit Mixed Use (GTMU) Overlay Zone; Great Seneca Life Sciences (GSLS) Overlay Zone; and Transferable Development Rights (TDR) Overlay Zone.
- ZTA 25-14 will also grandfather the existing public benefits points system standards from the Overlay Zones to allow for a transition period.

- A public hearing is tentatively scheduled for January 13, 2025.

This report contains:

ZTA 25-14

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Ordinance No.: _____
Zoning Text Amendment No.: 25-14
Concerning: Optional Method Public
Benefits – Overlay Zones
Revised: 11/26/2025 Draft No.: 1
Introduced: December 2, 2025
Public Hearing: _____
Adopted: _____
Effective: _____

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

Lead Sponsor: Planning, Housing, and Parks Committee

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- (1) amend the Overlay Zones to make them consistent with the Optional Method Public Benefits system;
- (2) grandfather the existing public benefits points system standards from the Overlay Zones;
- (3) generally amend the public benefits system.

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

Division 4.7.	“Optional Method Public Benefits”
Section 4.7.1.	“General Provisions”
Section 4.7.3.	“Public Benefit Descriptions and Criteria”
Division 4.9.	“Overlay Zones”
Section 4.9.2.	“Bethesda (B) Overlay Zone”
Section 4.9.7.	“Downtown Silver Spring (DSS) Overlay Zone”
Section 4.9.11.	“Germantown Transit Mixed Use (GTMU) Overlay Zone”
Section 4.9.12.	“Great Seneca Life Sciences (GSLS) Overlay Zone”
Section 4.9.18.	“Transferable Development Rights (TDR) Overlay Zone”
Division 8.4.	“Optional Method Public Benefits”
Section 8.4.1.	“General Provisions”

And adding:

Section 8.4.4 “Overlay Zones”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*

Underlining indicates text that is added to existing law by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

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

Sec. 1. DIVISION 59-4.7 is amended as follows:

Division 4.7. Optional Method Public Benefits

Section 4.7.1. General Provisions

B. General Public Benefit Considerations

* * *

7. A master plan may modify the public benefits options under Section 4.7.2.A. including adding, prioritizing, modifying, or prohibiting the use of certain public benefits, and modifying the compliance criteria or the tiers of participation under Section 4.7.3. These modifications must be discussed in the implementation section of the master plan. Adding, modifying, or prohibiting the use of certain public benefits, and modifying the compliance criteria or the tiers of participation under Section 4.7.3, must be [and] reflected through an overlay zone.

* * *

Section 4.7.3. Public Benefit Descriptions and Criteria

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B. Local Needs from Applicable Master Plans

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

1. Infrastructure for Compact Growth

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

a. Offsite Improvements

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

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

32 (a) offsite streetscape improvements greater than 2,000
33 square feet, or with an estimated cost greater than or
34 equal to \$100,000 but less than \$300,000, that are
35 consistent with County guidelines or master plan
36 recommendations, or;

37 (b) [contribute] make a payment in lieu at a minimum
38 of \$0.33 per square foot of gross floor area proposed
39 within a development application to a CIP project
40 within the same master plan area.

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

42 (a) offsite streetscape improvements greater than 4,000
43 square feet, or with an estimated cost greater than or
44 equal to \$300,000 but less than \$500,000, that are
45 consistent with County guidelines or master plan
46 recommendations;

47 (b) construct offsite bikeways greater than 1,000 linear
48 feet, or with an estimated cost greater than or equal
49 to \$300,000 but less than \$500,000, consistent with
50 the applicable master plan; or

51 (c) [contribute] make a payment in lieu at a minimum
52 of \$1.00 per square foot of gross floor area proposed

within a development application to a CIP project within the same master plan area.

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

(a) offsite streetscape improvements greater than 5,000 square feet, or with an estimated cost greater than or equal to \$500,000 but less than \$1,000,000, that are consistent with County guidelines or master plan recommendations;

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

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

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

- iv. Tier 4 must provide an offsite major transportation improvement, a major improvement or reinforcement to runoff conveyance or storage, or a stormwater treatment facility with an estimated cost greater than \$1,000,000. This Tier 4 improvement must be recommended in the relevant master plan.

b. Public Facilities

79 A development application that provides space for, or constructs,
80 Public Facilities such as bus stops, bus stations, bicycle parking and
81 storage, utility boxes, public parking, and major facilities such as police
82 or fire stations is eligible for incentive density. Public Facilities such as
83 libraries, community centers, or park spaces are covered under [Section
84 59.4.7.3.B.2.] Section 4.7.3.B.2. Public Facilities are often identified
85 and prioritized by applicable master plans.

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

87 (a) dedicate land or construct a public facility such as a
88 bus stop, BRT station, or bicycle parking, with an
89 estimated cost greater than or equal to \$100,000 but
90 less than \$300,000;

91 (b) underground or locate within a building existing
92 electric transformers and other utility boxes located
93 along a site frontage with an estimated cost greater
94 than or equal to \$100,000 but less than \$300,000; or

95 (c) [contribute] make a payment in lieu at a minimum
96 of \$0.33 per square foot of gross floor area proposed
97 within a development application to an identified
98 county CIP project within the same master plan
99 area.

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

101 (a) dedicate land or construct a public facility such as a
102 bus stop, BRT station, or bicycle parking, with an
103 estimated cost greater than or equal to \$300,000 but
104 less than \$500,000;

105 (b) underground, or locate within a building, existing
106 electric transformers and other utility boxes located
107 along a site frontage with an estimated cost greater
108 than or equal to \$300,000 but less than \$500,000; or
109 (c) [contribute] make a payment in lieu at a minimum
110 of \$1.00 per square foot of gross floor area proposed
111 within a development application to an identified
112 county CIP project within the same master plan
113 area.

114 iii. Tier 3 must provide at least one of the following:
115 (a) dedicate land or construct a public facility such as a
116 BRT station, or enhance an existing light rail or
117 metro rail station with an estimated cost greater than
118 or equal to \$500,000 but less than \$1,000,000;
119 (b) underground existing overhead utilities along a site
120 frontage, or another location offsite within the
121 master plan area, with an estimated cost greater than
122 or equal to \$500,000 but less than \$1,000,000; or
123 (c) [contribute] make a payment in lieu at a minimum
124 of \$2.00 per square foot of gross floor area proposed
125 within a development application to an identified
126 county CIP project within the same master plan
127 area.

128 iv. Tier 4 must provide at least one of the following:
129 (a) dedicate land and fully construct a major public
130 facility such as a police or fire station, or a public

parking garage, with an estimated cost greater than \$1,000,000; or

(b) underground all existing overhead utilities along a site frontage, or another location offsite within the master plan area, with an estimated cost greater than \$1,000,000.

c. Street Grid and Multi-Modal Extensions

A development application that enhances the transportation network by completing missing sections of master planned transportation infrastructure or enhancing the quality of the area transportation network by providing new bike and pedestrian connections or reducing the number of curb cuts into rights-of-way is eligible for incentive density.

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

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

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

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

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

(a) construct a publicly accessible trail greater than or equal to 3,500 linear feet but less than 6,000 linear

- (b) [contribute] make a payment in lieu at a minimum of \$1.00 per square foot of gross floor area proposed within a development application to a CIP project within the master plan area; or
- (c) build at least one new through street that bisects an existing block as recommended by an applicable master plan or meets the intersection spacing standards in Chapter 50 of the County Code. The street must meet the preferred standards of the Complete Streets Design Guide.

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

- (a) construct a publicly accessible trail greater than or equal to 6,000 linear feet in length or with an estimated cost greater than or equal to \$500,000 but less than \$1,000,000; or
- (b) design a development site providing at least 2 new street connections, or future street connections such as a stub road, with an adjacent property as recommended by an applicable master plan or meeting the intersection spacing standards in Chapter 50 of the County Code. The streets must meet the preferred design standards of the Complete Streets Design Guide.

iv. Tier 4 must construct a transportation connection identified by a master plan over an environmentally

185 sensitive area or across a major arterial highway that will
186 contribute to the bike, pedestrian, or transit network in the
187 area with an estimated cost greater than \$1,000,000.

188 **2. Complete Community Amenities**

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

192 **a. Art and Placemaking**

193 A development application that installs public art, provides accessible
194 programming in open spaces, or promotes the arts through providing
195 affordable housing, workspaces, and gallery space for the arts and
196 theater is eligible for incentive density. Contributions for art or
197 placemaking may be received by the Public Arts Trust Steering
198 Committee (PATSC), an urban district, a business improvement
199 district, an arts and entertainment district, or a Regional Services
200 Center.

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

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

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

209 (c) [contribute] make a payment in lieu at a minimum
210 of \$0.33 per square foot of gross floor area proposed

211 within a development application for the purpose of
212 providing and maintaining public art.

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

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

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

221 (c) [contribute] make a payment in lieu at a minimum
222 of \$1.00 per square foot of gross floor for the
223 purpose of providing and maintaining public art.

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

229 (b) [contribute] make a payment in lieu at a minimum
230 of \$2.00 per square foot of gross floor area proposed
231 within a development application for the purpose of
232 providing and maintaining public art.

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c. Great Public Realm

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

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- i. Tier 1 must provide at least one of the following:
 - (a) intergenerational amenities and inclusive design features over at least 0.25 acres of the required onsite public open space with an estimated cost greater than or equal to \$100,000 but less than \$300,000;
 - (b) improve an existing park or privately-owned public open space with intergenerational amenities and inclusive design features over at least 0.25 acres with an estimated cost greater than or equal to \$100,000 but less than \$300,000; or
 - (c) [contribute] make a payment in lieu at a minimum of \$0.33 per square foot of gross floor area proposed within a development application for creating or improving public spaces as recommended by an applicable master plan.
- ii. Tier 2 must provide at least one of the following:
 - (a) exceed the minimum required public open space for a development application by 50%, and include a privately-owned publicly accessible open space, or a dedicated, constructed, and conveyed park facility

265 that is a minimum 0.25 acre Neighborhood Green
266 as described in the Energized Public Spaces Design
267 Guidelines; or

268 (b) [contribute] make a payment in lieu at a minimum
269 of \$1.00 per square foot of gross floor area proposed
270 within a development application for creating or
271 improving public spaces as recommended by an
272 applicable master plan.

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

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

279 (b) [contribute] make a payment in lieu at a minimum
280 of \$2.00 per square foot of gross floor area proposed
281 within a development application for creating or
282 improving public spaces as recommended by an
283 applicable master plan.

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

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290 **Sec. 2. DIVISION 59-4.9 is amended as follows:**

291 **Division 4.9. Overlay Zones**

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293 **Section 4.9.2. Bethesda (B) Overlay Zone**

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295 **C. Development Standards**

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297 **3. Moderately Priced Dwelling Units (MPDUs)**298 **a. General Requirement**

299 For any development application that includes 20 or more residential
300 dwelling units, the Planning Board may only approve the application if
301 the development provides at least 15% MPDUs under the provisions of
302 Chapter 25A. The provisions of Section 4.9.2.C.3.b through Section
303 4.9.2.C.3.d apply to any development application that is required to
304 provide a minimum 15% MPDUs and includes family-sized MPDUs
305 that exceed the minimum number required under Chapter 25A or
306 deeply affordable MPDUs as defined by the Department of Housing
307 and Community Affairs.

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309 **d. Public Benefit Points**

310 i. The Planning Board may only grant [public benefit points]
311 incentive density from the public benefit MPDUs under
312 Section 4.7.3.A.1.a for providing more than 15% of the
313 residential units as MPDUs under Chapter 25A.

314 ii. The Planning Board may grant [MPDU public benefit
315 points] incentive density from the public benefit MPDUs
316 under Section 4.7.3.A.1.a between the tiers at a pro-rata
317 rate of FAR for providing more than 15% MPDUs by
318 either providing the MPDUs on site, or for the protection

of an existing off-site dwelling unit with an MPDU agreement with DHCA [at the rate of 15 points for every 1% of the number of units in the project above 15%. Any fraction of 1% increase in MPDUs entitles the applicant to an equal fraction of 15 points]. For [points] incentive density to be awarded, at least one more MPDU than would be required at 15% must be provided.

- [iii. For a project providing more than 15% MPDUs, one less public benefit point category than required under Section 4.5.4.A.2 must be satisfied.]
- [iv. For a project providing at least 20% MPDUs, other public benefit point categories are not required except for: 1) Exceptional Design, and 2) Energy Conservation and Generation in the High-Performance Area.]

4. Public [Benefit Points] Benefits

The requirements for providing public [benefit points] benefits to achieve incentive density are established by Division 4.7, except as provided in Section 4.9.2.C.3. and as follows:

- a. [The Planning Board must not grant any public benefit points for transit proximity under Section 59.4.7.3.B.] Providing public benefits under Division 4.7. is only required to achieve incentive density requested by a development application. Public benefits are not required for any BOZ density purchased by or awarded to a development.
- b. Park [Impact] CIP Payment
 - i. If a Park Impact Payment is not required under Section 59.4.9.2.C.2.b.ii and the applicant makes a payment, the

Planning Board may grant one point for every \$5,000 payment up to 20 public benefit points.]

[ii.] If a Park Impact Payment is required under Section 59.4.9.2.C.2.b.ii, the Planning Board may grant public benefit points only if the Park Impact Payment exceeds the minimum required. The number of public benefit points that the Planning Board may grant is determined by dividing the amount of the payment greater than the required payment by the required payment, and multiplying this result by 100.] An applicant may receive incentive density from the public benefit Great Public Realm under Section 4.7.3.B.2.c. by making a payment in lieu contribution toward a Montgomery Parks CIP within the Bethesda Overlay Zone based on the gross floor area of the proposed development.

[iii. The maximum number of points from a Park Impact Payment is 30.]

c. Within the High-Performance Area designated in the Bethesda Downtown Plan, the Planning Board must determine that the development [exceeds the applicable building or energy code standards] achieves a minimum of Tier 1 from the public benefit Energy Efficiency under Section 4.7.3.A.2.a.

d. If the applicant reaches an agreement with the Department of Housing and Community Affairs to retain or provide affordable housing rents for dwelling units located anywhere in the Overlay zone area, the Planning Board may grant [6 public benefit points for every 1% of units in the project included in the rental

373 agreement. Any fraction of 1% increase in the number of units
374 covered by the agreement entitles the applicant to an equal
375 fraction of 6 points.] incentive density under the public benefit
376 MPDUs under Section 4.7.3.A.1.a. for providing affordable
377 housing units covered by a rental agreement with the Department
378 of Housing and Community Affairs based on the following
379 modified tiers:

- 380 i. Tier 1 must provide or retain affordable housing units
381 greater than or equal to 5% and less than 10% of the
382 applications total number of dwelling units;
- 383 ii. Tier 2 must provide or retain affordable housing units
384 greater than or equal to 10% and less than 15% of the
385 applications total number of dwelling units;
- 386 iii. Tier 3 must provide or retain affordable housing units
387 greater than or equal to 15% and less than 20% of the
388 applications total number of dwelling units; and
- 389 iv. Tier 4 must provide or retain affordable housing units
390 greater than or equal to 20% of the applications total
391 number of dwelling units.

392 For this purpose, affordable housing is defined as rents that are
393 affordable to a household with a household income of 80%
394 [percent] of Area Median Income (AMI) or below, for at least 20
395 years. The agreement with [the Department of Housing and
396 Community Affairs] DHCA may include limits on the income of
397 residents for the affordable dwelling units.

398 [e. If an applicant reaches an agreement with the Department of
399 Housing and Community Affairs and another property owner for

400 the use of an off-site existing dwelling, within the Bethesda
 401 Downtown Area as an MPDU, the Planning Board may grant 15
 402 public benefit points for every 1% of MPDU units in the project
 403 included in the MPDU agreement above the minimum required
 404 15% MPDUs.]

405 [f]e. The Planning Board must determine that the development
 406 achieves [at least 10 points for exceptional design under [Section
 407 59.4.7.3.E.4.] Section 4.7.3.E.4. The maximum number of public
 408 benefit points for exceptional design is 30] a minimum of Tier 2
 409 from the public benefit Design Excellence under Section
 410 4.7.3.B.2.d. The Planning Board must appoint a Design Advisory
 411 Panel composed of relevant independent professionals, including
 412 at least one resident of Bethesda, and consider the comments
 413 from that panel on all projects before making their determination
 414 concerning exceptional design points.

415 f. Any development project providing a Tier 4 public benefit may
 416 be awarded all the necessary incentive density FAR but must still
 417 provide the public benefits of Energy Efficiency and Design
 418 Excellence, as required by Sections 4.9.2.C.4.c and 4.9.2.C.4.e.

419 [g. In addition to the other adjustment for maximum public benefit
 420 points made in this Section 4.9.2.C.4., the number of maximum
 421 allowed public benefit points in the following categories are
 422 increased to the number of points indicated:]

	[Minimum Parking]	[20]
	[Through Block Connection]	[30]
	[Streetscape Improvement]	[30]

[Dwelling Unit Mix]	[30]
[Architectural Elevations]	[30]
[Exceptional Design]	[30]
[Public Open Space]	[30]
[Public Art]	[20]
[Tower Setback]	[20]
[Cool Roof]	[15]
[Energy Conservation]	[25]
[Vegetated Area]	[15]
[Vegetated Roof]	[20]

424 [h. For the Public Art Public Benefit under Section 4.7.3.E.5, the fee
425 may also be accepted by the Bethesda Urban Partnership, the
426 Bethesda Arts & Entertainment District, or other civic arts
427 organization accepted by the Planning Board.]

5. FAR Averaging (Density transfers)

429 a. Any gross floor area allowed by the underlying zone may be
430 transferred to any site in the Bethesda Downtown Plan.

431 b. Any requirements for additional [Additional] public benefits
432 [benefit points] above the minimum [number] necessary are not
433 required for FAR Averaging.

434 c. Gross floor area increased above mapped density because of
435 FAR Averaging is not required to make a Park Impact Payment.

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Section 4.9.7. Downtown Silver Spring (DSS) Overlay Zone

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439 **C. Development Standards**

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441 **2. Density**

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443 c. DSS Density is the gross floor area by which development on a
444 site in the Overlay Zone may exceed the maximum gross floor
445 area mapped on the site, consistent with the requirements of the
446 Overlay Zone, including design review[, public benefits,] and the
447 qualifications set forth in Section 4.9.7.C.2.e below. DSS
448 Density may not be transferred to any other property.

449 * * *

450 **4. Public [Benefit Points] Benefits**

451 The requirements for public benefits are established by Division [59.4.7] 4.7,
452 and as follows:

453 a. [The Planning Board must not grant any public benefit points for
454 transit proximity under Section 59.4.7.3.B.] Providing public
455 benefits under Division 4.7. is only required to achieve incentive
456 density requested by a development application. Public benefits
457 are not required for any DSS density purchased by or awarded to
458 a development.

459 b. The Planning Board must determine that the development
460 achieves [10 points for the exceptional design public benefit
461 under Section 59.4.7.3.E.4.] a minimum of Tier 2 from the public
462 benefit Design Excellence under Section 4.7.3.B.2.d. The
463 Planning Board must appoint a Design Advisory Panel
464 composed of independent professionals with relevant design
465 experience and expertise, representing the diversity of the

466 community, including at least one resident of Silver Spring. The
467 Planning Board must consider the comments from the Design
468 Advisory Panel on all projects before making its determination
469 concerning [exceptional design points] incentive density for
470 Design Excellence.

471 c. The Planning Board may only award incentive density for the
472 public benefit Great Public Realm under Section 4.7.3.B.2.c. for
473 the creation of open space on-site if an applicant is providing
474 open space recommended in the Sector Plan. Applicants
475 contributing to off-site improvements under Section 4.9.7.C.5.
476 are not eligible for incentive density, unless making a qualifying
477 off-site contribution exceeding that required by the underlying
478 zone and this overlay zone.

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480 **Section 4.9.11. Germantown Transit Mixed Use (GTMU) Overlay Zone**

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482 **D. Optional Method**

483 Optional method development under the CR zone and the GTMU Overlay zone must
484 provide public benefits under Section [4.7.3.F.1.a] 4.7.3. [except that the] The
485 applicant must purchase BLT easements[,] or make payments to the ALPF under
486 Section 4.5.4.A.2.b. in an amount equal to 50% of the incentive density floor area.

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488 **Section 4.9.12. Great Seneca Life Sciences (GSLS) Overlay Zone**

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490 **C. Development Standards**

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492 **2. Density**

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b. The limits in the [GSLS] LSC zone that cap residential uses at 30% [percent] of gross floor area and retail at 15% [percent] of gross floor area do not apply.

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3. Public Benefits

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[All optional method development applications within the GSLS Overlay Zone must earn incentive density for any requested density above 0.5 FAR subject to the provisions of Section 4.9.12.C.2.a. and are not responsible for providing public benefits under Section 4.7, Optional Method Public Benefits. Incentive density is the term used to describe any density above 0.5 FAR including any mapped density or additional density allowed by the GSLS Overlay Zone.]

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[a. General Provisions

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i. In determining how much incentive density a development application must achieve, applications must round up to the next nearest 0.25 FAR increment.

509

ii. Incentive density must be earned by providing public benefits. The public benefits are divided into one of four tiers in Sections 4.9.12.C.3.b. through 4.9.12.C.3.e, based on how much FAR of incentive density an applicant is permitted for providing that public benefit.

514

iii. Development applications may provide any combination of public benefits to achieve the necessary incentive density for their project.

517

iv. If an application provides a Tier 4 benefit, no other public benefits are required for that application.

- v. If a specific public benefit is recommended for a property in the master plan, the applicant must provide that specific public benefit, unless the Planning Board finds that providing or maintaining the recommended benefit is infeasible or that the benefit is no longer in the public interest.]

The requirements for public benefits are established by Division 4.7, and as follows:

- a. Properties in the LSC Zone that are reviewed as optional method developments are required to provide public benefits under Division 4.7. to earn incentive density.
- b. The incentive density awarded for achieving each public benefit tier is as follows:

 - i. Tier 1 public benefits are eligible for a maximum 0.25 FAR of incentive density;
 - ii. Tier 2 public benefits are eligible for a maximum 0.5 FAR of incentive density;
 - iii. Tier 3 public benefits are eligible for a maximum 1.0 FAR of incentive density; and
 - iv. Tier 4 public benefits are eligible to satisfy all requested incentive density.
- c. The base payment in lieu rate for any applicable public benefits as described in Section 4.7.1.B.9. is modified as follows:

 - i. Tier 2 contribution of a minimum of \$0.66 per square foot of gross floor area; and
 - ii. Tier 3 contribution of a minimum of \$1.00 per square foot of gross floor area.

546 These modified rates shall be adjusted biennially based on the
547 Engineering News Record's Baltimore Construction Cost Index.

548 d. Properties in the LSC Zone may receive incentive density for the
549 public benefits in the Housing for All category under Section
550 4.7.3.A.1. by providing the following:

551 i. Tier 1 public benefit for providing a minimum 20% of
552 gross floor area as residential in a development
553 application; and

554 ii. Tier 2 public benefit for providing a minimum 30% of
555 gross floor areas as residential in a development
556 application.

557 e. The requirements to receive incentive density for the public
558 benefit Sustainable Site Design under Section 4.7.3.A.2.d. are
559 modified as follows:

560 i. Tier 2 requires adaptive reuse of 25,000 square feet of
561 existing floor area from an existing building onsite or
562 within the master plan area; and

563 ii. Tier 3 requires adaptive reuse of 50,000 square feet of
564 existing floor area from an existing building onsite or
565 within the master plan area.

566 f. The public benefit Offsite Improvements under Section
567 4.7.3.B.1.a.iv. includes the following additional standards as Tier
568 4 options:

569 i. make a contribution of a minimum of \$2.00 per square foot
570 of gross floor area to a CIP project for either the Key West
571 Avenue Promenade, the Great Seneca Greenway, or the
572 LSC Loop Trail; or

573 ii. construct the following identified offsite transportation
574 improvements:

575 (a) the street and adjacent LSC Loop Trail connecting
576 Belward Campus Drive to Decoverly Drive, at the
577 intersection with Great Seneca Highway; or

578 (b) Road Z, between Broschard Road and Dalmatian
579 Street.

580 g. Tier 4 public benefits may be awarded for the public benefit
581 Street Grid and Multi-Modal Extensions under Section
582 4.7.3.B.1.c. for constructing a trail connecting Darnestown Road
583 and Medical Center Drive, between Shady Grove Road and Great
584 Seneca Highway.

585 h. The public benefit Neighborhood Services and Mixed Use under
586 Section 4.7.3.B.2.b. includes the following additional uses and
587 standards as options:

588 i. Tier 1 must:

589 (a) provide a minimum of 10,000 square feet of flexible
590 step-up space for life science start-ups; or

591 (b) achieve a minimum 10% of mixed-use development
592 by including uses from at least two different use
593 groups identified by the Use Table under Section
594 3.1.6. Each use shall be a minimum of 10% of the
595 gross floor area, as determined at the time of Sketch
596 Plan.

597 ii. Tier 2 must:

598 (a) provide a minimum of 20,000 square feet of flexible
599 step-up space for life science start-ups; or

- (b) achieve a minimum 15% of mixed-use development including uses from at least two different use groups identified by the Use Table under Section 3.1.6. Each use shall be a minimum of 15% of the gross floor area, as determined at the time of Sketch Plan;
- iii. Tier 3 must provide a minimum of 30,000 square feet of flexible step-up space for life science start-ups.
- iv. Tier 4 must provide a minimum of 40,000 square feet of flexible step-up space for life science start-ups.

[b.] Tier 1 Benefits

The following public benefits are worth 0.25 FAR of incentive density:

- i. Provide 20 percent GFA as a Residential use when the underlying zone is LSC.
- ii. Provide the minimum required number of MPDUs plus 2.5 percent.
- iii. Design and construct offsite pedestrian and bicycle facilities for a minimum of 750 linear feet.
- iv. Contribute funding for offsite portions of one of the following, at a rate of \$0.30 per GFA of the subject development application:
 - (a) Key West Avenue Promenade
 - (b) Great Seneca Greenway
 - (c) Life Sciences Center Loop Trail
 - (d) Streetscape improvements along a public street within the overlay zone
- v. Construct an offsite portion of the Life Sciences Center Loop Trail for a minimum length of 2,500 linear feet.

627 vi. Provide offsite streetscape improvements along a public
628 street within the overlay zone including seating, paving,
629 street tree planting, landscaping, and lighting, for at least
630 5,000 linear feet based on the applicable streetscape
631 standards of the master plan.

632 vii. Provide a minimum of 10,000 square feet of flexible, step-
633 up space for life science startups.

634 viii. Achieve a minimum 10 percent mixed-use development,
635 ensuring uses from at least two different use groups are
636 provided, each comprising a minimum of 10 percent of the
637 total GFA, as determined at the time of sketch plan.

638 ix. Improve a minimum of 0.25 acres of an existing park or
639 public open space within the GSLS Overlay Zone area
640 with amenities designed to encourage use by people of all
641 ages, cultural backgrounds, and abilities such as, but not
642 limited to, color contrast applications on poles and
643 pavement, accessible bathrooms, mobility device
644 accessible play equipment, sensory playground
645 equipment, movable seating, and art, displays, statues, and
646 signs that recognize local history and community
647 members.

648 x. Implement at least 3 of the following design excellence
649 strategies or achieve the International WELL Building
650 Institute's WELL Core Bronze certification for the
651 project:

652 (a) Designing a building with a clear architectural base,
653 middle, and top. The base is defined as the first one

654 or two floors of the building; the top is defined as
655 the uppermost one or two floors of the building; and
656 the middle is everything between the base and the
657 top.

658 (b) Providing human-scaled architectural elements at
659 the building's base fronting all streets and public
660 open spaces. Human-scaled architectural elements
661 include clearly marked entryways into ground-floor
662 uses, awnings, canopies, transparency, storefronts,
663 façade lighting, signage, and decorative
664 enhancements.

665 (c) Providing direct entry to all ground floor residential
666 units fronting a street or public open space.

667 (d) Adjusting the building massing and façade design
668 to create street-oriented development. The building
669 massing should parallel the street, with the building
670 base creating a continuous frontage with a
671 minimum of 60 percent transparency. The building
672 middle and top façade must be designed with
673 windows, balconies, and terraces on any elevation
674 along a street.

675 (e) Lining at least 75 percent of the ground floor long
676 all streets and public open spaces with active uses
677 such as retail, residential units, offices, lobbies, and
678 amenity spaces. Ground floor entrances into the
679 building must be no further than every 100 feet.

680 (f) Placing all onsite parking below ground grade or
681 wrapping all structured parking with leasable GFA
682 like residential or commercial floor spaces.

683 (g) Designing the footprint, massing, and building
684 façades to respond to solar orientation and local
685 climate to minimize energy use, maximize daylight
686 exposure and incorporate passive heating, cooling,
687 and ventilation.

688 (h) Reducing the floor plate for the top 2 floors by at
689 least 20 percent to create terraces and an interesting
690 skyline.

691 (i) Designing all structured parking to be adaptable for
692 alternative uses in the future by creating flat plate
693 parking floors with a minimum floor to ceiling
694 clearance of 10 feet, accessed through a speed-
695 ramp.

696 xi. Exceed current county code energy efficiency standards
697 (IgCC and IECC) by a minimum of 10 percent as
698 determined by the Department of Permitting Services
699 Division of Commercial Building Construction at site
700 plan.

701 xii. Generate one-third of renewable energy onsite or utilize
702 renewable energy from the regional catchment area as
703 determined by the Department of Permitting Services
704 Division of Commercial Building Construction at site
705 plan.

- xiii. Meet Alternative Compliance Path for Green Code and achieve LEED Silver + 21 points as determined by the Department of Permitting Services Division of Commercial Building Construction by the final use and occupancy permit.
- xiv. Design a site that includes 2 of the following sustainable elements:
 - (a) Two principles of biophilic design from the following list of strategies:
 - (1) Incorporate environmental features such as sunlight, fresh air, plants, animals, water, native landscapes, natural colors, and natural materials such as wood and stone.
 - (2) Utilize elements in building design to simulate and mimic shapes and forms found in nature. Examples include using tree-like columns in a building interior to support a roof that projects the feeling of a forest canopy; building shapes that simulate the appearance of bird wings; ornamentation suggestive of a natural shape like a crystal or geological feature, or others as approved by the Planning Board.
 - (3) Use building and site design to stimulate a variety of senses, simulate the qualities of organic growth, or reflect the processes of aging and the passage of time.

733 (4) Use spatial and lighting features that evoke
734 the sense of being in a natural setting
735 considering lighting placement, fixture
736 design, and color temperature.

737 (5) Incorporate place-based relationships
738 between buildings and the distinctive
739 geographical, ecological, and cultural
740 characteristics of particular places and
741 localities by incorporating reference to
742 geological and landscape features, the use of
743 local and indigenous materials, and
744 connections to particular historic and cultural
745 traditions.

746 (6) Provide an outdoor respite space, part of a
747 garden, or green area that offers restoration
748 through the inclusion of natural sensory
749 experiences and opportunities for quiet
750 reflection and stillness.

751 (b) Enhanced green roof with a minimum coverage of
752 10 percent of the roof (minimum 6 inches in depth).

753 (c) Two categories of bird-friendly design as defined in
754 the Bethesda Downtown Plan Design Guidelines.

755 (d) Pervious pavement for 10 percent of all paved
756 surfaces as determined by the Department of
757 Permitting Services.

758 xv. Adaptively reuse at least 10,000 square feet of floor area
759 of an existing building on site.]

[c. Tier 2 Benefits]

The following public benefits are worth 0.50 FAR of incentive density:

- i. Provide 30 percent GFA as a Residential use when the underlying zone is LSC.
- ii. Provide the minimum required number of MPDUs plus 5 percent.
- iii. Design and construct offsite streetscape improvements along a public street, including any required pedestrian and bicycle facilities, for a minimum of 1,000 linear feet.
- iv. Contribute funding for offsite portions of one of the following, at a rate of \$0.60 per square foot of GFA of the subject development application:
 - (a) Key West Avenue Promenade
 - (b) Great Seneca Greenway
 - (c) Life Sciences Center Loop Trail
- v. Construct an offsite portion of the Life Sciences Center Loop Trail for a minimum length of 3,500 linear feet.
- vi. Provide a minimum of 20,000 square feet of flexible step-up space for life science startups.
- vii. Achieve a minimum of 15 percent mixed-use development, ensuring uses from at least two different use groups are provided, each comprising a minimum of 15 percent of the total GFA, as determined at the time of sketch plan.
- viii. Exceed the minimum required amount of Public Open Space on site by at least 50 percent.

- ix. Implement at least 5 of the design excellence strategies identified in Section 4.9.12.C.3.b.x above or achieve the International WELL Building Institute's WELL Core Silver certification for the project.
- x. Exceed current county code energy efficiency standards (IgCC and IECC) by a minimum of 17.5 percent as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.
- xi. Generate two-thirds of renewable energy onsite or utilize renewable energy from the regional catchment area as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.
- xii. Meet Alternative Compliance Path for Green Code and achieve LEED Gold as determined by the Department of Permitting Services Division of Commercial Building Construction by the final use and occupancy permit.
- xiii. Design a site that includes three of the following sustainable elements:
 - (a) 4 principles of biophilic design as defined in Section 4.9.12.C.3.b.xiv.
 - (b) Enhanced green roof with a minimum coverage of 15 percent of the roof (a minimum of 7 inches in depth).
 - (c) 3 categories of bird friendly design as defined in the Bethesda Downtown Plan Design Guidelines.

813 (d) Pervious pavement for 25 percent of all paved
814 surfaces as determined by the Department of
815 Permitting Services.

816 xiv. Adaptively reuse at least 25,000 square feet of floor area
817 of an existing building on site.]

818 **[d. Tier 3 Benefits**

819 The following public benefits are worth 1.0 FAR of incentive density:

820 i. Provide the minimum required number of MPDUs plus 7.5
821 percent.

822 ii. Design and construct offsite streetscape improvements
823 along a public street, including any required pedestrian
824 and bicycle facilities, for a minimum of 2,000 linear feet.

825 iii. Contribute funding for offsite portions of one of the
826 following, at a rate of \$1.00 per GFA of the subject
827 development application:

828 (a) Key West Avenue Promenade

829 (b) Great Seneca Greenway

830 (c) Life Sciences Center Loop Trail

831 iv. Construct an offsite portion of the Life Sciences Center
832 Loop Trail for a minimum length of 5,000 linear feet.

833 v. Provide a minimum of 30,000 square feet of flexible, step-
834 up space for life science startups.

835 vi. Provide a minimum 1.5-acre Major Public Open Space
836 recommended per the master plan as a Privately Owned
837 Public Open Space, with approval on the location and
838 design determined by the Planning Board. The Public
839 Open Space should comply with the elements listed in the

Energizing Public Space Design Guidelines for “Civic Green / Plaza.”

- 840 vii. Implement at least 7 of the design excellence strategies
841 identified in Section 4.9.12.C.3.b.x above or achieve the
842 International WELL Building Institute’s WELL Core
843 Gold certification for the project.
- 844 viii. Exceed current county code energy efficiency standards
845 (IgCC and IECC) by a minimum of 25 percent as
846 determined by the Department of Permitting Services
847 Division of Commercial Building Construction at site
848 plan.
- 849 ix. Generate three-fourths of renewable energy onsite or
850 utilize renewable energy from the regional catchment area
851 as determined by the Department of Permitting Services
852 Division of Commercial Building Construction at site
853 plan.
- 854 x. Meet Alternative Compliance Path for Green Code and
855 achieve LEED Gold, and one of the following as
856 determined by the Department of Permitting Services
857 Division of Commercial Building Construction by the
858 final use and occupancy permit:
 - 859 (a) Full electrification
 - 860 (b) Mass Timber construction
- 861 xi. Design a site that includes four of the following
862 sustainable elements:
 - 863 (a) Six principles of biophilic design as defined in
864 Section 4.9.12.C.3.b.xiv.

- (b) Enhanced green roof with a minimum coverage of 25 percent of the roof (a minimum of 11 inches in depth).
- (c) Four categories of bird friendly design as defined in the Bethesda Downtown Plan Design Guidelines.
- (d) Pervious pavement for 40 percent of all paved surfaces as determined by the Department of Permitting Services.

xii. Adaptively reuse at least 75,000 square feet of floor area of an existing building on site.]

e. Tier 4 Benefits

If an applicant provides any one Tier 4 Benefit listed below, no additional public benefits are necessary to achieve all allowed incentive density:

- i. Provide greater than 25 percent MPDUs at an average of 60 percent area median income.
- ii. Design and construct offsite streetscape improvements along a public street, including any required pedestrian and bicycle facilities, for a minimum of 5,000 linear feet within the overlay zone area.
- iii. Contribute funding for offsite portions of one of the following, at a rate of \$2.00 per GFA of the subject development application:
 - (a) Key West Avenue Promenade
 - (b) Great Seneca Greenway
 - (c) Life Sciences Center Loop Trail

- iv. Provide one of the following transportation connections identified as greatly enhancing the transportation network by the Master Plan:
 - (a) The street connection, including the LSC Loop Trail, connecting Belward Campus Drive to Decoverly Drive, at the intersection with Great Seneca Highway.
 - (b) A trail connecting Darnestown Road and Medical Center Drive, located between Shady Grove Road and Great Seneca Highway.
 - (c) The street connection of Road Z between Broschart Road and Dalmatian Street.
- v. Provide a minimum of 40,000 square feet of flexible step-up space for life science startups.
- vi. Construct and dedicate or convey to Montgomery Parks a minimum 3-acre park recommended in the Master Plan. Approval of the location and design to be determined by the Planning Board. The park must comply with the elements listed in the Energized Public Spaces Design Guidelines for “Urban Recreational Park.”
- vii. Implement all 9 of the design excellence strategies identified in Section 4.9.12.C.3.b.x above or achieve the International WELL Building Institute’s WELL Core Platinum certification for the project.
- viii. Construct an energy efficient building with a net-zero rating as determined by the Department of Permitting

919 Services Division of Commercial Building Construction at
920 site plan

921 ix. Generate 100 percent of renewable energy onsite or utilize
922 renewable energy from the regional catchment area as
923 determined by the Department of Permitting Services
924 Division of Commercial Building Construction at site
925 plan.

926 x. Meet the Alternative Compliance Path for Green Code and
927 achieve LEED Platinum as determined by the Department
928 of Permitting Services Division of Commercial Building
929 Construction at site plan.

930 xi. Design a site that includes the four following sustainable
931 elements:

932 (a) Six principles of biophilic design as defined in
933 Section 4.9.12.C.3.b.xiv.

934 (b) Enhanced green roof with a minimum coverage of
935 35 percent of the roof (a minimum of 16 inches in
936 depth).

937 (c) Five categories of bird friendly design as defined in
938 the Bethesda Downtown Plan Design Guidelines.

939 (d) Pervious pavement for 50 percent of all paved
940 surfaces as determined by the Department of
941 Permitting Services.

942 xii. Adaptively reuse at least 100,000 square feet of floor area
943 of an existing building on site.

944 xiii. Underground all existing overhead utilities along the site
945 frontage of the subject property, or at another offsite

946 location within the GSLS Overlay Zone, with an estimated
947 cost of at least \$1,000,000.]

948 **D. Development Procedures**

- 949 1. Except as modified in this subsection, the development procedures of
950 the underlying zone apply.
- 951 2. In the GSLS Overlay zone, any development at or over 0.5 FAR is
952 considered optional method of development, regardless of the
953 underlying zone.
- 954 3. [Except as provided under Section 4.7.3.F.1.b.ii, all] All optional
955 method developments in the GSLS Overlay zone must require the
956 purchase of Building Lot Termination (BLT) easements or a payment
957 into the Agricultural Land Preservation Fund (ALPF) consistent with
958 Section 4.5.4.A.2.b.i. [in an amount equal to 7.5 percent of the incentive
959 density floor area in lieu of the procedures of Section 4.7.3.F.1.b. One
960 BLT is equivalent to 31,500 square feet of incentive density floor area.
961 Private BLT easements must be purchased in whole units. Fractions of
962 BLT easements must be purchased through the ALPF, based on the
963 amount established by Executive Regulation under Chapter 2B.]
- 964 4. Development is not subject to the parking minimums established in the
965 vehicle parking spaces table under Section 6.2.4.B.
- 966 5. Surface vehicle parking is prohibited between a building and a public
967 or private street, unless prior to February 24, 2025, the parking lot
968 existed or was included in an approved site plan.

969 * * *

970 **Section 4.9.18. Transferable Development Rights (TDR) Overlay Zone**

971 * * *

972 **B. Optional Method**

973

* * *

974 **3. Commercial/Residential and Employment Zones**

975

* * *

976 **b. Calculation of TDRs Required in the**
977 **Commercial/Residential or Employment Zones**

978

* * *

979 [iii. For optional method development, the Planning Board
980 may grant a maximum of 20 public benefit points for
981 TDRs under Section 4.7.3.F.6.]

982

* * *

983 **Sec. 3. DIVISION 59-8.4 is amended as follows:**984 **Division 8.4. Optional Method Public Benefits**985 **Section 8.4.1. General Provisions**

986

* * *

987 **B. General Public Benefit Considerations**988 1. Except for providing MPDUs exceeding 12.5% of a project's dwelling
989 units, granting points as a public benefit for any amenity or project
990 feature otherwise required by law is prohibited.991 2. In approving any incentive FAR based on the provision of public
992 benefits, the Planning Board must consider:993 [1]a. the recommendations and objectives of the applicable master
994 plan;995 [2]b. the Commercial/Residential and Employment Zone Incentive
996 Density Implementation Guidelines;997 [3]c. any design guidelines adopted for the applicable master plan
998 area;999 [4]d. the size and configuration of the site;

1000 [5]e. the relationship of the site to adjacent properties;
 1001 [6]f. the presence or lack of similar public benefits nearby; and
 1002 [7]g. enhancements beyond the elements listed in an individual public
 1003 benefit that increase public access to, or enjoyment of, the
 1004 benefit.

1005 3. In the CRT and CR zones the maximum total standard method FAR for
 1006 any property is the limit indicated in the following table, unless shown
 1007 as lower on the zoning map:

<u>Zone</u>	<u>Total Density (max)</u>
<u>CRT</u>	<u>The greater of 1.0 FAR or 10,000 SF of gross floor area</u>
<u>CR</u>	<u>The greater of 0.5 FAR or 10,000 SF of gross floor area</u>

1008 * * *

Section 8.4.4. Overlay Zones

The following overlay zones have modified public benefits or public benefit calculations which are retained below. These provisions may continue to be used as allowed by the Public Benefit Procedures and Exemptions under Section 4.7.1.D.

A. Bethesda (BOZ) Overlay Zone Public Benefit Points

1. Moderately Priced Dwelling Units (MPDUs) Public Benefit Points

a. The Planning Board may only grant public benefit points for providing more than 15% of the residential units as MPDUs under Chapter 25A.

b. The Planning Board may grant MPDU public benefit points for providing more than 15% MPDUs at the rate of 15 points for every 1% of the number of units in the project above 15%. Any fraction of 1% increase in MPDUs entitles the applicant to an

1023 equal fraction of 15 points. For points to be awarded, at least one
1024 more MPDU than would be required at 15% must be provided.

1025 c. For a project providing more than 15% MPDUs, one less public
1026 benefit point category than required under Section 8.4.1.B.8
1027 must be satisfied.

1028 d. For a project providing at least 20% MPDUs, other public benefit
1029 point categories are not required except for: 1) Exceptional
1030 Design, and 2) Energy Conservation and Generation in the High-
1031 Performance Area.

1032 **2. Public Benefit Points**

1033 The requirements for public benefit points for development projects that
1034 qualify for an exemption under Section 4.7.1.D are established by Division
1035 8.4, except as provided in Section 4.9.2.C.3. concerning MPDUs and as
1036 follows:

1037 a. The Planning Board must not grant any public benefit points for
1038 transit proximity under Section 8.4.3.B.

1039 b. Park Impact Payment

1040 i. If a Park Impact Payment is not required under Section
1041 4.9.2.C.2.b.ii and the applicant makes a payment, the
1042 Planning Board may grant one point for every \$5,000
1043 payment up to 20 public benefit points.

1044 ii. If a Park Impact Payment is required under Section
1045 4.9.2.C.2.b.ii, the Planning Board may grant public benefit
1046 points only if the Park Impact Payment exceeds the
1047 minimum required. The number of public benefit points
1048 that the Planning Board may grant is determined by
1049 dividing the amount of the payment greater than the

1054 c. Within the High-Performance Area designated in the Bethesda
1055 Downtown Plan, the Planning Board must determine that the
1056 development achieves 15 public benefit points from Energy
1057 Conservation and Generation under Section 8.4.3.F.3.

1058 d. If the applicant reaches an agreement with the Department of
1059 Housing and Community Affairs to retain or provide affordable
1060 housing rents for dwelling units located anywhere in the Overlay
1061 zone area, the Planning Board may grant 6 public benefit points
1062 for every 1% of units in the project included in the rental
1063 agreement. Any fraction of 1% increase in the number of units
1064 covered by the agreement entitles the applicant to an equal
1065 fraction of 6 points. For this purpose, affordable housing is
1066 defined as rents that are affordable to a household with a
1067 household income of 80% of Area Median Income (AMI) or
1068 below, for at least 20 years. The agreement with the Department
1069 of Housing and Community Affairs may include limits on the
1070 income of residents for the affordable dwelling units.

1071 e. If an applicant reaches an agreement with the Department of
1072 Housing and Community Affairs and another property owner for
1073 the use of an off-site existing dwelling, within the Bethesda
1074 Downtown Area as an MPDU, the Planning Board may grant 15
1075 public benefit points for every 1% of MPDU units in the project

1076 included in the MPDU agreement above the minimum required
1077 15% MPDUs.

1078 f. The Planning Board must determine that the development
1079 achieves at least 10 points for exceptional design under Section
1080 8.4.3.E.2. The maximum number of public benefit points for
1081 exceptional design is 30. The Planning Board must appoint a
1082 Design Advisory Panel composed of relevant independent
1083 professionals, including at least one resident of Bethesda, and
1084 consider the comments from that panel on all projects before
1085 making their determination concerning exceptional design
1086 points.

1087 g. In addition to the other adjustment for maximum public benefit
1088 points made in this subsection, the number of maximum allowed
1089 public benefit points in the following categories are increased to
1090 the number of points indicated:

<u>Minimum Parking</u>	<u>20</u>
<u>Through Block Connection</u>	<u>30</u>
<u>Streetscape Improvement</u>	<u>30</u>
<u>Dwelling Unit Mix</u>	<u>30</u>
<u>Architectural Elevations</u>	<u>30</u>
<u>Exceptional Design</u>	<u>30</u>
<u>Public Open Space</u>	<u>30</u>
<u>Public Art</u>	<u>20</u>
<u>Tower Setback</u>	<u>20</u>
<u>Cool Roof</u>	<u>15</u>

<u>Energy Conservation</u>	<u>25</u>
<u>Vegetated Area</u>	<u>15</u>
<u>Vegetated Roof</u>	<u>20</u>

1091

1092 h. For the Public Art Public Benefit under Section 4.7.3.E.5, the fee
 1093 may also be accepted by the Bethesda Urban Partnership, the
 1094 Bethesda Arts & Entertainment District, or other civic arts
 1095 organization accepted by the Planning Board.

1096 **3. FAR Averaging (Density transfers)**

1097 Additional public benefit points above the minimum number are not
 1098 required for FAR Averaging.

1099 **B. Downtown Silver Spring (DSS) Overlay Zone Public Benefit Points**

1100 The requirements for public benefit points for development projects that
 1101 qualify for an exemption under Section 4.7.1.D are established by Division
 1102 59.8.4, and as follows:

- 1103 1. The Planning Board must not grant any public benefit points for transit
 1104 proximity under Section 8.4.3.B
- 1105 2. The Planning Board must determine that the development achieves 10
 1106 points for the exceptional design public benefit under Section 8.4.3.E.2.
 1107 The Planning Board must appoint a Design Advisory Panel composed
 1108 of independent professionals with relevant design experience and
 1109 expertise, representing the diversity of the community, including at
 1110 least one resident of Silver Spring. The Planning Board must consider
 1111 the comments from the Design Advisory Panel on all projects before
 1112 making its determination concerning exceptional design points.

1113 **C. Germantown Transit Mixed Use (GTMU) Overlay Zone Public Benefit**
1114 **Points**

1115 Optional method development under the CR zone and the GTMU Overlay
1116 zone must provide public benefits under Section 8.4.3.F.1.a except that the
1117 applicant must purchase BLT easements, or make payments to the ALPF in
1118 an amount equal to 50% of the incentive density floor area.

1119 **D. Great Seneca Life Sciences (GSLS) Overlay Zone Public Benefit Points**

1120 1. All optional method development applications within the GSLS
1121 Overlay Zone for development projects that qualify for an exemption
1122 under Section 4.7.1.D must earn incentive density for any requested
1123 density above 0.5 FAR subject to the provisions of Section 8.4.4.D. and
1124 are not responsible for providing public benefits under Section 4.7,
1125 Optional Method Public Benefits. Incentive density is the term used to
1126 describe any density above 0.5 FAR including any mapped density or
1127 additional density allowed by the GSLS Overlay Zone.

1128 2. **General Provisions**

1129 i. In determining how much incentive density a development
1130 application must achieve, applications must round up to the next
1131 nearest 0.25 FAR increment.

1132 ii. Incentive density must be earned by providing public benefits.
1133 The public benefits are divided into one of 4 tiers in
1134 Sections 8.4.4.D.1.b. through 8.4.4.D.1.e., based on how much
1135 FAR of incentive density an applicant is permitted for providing
1136 that public benefit.

1137 iii. Development applications may provide any combination of
1138 public benefits to achieve the necessary incentive density for
1139 their project.

1140 iv. If an application provides a Tier 4 benefit, no other public
1141 benefits are required for that application.

1142 v. If a specific public benefit is recommended for a property in the
1143 master plan, the applicant must provide that specific public
1144 benefit, unless the Planning Board finds that providing or
1145 maintaining the recommended benefit is infeasible or that the
1146 benefit is no longer in the public interest.

1147 3. **Tier 1 Benefits**

1148 The following public benefits are worth 0.25 FAR of incentive density:

1149 i. Provide 20% GFA as a Residential use when the underlying zone
1150 is LSC.

1151 ii. Provide the minimum required number of MPDUs plus 2.5%.

1152 iii. Design and construct offsite pedestrian and bicycle facilities for
1153 a minimum of 750 linear feet.

1154 iv. Contribute funding for offsite portions of one of the following,
1155 at a rate of \$0.30 per GFA of the subject development
1156 application:

1157 (a) Key West Avenue Promenade

1158 (b) Great Seneca Greenway

1159 (c) LSC Loop Trail

1160 (d) Streetscape improvements along a public street within the
1161 overlay zone

1162 v. Construct an offsite portion of the LSC Loop Trail for a
1163 minimum length of 2,500 linear feet.

1164 vi. Provide offsite streetscape improvements along a public street
1165 within the overlay zone including seating, paving, street tree

1166 planting, landscaping, and lighting, for at least 5,000 linear feet
1167 based on the applicable streetscape standards of the master plan.

1168 vii. Provide a minimum of 10,000 square feet of flexible, step-up
1169 space for life science startups.

1170 viii. Achieve a minimum 10% mixed-use development, ensuring uses
1171 from at least two different use groups are provided, each
1172 comprising a minimum of 10% of the total GFA, as determined
1173 at the time of sketch plan.

1174 ix. Improve a minimum of 0.25 acres of an existing park or public
1175 open space within the GSLS Overlay Zone area with amenities
1176 designed to encourage use by people of all ages, cultural
1177 backgrounds, and abilities such as, but not limited to, color
1178 contrast applications on poles and pavement, accessible
1179 bathrooms, mobility device accessible play equipment, sensory
1180 playground equipment, movable seating, and art, displays,
1181 statues, and signs that recognize local history and community
1182 members.

1183 x. Implement at least 3 of the following design excellence strategies
1184 or achieve the International WELL Building Institute's WELL
1185 Core Bronze certification for the project:

1186 (a) Designing a building with a clear architectural base,
1187 middle, and top. The base is defined as the first one or two
1188 floors of the building; the top is defined as the uppermost
1189 one or two floors of the building; and the middle is
1190 everything between the base and the top.

1191 (b) Providing human-scaled architectural elements at the
1192 building's base fronting all streets and public open spaces.

1193 Human-scaled architectural elements include clearly
1194 marked entryways into ground-floor uses, awnings,
1195 canopies, transparency, storefronts, façade lighting,
1196 signage, and decorative enhancements.

- (c) Providing direct entry to all ground floor residential units fronting a street or public open space.
- (d) Adjusting the building massing and façade design to create street-oriented development. The building massing should parallel the street, with the building base creating a continuous frontage with a minimum of 60% transparency. The building middle and top façade must be designed with windows, balconies, and terraces on any elevation along a street.
- (e) Lining at least 75% of the ground floor along all streets and public open spaces with active uses such as retail, residential units, offices, lobbies, and amenity spaces. Ground floor entrances into the building must be no further than every 100 feet.
- (f) Placing all onsite parking below ground grade or wrapping all structured parking with leasable GFA like residential or commercial floor spaces.
- (g) Designing the footprint, massing, and building façades to respond to solar orientation and local climate to minimize energy use, maximize daylight exposure and incorporate passive heating, cooling, and ventilation.
- (h) Reducing the floor plate for the top 2 floors by at least 20% to create terraces and an interesting skyline.

- (i) Designing all structured parking to be adaptable for alternative uses in the future by creating flat plate parking floors with a minimum floor to ceiling clearance of 10 feet, accessed through a speed-ramp.
- xi. Exceed current county code energy efficiency standards (IgCC and IECC) by a minimum of 10% as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.
- xii. Generate one-third of renewable energy onsite or utilize renewable energy from the regional catchment area as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.
- xiii. Meet Alternative Compliance Path for Green Code and achieve LEED Silver + 21 points as determined by the Department of Permitting Services Division of Commercial Building Construction by the final use and occupancy permit.
- xiv. Design a site that includes 2 of the following sustainable elements:
 - (a) Two principles of biophilic design from the following list of strategies:
 - (1) Incorporate environmental features such as sunlight, fresh air, plants, animals, water, native landscapes, natural colors, and natural materials such as wood and stone.
 - (2) Utilize elements in building design to simulate and mimic shapes and forms found in nature. Examples include using tree-like columns in a building

(3) Use building and site design to stimulate a variety of senses, simulate the qualities of organic growth, or reflect the processes of aging and the passage of time.

(4) Use spatial and lighting features that evoke the sense of being in a natural setting considering lighting placement, fixture design, and color temperature.

(5) Incorporate place-based relationships between buildings and the distinctive geographical, ecological, and cultural characteristics of particular places and localities by incorporating reference to geological and landscape features, the use of local and indigenous materials, and connections to particular historic and cultural traditions.

(6) Provide an outdoor respite space, part of a garden, or green area that offers restoration through the inclusion of natural sensory experiences and opportunities for quiet reflection and stillness.

(b) Enhanced green roof with a minimum coverage of 10% of the roof (minimum 6 inches in depth).

1274 (c) Two categories of bird-friendly design as defined in the
1275 Bethesda Downtown Plan Design Guidelines.

1276 (d) Pervious pavement for 10% of all paved surfaces as
1277 determined by the Department of Permitting Services.

1278 xv. Adaptively reuse at least 10,000 square feet of floor area of an
1279 existing building on site.

1280 **4. Tier 2 Benefits**

1281 The following public benefits are worth 0.50 FAR of incentive density:

- i. Provide 30% GFA as a Residential use when the underlying zone
is LSC.
- ii. Provide the minimum required number of MPDUs plus 5%.
- iii. Design and construct offsite streetscape improvements along a
public street, including any required pedestrian and bicycle
facilities, for a minimum of 1,000 linear feet.
- iv. Contribute funding for offsite portions of one of the following,
at a rate of \$0.60 per square foot of GFA of the subject
development application:
 - (a) Key West Avenue Promenade
 - (b) Great Seneca Greenway
 - (c) LSC Loop Trail
- v. Construct an offsite portion of the LSC Loop Trail for a
minimum length of 3,500 linear feet.
- vi. Provide a minimum of 20,000 square feet of flexible step-up
space for life science startups.
- vii. Achieve a minimum of 15% mixed-use development, ensuring
uses from at least two different use groups are provided, each

comprising a minimum of 15% of the total GFA, as determined at the time of sketch plan.

viii. Exceed the minimum required amount of Public Open Space on site by at least 50%.

ix. Implement at least 5 of the design excellence strategies identified in Section 4.9.12.C.3.b.x above or achieve the International WELL Building Institute's WELL Core Silver certification for the project.

x. Exceed current county code energy efficiency standards (IgCC and IECC) by a minimum of 17.5% as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.

xi. Generate two-thirds of renewable energy onsite or utilize renewable energy from the regional catchment area as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.

xii. Meet Alternative Compliance Path for Green Code and achieve LEED Gold as determined by the Department of Permitting Services Division of Commercial Building Construction by the final use and occupancy permit.

xiii. Design a site that includes three of the following sustainable elements:

(a) Four principles of biophilic design as defined in Section 4.9.12.C.3.b.xiv.

(b) Enhanced green roof with a minimum coverage of 15% of the roof (a minimum of 7 inches in depth).

1326 (c) Three categories of bird friendly design as defined in the
1327 Bethesda Downtown Plan Design Guidelines.

1328 (d) Pervious pavement for 25% of all paved surfaces as
1329 determined by the Department of Permitting Services.

1330 xiv. Adaptively reuse at least 25,000 square feet of floor area of an
1331 existing building on site.

1332 **5. Tier 3 Benefits**

1333 The following public benefits are worth 1.0 FAR of incentive density:

1334 i. Provide the minimum required number of MPDUs plus 7.5%.

1335 ii. Design and construct offsite streetscape improvements along a
1336 public street, including any required pedestrian and bicycle
1337 facilities, for a minimum of 2,000 linear feet.

1338 iii. Contribute funding for offsite portions of one of the following,
1339 at a rate of \$1.00 per GFA of the subject development
1340 application:

1341 (a) Key West Avenue Promenade

1342 (b) Great Seneca Greenway

1343 (c) LSC Loop Trail

1344 iv. Construct an offsite portion of the LSC Loop Trail for a
1345 minimum length of 5,000 linear feet.

1346 v. Provide a minimum of 30,000 square feet of flexible, step-up
1347 space for life science startups.

1348 vi. Provide a minimum 1.5-acre Major Public Open Space
1349 recommended per the master plan as a Privately Owned Public
1350 Open Space, with approval on the location and design
1351 determined by the Planning Board. The Public Open Space

1352 should comply with the elements listed in the Energizing Public
1353 Space Design Guidelines for “Civic Green / Plaza.”

1354 vii. Implement at least 7 of the design excellence strategies identified
1355 in Section 4.9.12.C.3.b.x above or achieve the International
1356 WELL Building Institute’s WELL Core Gold certification for
1357 the project.

1358 viii. Exceed current county code energy efficiency standards (IgCC
1359 and IECC) by a minimum of 25% as determined by the
1360 Department of Permitting Services Division of Commercial
1361 Building Construction at site plan.

1362 ix. Generate three-fourths of renewable energy onsite or utilize
1363 renewable energy from the regional catchment area as
1364 determined by the Department of Permitting Services Division
1365 of Commercial Building Construction at site plan.

1366 x. Meet Alternative Compliance Path for Green Code and achieve
1367 LEED Gold, and one of the following as determined by the
1368 Department of Permitting Services Division of Commercial
1369 Building Construction by the final use and occupancy permit:
1370 (a) Full electrification
1371 (b) Mass Timber construction

1372 xi. Design a site that includes four of the following sustainable
1373 elements:
1374 (a) Six principles of biophilic design as defined in
1375 Section 4.9.12.C.3.b.xiv.
1376 (b) Enhanced green roof with a minimum coverage of 25% of
1377 the roof (a minimum of 11 inches in depth).

1378 (c) Four categories of bird friendly design as defined in the
1379 Bethesda Downtown Plan Design Guidelines.

1380 (d) Pervious pavement for 40% of all paved surfaces as
1381 determined by the Department of Permitting Services.

1382 xii. Adaptively reuse at least 75,000 square feet of floor area of an
1383 existing building on site.

1384 **6. Tier 4 Benefits**

1385 If an applicant provides any one Tier 4 Benefit listed below, no
1386 additional public benefits are necessary to achieve all allowed incentive
1387 density:

1388 i. Provide greater than 25% MPDUs at an average of 60% area
1389 median income.

1390 ii. Design and construct offsite streetscape improvements along a
1391 public street, including any required pedestrian and bicycle
1392 facilities, for a minimum of 5,000 linear feet within the overlay
1393 zone area.

1394 iii. Contribute funding for offsite portions of one of the following,
1395 at a rate of \$2.00 per GFA of the subject development
1396 application:

1397 (a) Key West Avenue Promenade

1398 (b) Great Seneca Greenway

1399 (c) LSC Loop Trail

1400 iv. Provide one of the following transportation connections
1401 identified as greatly enhancing the transportation network by the
1402 Master Plan:

- (a) The street connection, including the LSC Loop Trail, connecting Belward Campus Drive to Decoverly Drive, at the intersection with Great Seneca Highway.
- (b) A trail connecting Darnestown Road and Medical Center Drive, located between Shady Grove Road and Great Seneca Highway.
- (c) The street connection of Road Z between Broschart Road and Dalmatian Street.

v. Provide a minimum of 40,000 square feet of flexible step-up space for life science startups.

vi. Construct and dedicate or convey to Montgomery Parks a minimum 3-acre park recommended in the Master Plan. Approval of the location and design to be determined by the Planning Board. The park must comply with the elements listed in the Energized Public Spaces Design Guidelines for “Urban Recreational Park.”

vii. Implement all 9 of the design excellence strategies identified in Section 4.9.12.C.3.b.x above or achieve the International WELL Building Institute’s WELL Core Platinum certification for the project.

viii. Construct an energy efficient building with a net-zero rating as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan

ix. Generate 100% of renewable energy onsite or utilize renewable energy from the regional catchment area as determined by the Department of Permitting Services Division of Commercial Building Construction at site plan.

1430 x. Meet the Alternative Compliance Path for Green Code and
 1431 achieve LEED Platinum as determined by the Department of
 1432 Permitting Services Division of Commercial Building
 1433 Construction at site plan.

1434 xi. Design a site that includes the four following sustainable
 1435 elements:

1436 (a) Six principles of biophilic design as defined in
 1437 Section 4.9.12.C.3.b.xiv.

1438 (b) Enhanced green roof with a minimum coverage of 35% of
 1439 the roof (a minimum of 16 inches in depth).

1440 (c) Five categories of bird friendly design as defined in the
 1441 Bethesda Downtown Plan Design Guidelines.

1442 (d) Pervious pavement for 50% of all paved surfaces as
 1443 determined by the Department of Permitting Services.

1444 xii. Adaptively reuse at least 100,000 square feet of floor area of an
 1445 existing building on site.

1446 xiii. Underground all existing overhead utilities along the site
 1447 frontage of the subject property, or at another offsite location
 1448 within the GSLS Overlay Zone, with an estimated cost of at least
 1449 \$1,000,000.

1450 **E. Transferable Development Rights (TDR) Overlay Zone Public Benefit**
 1451 **Points**

1452 For optional method development, the Planning Board may grant a maximum
 1453 of 20 public benefit points for TDRs under Section 8.4.3.F.6.

1454 * * *

1455 **Sec. 4. Effective date.** This ordinance becomes effective 20 days after the
 1456 date of Council adoption.

This is a correct copy of Council action.

Sara R. Tenenbaum
Clerk of the Council