



Revised Zoning Text Amendment No. 16-20, Overlay Zone – Bethesda



Gregory Russ, Planner Coordinator, FP&P, gregory.russ@montgomeryplanning.org, 301-495-2174



Pamela Dunn, Chief, FP&P, pamela.dunn@montgomeryplanning.org, 301-650-5649

Completed: 6/1/17

Description

As introduced, ZTA 16-20 would establish the Bethesda Overlay Zone to implement recommendations of the Planning Board Draft of the Bethesda Downtown Plan. The overlay zone would include defined terms, development and land use standards, and procedures for development approvals. The Council held a public hearing on February 7, 2017, while the Plan was still under consideration by the Council. The Council has since approved the Plan, with substantive changes that affect the ZTA as introduced. The intent of amended ZTA 16-20 is to implement the Bethesda Downtown Plan as modified by the County Council.

Summary

Staff recommends approval, with minor modifications, of ZTA 16-20 to implement the recommendations of the approved *July 16 Planning Board Draft Bethesda Downtown Plan as amended by the County Council* by establishing the Bethesda Overlay Zone. The minor changes recommended by staff reflect editorial, plain language clarifications. Staff believes that, overall, the overlay zone addresses the concepts recommended by the Sector Plan, noting that additional coordination/clarification by Council and Planning Board staff may occur during the PHED Committee worksessions.

Background/Analysis

On May 25, 2017, the County Council adopted Resolution No. 18-835 approving the July 2016 Planning Board Draft Bethesda Downtown Sector Plan. Approval of the Plan now warrants changes to the proposed Overlay zone. Council Staff (with input from Planning Board Staff) has amended the ZTA to mirror the changes made by the County Council to the Plan. Given the significance of the draft changes, the Council will conduct a second public hearing for the ZTA on June 13, 2017 at 7:30 p.m.

Sector Plan

The aim of the Sector Plan is not to radically transform the community but to achieve a sustainable downtown through incremental measures addressing its economic, social and environmental future. The recommendations work to increase:

- 1. Parks and open spaces**, including new civic greens at Veteran’s Park, Bethesda Farm Women’s Cooperative Market, Capital Crescent Trail and new urban parks, pathways and gateways;
- 2. Affordable housing**, including the preservation of existing market-rate affordable housing, providing a mix of housing options and the provision of Moderately Priced Dwelling Units in exchange for development incentives;
- 3. Environmental innovation**, including more energy-efficient buildings, better stormwater management, improved sidewalks and bicycle routes, and other measures to enhance community health and quality of life; and
- 4. Economic competitiveness**, based on new development, public amenities and proximity to public transit to attract businesses and visitors from throughout the region, and foster entrepreneurship and innovation.

ZTA 16-20

One of the proposed methods for achieving several of the benefits stated above is ZTA 16-20 to establish the Bethesda Overlay Zone: This new overlay zone would provide a planning and zoning strategy that implements the recommendations outlined in the Plan while providing a comprehensive zoning scheme that does not exceed the densities recommended in the land use vision.

As amended by the Council, the Bethesda Overlay Zone is designed to:

- appropriately allocate density within Downtown Bethesda while protecting existing residential neighborhoods;
- provide additional opportunities for parks and open space;
- expand the County’s affordable housing inventory;
- ensure high quality design through the use of a Design Review Advisory Panel; and
- cap development to ensure that total density in the Plan Area, including existing, approved, and new development (including affordable housing), does not exceed 32.4 million square feet of gross floor area. Since heights recommended by this Sector Plan would allow significantly more development than 32.4 million square feet, many properties will be unable to develop to the full amount that may have been allowed by their height.

In the attached amended Bethesda Overlay Zone, some provisions remain unchanged from the ZTA as introduced, some provisions are deleted, some provisions are amended, and some provisions are added.

The following borrows from a table created by County Council Staff to assist in reviewing the ZTA as amended.

Provisions in ZTA 16-20 as amended	Nature of the change from the ZTA as introduced
All references to priority sending and receiving areas are deleted.	The Council deleted priority sending and receiving areas.
All land uses in the underlying zone would be allowed; however, a site that transfers density may not be used for surface parking as the principle use. <i>(Lines 55-59)</i>	The introduced ZTA only restricted land use in priority sending areas.
The additional building height that is allowed for more than 12.5% MPDUs would not apply to any project providing 15% or fewer MPDUs. <i>(Lines 61-69)</i>	The ZTA as introduced was less clear in its reference to the current code.
Bonus density, density transfers, and MPDUs allowed to increase the floor area allowed by a property's mapped FAR. <i>(Lines 70-92)</i>	The ZTA as introduced was silent on the potential for exempting MPDUs from the calculation of FAR.
The FAR of all MPDUs is excluded if the project provides a minimum of 17.5% MPDUs. <i>(Lines 128-130)</i>	This was not addressed in the ZTA as introduced.
The zone allows for the allocation of Bonus Density on a first come, first served basis...and use it within 2 years or lose its provision. <i>(Lines 252-266)</i>	This is not changed from the introduced ZTA.
To qualify for bonus density...the site must use the density and make a park impact payment, unless the project provides at least 25% MPDUs or provides on-site open space. <i>(Lines 93-116)</i>	The ZTA as introduced did not contain the exemption from the park impact payment for 25% MPDUs.

Provisions in ZTA 16-20 as amended	Nature of the change from the ZTA as introduced
Comments from a Design Review Panel are proposed to be required for all optional method projects. <i>(Lines 213-216)</i>	As introduced, comments from the panel were only required for projects using bonus density.
Bonus density may be used for commercial or residential square footage. <i>(Lines 88-92)</i>	Use was limited to the use allowed in the underlying zone.
All projects with residential units must provide 15% MPDUs. <i>(Lines 173-177)</i>	As introduced, 15% MPDUs was only required of projects using bonus density.
No public benefit points for transit proximity. <i>(Lines 186-187)</i>	This provision is consistent with the policy that required attributes do not earn public benefit points. This provision was not explicit in the ZTA as introduced.
Public benefit points are awarded for projects that provide more than 15% MPDUs at 12 points for every additional 1% MPDU above 15%. <i>(Lines 181-185)</i>	This is a new provision from the ZTA as introduced. A minimum of 15% MPDUs were required to qualify for bonus density.
Public benefit points allowed for the retention of market rate affordable units. <i>(Lines 199-209)</i>	This is a new provision from the ZTA as introduced.
10 points for the park impact payment but no public benefit point for projects using Bonus Density (when the payment is required). <i>(Lines 188-194)</i>	The provision for excluding project from points when a payment is required is consistent with the policy that required attributes do not earn public benefit points. This provision was included in the ZTA as introduced.
Within the high performance areas, require at least 15 points from energy conservation or production. <i>(Lines 195-198)</i>	This is a new requirement.
Require at least 10 points for exceptional design and a maximum of 30 points. <i>(Lines 210-213)</i>	This is a new requirement for all sites; maximum number of points increased.

Provisions in ZTA 16-20 as amended	Nature of the change from the ZTA as introduced
Allow a transfer of density from anywhere in the Overlay zone to a site in the high performance area. <i>(Lines 218-220)</i>	The introduced ZTA did not contain this provision thus, density transfers were limited to within 1/4 mile of the receiving site.
Eliminate the requirement for additional public benefit points for density transfers. <i>(Lines 221-222)</i>	Under the current code, 50% more public benefit points are required.
The Planning Board may reduce the on-site open space required. <i>(Lines 229-231)</i>	No change from the ZTA as introduced.
The minimum number of vehicle parking spaces are reduced by 20% with a further waiver possible. <i>(Lines 223-228)</i>	This is a new provision.

Overall, staff continues to believe that the proposed overlay zone consistently implements the recommendations of the July 2016 *Planning Board Draft Bethesda Downtown Plan as amended and adopted by the County Council (Resolution No. 18-835)* which intends to create a truly sustainable downtown by focusing on components that will bolster the elements most in need of enhancement. Staff is recommending a few minor editorial clarifications. Although Staff believes that the overlay zone addresses the overall concepts recommended by the Sector Plan, we also note that additional coordination/clarification by Council and Planning Board staff may occur during the PHED Committee worksessions.

Attachments

1. Amended ZTA No. 16-20 as modified by Planning Staff

ATTACHMENT 1

Zoning Text Amendment No.: 16-20
Concerning: Overlay Zone – Bethesda
Draft No. & Date: 5-5/4/17
Introduced: December 6, 2016
Public Hearing:
Adopted:
Effective:
Ordinance No.:

**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: Council President at the request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- establish the Bethesda Overlay zone with defined terms, development and land use standards, and procedures for development approvals; and
- generally amend provisions concerning Overlay zones

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

ARTICLE 59-1.	“General Zoning Ordinance Provisions”
Section 1.4.2.	“Specific Terms and Phrases Defined”
ARTICLE 59-2.	“Zones and Zoning Map”
Section 2.1.2.	“Zoning Categories”
ARTICLE 59-4.	“Development Standards for Euclidean Zones”
Division 4.9.	“Overlay Zones”
Section 4.9.2.	“Burtonsville Employment Area (BEA) Overlay Zone”
Section 4.9.3.	“Chevy Chase Neighborhood Retail (CCNR) Overlay Zone”
Section 4.9.4.	“Clarksburg East Environmental (CEE) Overlay Zone”
Section 4.9.5.	“Clarksburg West Environmental (CWE) Overlay Zone”
Section 4.9.6.	“Community-serving Retail (CSR) Overlay Zone”
Section 4.9.7.	“Fenton Village (FV) Overlay Zone”
Section 4.9.8.	“Garrett Park (GP) Overlay Zone”
Section 4.9.9.	“Germantown Transit Mixed Use (GTMU) Overlay Zone”
Section 4.9.10.	“Montgomery Village (MV) Overlay Zone”
Section 4.9.11.	“Regional Shopping Center (RSC) Overlay Zone”
Section 4.9.12.	“Ripley/South Silver Spring (RSS) Overlay Zone”
Section 4.9.13.	“Rural Village Center (RVC) Overlay Zone”
Section 4.9.14.	“Sandy Spring/Ashton Rural Village (SSA) Overlay Zone”

- Section 4.9.15. “Takoma Park/East Silver Spring Commercial Revitalization (TPESS) Overlay Zone”
- Section 4.9.16. “Transferable Development Rights (TDR) Overlay Zone”
- Section 4.9.17. “Twinbrook (TB) Overlay Zone”
- Section 4.9.18. “Upper Paint Branch (UPB) Overlay Zone”
- Section 4.9.19. “Upper Rock Creek (URC) Overlay Zone”

And adding:

- Section 1.4.2 “Bonus Density”
- Section 4.9.2. “Bethesda (B) Overlay Zone”

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

ORDINANCE

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

1 **Sec. 1. ARTICLE 59-1 is amended as follows:**

2 * * *

3 **Division 1.4. Defined Terms**

4 * * *

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

6 In this Chapter, terms that are not specifically defined have their ordinary meaning.

7 The following words and phrases have the meanings indicated.

8 * * *

9 **Bonus Density:** See Section 4.9.2.C.2.a

10 * * *

11 **Sec. 2. ARTICLE 59-2 is amended as follows:**

12 **Division 2.1. Zones Established**

13 * * *

14 **Section 2.1.3. Establishment of Zones**

15 * * *

16 **G. Overlay Zones**

17 1. There are [18] 19 Overlay zone classifications:

18 a. Bethesda (B),

19 [a] b. Burtonsville Employment Area (BEA),

20 [b] c. Chevy Chase Neighborhood Retail (CCNR),

21 [c] d. Clarksburg East Environmental (CEE),

22 [d] e. Clarksburg West Environmental (CWE),

23 [e] f. Community-serving Retail (CSR),

24 [f] g. Fenton Village (FV),

25 [g] h. Garrett Park (GP),

26 [h] i. Germantown Transit Mixed Use (GTMU),

27 [i] j. Montgomery Village (MV),

- 28 [j] k. Regional Shopping Center (RSC),
- 29 [k] l. Ripley/South Silver Spring (RSS),
- 30 [l] m. Rural Village Center (RVC),
- 31 [m] n. Sandy Spring/Ashton Rural Village (SSA),
- 32 [n] o. Takoma Park/East Silver Spring Commercial Revitalization
- 33 (TPESS),
- 34 [o] p. Transferable Development Rights (TDR),
- 35 [p] q. Twinbrook (TB),
- 36 [q] r. Upper Paint Branch (UPB), and
- 37 [r] s. Upper Rock Creek (URC).

38 2. Building types, uses, density, height, and other standards and
39 requirements may be modified by the Overlay zones under Section
40 4.9.2 through Section [4.9.19] 4.9.20.

41 * * *

42 **Sec. 3. ARTICLE 59-4 is amended as follows:**

43 **Division 4.9. Overlay Zones**

44 * * *

45 **Section 4.9.2. Bethesda (B)**

46 **A. Purpose**

47 The purpose of the [[Bethesda]] B Overlay Zone is to [[appropriately
48 allocate density within the Bethesda Downtown area that will protect
49 existing residential neighborhoods, provide additional land for parks and
50 open space, expand the County’s affordable housing inventory, promote
51 high quality design, and modify density averaging provisions for Priority
52 Sending Sites]] implement the recommendations of the Bethesda Downtown

53 Plan as it relates to density, building heights, affordable housing goals,
54 parks, and design.

55 **B. Land Uses**

- 56 1. The land uses of the underlying zones are applicable.
57 2. Surface Parking for Use Allowed in the Zone is not allowed as a use
58 on a [[Priority Sending Site]] site from which density has been
59 transferred.

60 **C. Development Standards**

- 61 1. Building Height
62 [[a.]]a Except as provided in subsection b, the maximum building
63 height is limited to the height allowed in the underlying zone.
64 b. [[Subsection 4.7.3.D.6.c.i. only applies within the High
65 Performance Area designated in the Bethesda Downtown
66 Plan.]] If more than 15% [[of the number]] of the dwelling units
67 in a residential development are MPDUs under Chapter 25A,
68 the height limit of the applicable zone does not apply to the
69 extent required to provide MPDUs above 15%.
- 70 2. Density
71 a. [[A]] In the CR or CRT zone, a development may exceed the
72 [[mapped CR or CRT FAR]] mapped FAR on a site if the
73 Planning Board approves [[, on]] a sketch [[and]] or site plan
74 [[,]] under Section 7.3.3 or Section 7.3.4 that includes the
75 allocation of [[FAR]] gross floor area from Bonus Density,
76 FAR Averaging under Section 4.9.2.C.5., or the provision of
77 more than 17.5% MPDUs.
78 b. Bonus Density

79 Bonus Density is the total square footage of gross floor area by
80 which approved development in the [[Downtown]] Bethesda
81 [[plan]] Downtown Plan area may cumulatively exceed the
82 maximum square footage of gross floor area allowed under the
83 mapped CR and CRT zones. Bonus Density is [[limited to
84 3,289,000 square feet]] the square footage of gross floor area
85 determined by subtracting the gross floor area of existing and
86 approved development from 32.4 million (the total gross floor
87 area recommended by the Bethesda Downtown Plan) .

88 [[b.]] 1. [[FAR]] The gross floor area allocated from Bonus
89 Density may be developed [[with any]] as Commercial or
90 Residential [[use allowed in the underlying zone]] square
91 footage [[in]] consistent with the Bethesda Downtown Plan’s
92 recommendation for the site.

93 [[c.]] 2. To qualify for Bonus Density [[FAR]], a proposed
94 development must:

95 [[1.]] i. Use all gross floor area allowed by the
96 mapped CR or CRT FAR [[associated with the
97 property. Density may not be transferred from the
98 property .]] A property that was approved with
99 Bonus Density may not transfer Bonus Density to
100 any other property.

101 [[2.]] ii. [[Provide a minimum of 15 percent
102 MPDUs, excluding any Bonus Density transferred
103 from a Priority Sending Site.]]

104 [[3.]] Make a [[Park Impact Payment]] park
105 impact payment before the filing of any building

106 permit application at a rate of \$10 per square foot
107 of approved Bonus Density [[FAR]] gross floor
108 area; however, if the development includes at least
109 25% MPDUs, a park impact payment is not
110 required. If a property owner dedicates land
111 designated in the master plan as a
112 recommended[[/enhanced]] open space to the M-
113 NCPPC Parks Department, the Planning Board
114 may reduce the amount of square footage for
115 which a [[Park Impact Payment]] park impact
116 payment must be made.

117 [[4. Be reviewed by the Design Review Advisory
118 Panel at sketch plan and site plan review to help
119 ensure the development achieves the highest level
120 design quality, consistent with the master plan,
121 design guidelines, and other applicable
122 requirements.

123 d. The Public Use Space requirement under Section 4.5.4.B.1.a
124 may be reduced by the Planning Board.]]

125 [[e. A project that makes a Park Impact Payment may qualify for up
126 to 10 incentive density points under the category of major
127 public facility.]]

128 c. For a project providing a minimum of 17.5% MPDUs, the gross
129 floor area of all of the MPDUs provided is exempt from the
130 calculation of FAR.

131 **3. [[FAR Averaging**

- 132 a. The Bethesda Downtown Plan designates certain properties as
133 Priority Sending Sites to encourage the creation or enlargement
134 of urban parks, protect significant historic and community
135 resources, and retain existing affordable housing.
- 136 b. Density transferred from a Priority Sending Site may be
137 included in a sketch plan or site plan application for any CR or
138 CRT-zoned site within the Sector Plan Area boundary.
- 139 c. Density transferred from a Priority Sending Site may be used
140 on another site without the Priority Sending Site being under
141 the same sketch plan or site plan.
- 142 d. Density transferred from a Priority Sending Site is exempt from
143 the BLT purchase requirements of Section 4.7.3.F.1.a.
- 144 e. Before a certified site plan for a development using density
145 transferred from an Open Space Priority Sending Site may be
146 approved, all development rights must be extinguished on the
147 Open Space Priority Sending Site by a recorded instrument
148 approved by the M-NCPPC.
- 149 f. Before a certified site plan for a development using density
150 transferred from an Affordable Housing Priority Sending Site
151 may be approved, the owner of the sending site must enter into
152 an agreement with the Department of Housing and Community
153 Affairs to retain a minimum of 30 percent of the existing
154 affordable housing units, defined as 65 percent of Area Median
155 Income (AMI) or below, for 20 years.
- 156 g. Before a certified site plan for a development using density
157 transferred from a Historic/Community Resource Priority
158 Sending Site may be approved, all development rights not

159 associated with an existing structure, and any amount of square
160 footage determined by the Planning Board in reviewing a
161 Sketch Plan to be necessary for operational purposes, must be
162 extinguished on the Historic/Community Resource Priority
163 Sending Site by a recorded instrument approved by the
164 M-NCPPC.

165 h. If all or part of an Open Space Priority Sending Site off of
166 which no density has been transferred is dedicated to the M-
167 NCPPC Parks Department, it may qualify for public benefit
168 points as a major public facility.

169 i. If all or part of a Historic/Community Resource Priority
170 Sending Site off of which no density has been transferred is
171 dedicated to the M-NCPPC Parks Department, it may qualify
172 for public benefit points as a major public facility.]]

173 Moderately Priced Dwelling Units

174 For any application under Section 4.5.4 Optional Method
175 Development that includes residential dwelling units, the Planning
176 Board may only approve the application if the development will
177 provide at least 15% MPDUs under Chapter 25A.

178 4. Public Benefit Points

179 The requirements for public benefit points are established by Division
180 59.4.7, except as follows:

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

- 184 15% MPDUs must be 12 points for every 1% of additional
185 MPDUs above 15%.
- 186 b. The Planning Board must not grant any public benefit points for
187 transit proximity under Section 59.4.7.3.B.
- 188 c. If a park impact payment is not required under Section
189 59.4.9.2.C.2.c and the applicant makes a payment, the Planning
190 Board may grant up to 10 public benefit points under the
191 category of major public facility. If a park impact payment is
192 required under Section 59.4.9.2.C.2.c, the Planning Board may
193 grant public benefit points only if the park impact payment
194 exceeds the minimum required.
- 195 d. Within the High Performance Area designated in the Bethesda
196 Downtown Plan, the Planning Board must determine that the
197 development achieves 15 public benefit points from Energy
198 Conservation and Generation under Section 59.4.7.3.F.3.
- 199 e. If the applicant enters into an agreement with the Department of
200 Housing and Community Affairs to retain or provide affordable
201 housing rents for dwelling units located anywhere in the
202 Overlay zone area, the Planning Board must grant 6 public
203 benefit points for every 1% of units included in the rental
204 agreement. Any fraction of 1% increase in the number of units
205 covered by the agreement entitles the applicant to an equal
206 fraction of 6 points. For this purpose, affordable housing is
207 defined as rents that are affordable to a household with a
208 household income of 80 percent of Area Median Income (AMI)
209 or below, for 20 years.

210 f. The Planning Board must determine that the development
211 achieves at least 10 points for exceptional design under Section
212 59.4.7.3.E.4. The maximum number of public benefit points
213 for exceptional design is 30. The Planning Board must appoint
214 a Design Review Advisory Panel and consider the comments
215 from that panel on all projects before making their
216 determination concerning exceptional design points.

217 5. FAR Averaging (Density transfers)

218 a. Any floor area allowed by the underlying zone may be
219 transferred to any site located in the High Performance Area
220 designated in the Bethesda Downtown Plan.

221 b. Additional public benefit points above the minimum number
222 are not required for FAR Averaging.

223 6. Parking Standards

224 The minimum number of vehicle parking spaces required is 80% of
225 the number of spaces required by Section 59.6.2.4; however, the
226 Planning Board may reduce this requirement further if the applicant
227 provides evidence that less parking will not burden the surrounding
228 residential neighborhood or Parking Lot District facilities.

229 7. Public Open Space

230 The Public Open Space requirement under Section 4.5.4.B.1.a may be
231 reduced by the Planning Board.

232 **D. Development Procedures**

233 1. Sketch plan and site plan approval under Section 7.3.3 and Section
234 7.3.4, respectively, are required for all development in the Bethesda
235 Overlay zone that uses the FAR [[averaging]] Averaging provisions of
236 Section [[4.9.2.C.3.]] 4.9.2.C.5.

- 237 2. To approve a site plan [[with Bonus Density FAR]], the Planning
238 Board must find that the proposed allocation of [[FAR from Bonus
239 Density]] gross floor area, in addition to [[all]] the sum of previously
240 approved or built [[allocations]] developments, does not exceed
241 [[3,289,000]] 32,400,000 square feet of gross floor area.
- 242 3. [[Within 2 years of when the Planning Board approves a site plan
243 using Bonus Density, the applicant must provide the Planning
244 Department proof of acceptance of the core and shell building permit
245 application no later than 15 days after the Department of Permitting
246 Services. No later than two years after the Department of Permitting
247 Services accepts the core and shell building permit application, the
248 applicant must obtain at least a core and shell building permit. The
249 deadlines for applying for and obtaining a core and shell building
250 permit under this section may not be extended. If an applicant fails to
251 apply for or obtain a building permit within the time allowed under
252 this section, the site plan approval is revoked.]] If the Planning Board
253 approves a site plan using bonus density, the applicant must have the
254 Department of Permitting Services accept a building permit
255 application that includes the core and shell of the principal building
256 within two years of the date of the Planning Board's resolution.
257 Within two years after the Department of Permitting Services accepts
258 the building permit application that includes the core and shell of the
259 principal building, the applicant must obtain that building permit. The
260 applicant must provide the Planning Department proof of acceptance
261 of the building permit application and issuance of the building permit
262 within 15 days of the Department of Permitting Services accepts the
263 application and issues the permit, respectively. The deadlines under

264 this section may not be extended. If an applicant fails to comply with
265 any of the deadlines under this section, the entire site plan approval is
266 revoked.

267 * * *

268 **Section [4.9.2] 4.9.3. Burtonsville Employment Area (BEA) Overlay Zone**

269 * * *

270 **B. Land Uses**

271 1. The following uses are prohibited:

272 * * *

273 k. Light Manufacturing and Production, except as noted in Section
274 [4.9.2.B.3] 4.9.3.B.3;

275 * * *

276 **Section [4.9.3] 4.9.4. Chevy Chase Neighborhood Retail (CCNR) Overlay**
277 **Zone**

278 * * *

279 **Section [4.9.4] 4.9.5. Clarksburg East Environmental (CEE) Overlay Zone**

280 * * *

281 **D. Development Standards**

282 1. Except as allowed under Section [4.9.4.B] 4.9.5.B, the maximum total
283 impervious surface area for any development after August 4, 2014 is
284 15% of the total area under application for development.

285 * * *

286 **E. Site Plan**

287 1. Any development that must file a preliminary plan of subdivision
288 under Chapter 50 requires approval of a site plan by the Planning
289 Board under Section 7.3.4, unless excluded under Section [4.9.4.E.2]
290 4.9.5.E.2.

291 * * *

292 **Section [4.9.5] 4.9.6. Clarksburg West Environmental (CWE) Overlay Zone**

293 * * *

294 **D. Development Standards**

295 1. Except for County owned land or land under a conservation easement
296 granted to the benefit of the County and development exempted under
297 Section [4.9.5.B] 4.9.6.B, the maximum total impervious surface area
298 for any development after August 4, 2014 is 6% of the total area under
299 application for development.

300 * * *

301 **E. Site Plan**

302 1. Any development that must file a preliminary plan of subdivision
303 under Chapter 50 requires approval of a site plan by the Planning
304 Board under Section 7.3.4, unless excluded under Section [4.9.5.E.2]
305 4.9.6.E.2 or Section [4.9.5.E.3] 4.9.6.E.3.

306 * * *

307 **Section [4.9.6] 4.9.7. Community-serving Retail (CSR) Overlay Zone**

308 * * *

309 **Section [4.9.7] 4.9.8. Fenton Village (FV) Overlay Zone**

310 * * *

311 **C. Development Standards**

312 1. Building Height

313 * * *

314 b. Maximum building height is 60 feet along any street
315 confronting any block that includes property in a Residential
316 Detached zone and, when a building is allowed to be higher
317 than 60 feet under Section [4.9.7.C.1.c] 4.9.8.C.1.c, each

318 additional foot in building height above 60 feet requires at least
319 an additional one foot setback from the front of the building
320 along Fenton Street;

321 * * *

322 e. For properties with frontage on both Wayne Avenue and Fenton
323 Street, in spite of the height limitations in Section [4.9.7.C.1.b]
324 4.9.8.C.1.b through Section [4.9.7.C.1.d] 4.9.8.C.1.d, maximum
325 building height may be increased by 15 feet for a building that
326 includes residential uses or a mix of residential and commercial
327 uses, if such additional height is not more than 200 feet from
328 the right-of-way line for Fenton Street as recommended in the
329 Approved and Adopted 2000 Silver Spring CBD Sector Plan;
330 however, any building using additional height must be set back
331 from abutting Residentially zoned land no less than the setback
332 required in the abutting Residential zone or the height of the
333 building, whichever is greater.

334 f. Building heights may be approved under the standards of
335 Section [4.9.7.C.1] 4.9.8.C.1 without regard to the building
336 height recommendations of the master plan.

337 * * *

338 **Section [4.9.8] 4.9.9. Garrett Park (GP) Overlay Zone**

339 * * *

340 **C. Land Uses**

341 The land uses and use standards of the underlying zone are applicable unless
342 the development standards in Section [4.9.8.D] 4.9.9.D are more restrictive,
343 in which case Section [4.9.8.D] 4.9.9.D must be followed.

344 * * *

345 **Section [4.9.9] 4.9.10. Germantown Transit Mixed Use (GTMU) Overlay Zone**

346 * * *

347 **Section [4.9.10] 4.9.11. Montgomery Village (MV) Overlay Zone**

348 * * *

349 **E. Existing Buildings and Uses**

350 * * *

- 351 3. a. A legal use existing on February 28, 2016 is conforming and
352 may be continued. Expansion of any such use must satisfy the
353 standards of the current zone under Article 59-3.
- 354 b. An existing Charitable, Philanthropic Institution (as defined by
355 Section 3.4.2) may expand without conditional use approval,
356 but must satisfy Section [4.9.10.D] 4.9.11.D.
- 357 c. An existing Storage Facility (as defined by Section 3.6.8.e.1)
358 owned and operated by a Charitable, Philanthropic Institution
359 may expand by up to the lesser of 10% or 30,000 square feet
360 without conditional use approval, but must satisfy Section
361 [4.9.10.D] 4.9.11.D.

362 **Section [4.9.11] 4.9.12. Regional Shopping Center (RSC) Overlay Zone**

363 * * *

364 **D. Site Plan**

365 Site plan approval under Section 7.3.4 is required for any increase in
366 building height under Section [4.9.11.C.1] 4.9.12.C.1.

367 **D. Parking**

368 * * *

369 **1. Pedestrian Access**

370 The major point of pedestrian access for an off-street parking facility
371 that occupies contiguous land area integral to the regional shopping

372 center property may extend more than 500 feet walking distance from
373 an entrance to the center to satisfy the number of spaces required
374 under Section [4.9.11.E.1.a] 4.9.12.E.1.a.

375 * * *

376 **Section [4.9.12] 4.9.13. Ripley/South Silver Spring (RSS) Overlay Zone**

377 * * *

378 **Section [4.9.13] 4.9.14. Rural Village Center (RVC) Overlay Zone**

379 * * *

380 **C. Development Standards**

381 1. Where a lot is either partially or totally in a Commercial/Residential
382 zone:

383 * * *

384 e. In addition to the parking requirements in Division 6.2:

385 * * *

386 iii. For any cumulative enlargement of a surface parking
387 facility that is greater than 50% of the total parking area
388 approved before November 4, 2002, the entire off-street
389 parking facility must be brought into conformance with
390 Section [4.9.13] 4.9.14.

391 * * *

392 **Section [4.9.14] 4.9.15. Sandy Spring/Ashton Rural Village (SSA) Overlay
393 Zone**

394 * * *

395 **Section [4.9.15] 4.9.16. Takoma Park/East Silver Spring Commercial
396 Revitalization (TPESS) Overlay Zone**

397 * * *

398 **D. Site Plan**

399 * * *

400 3. For any addition, reconstruction, or alteration that changes a building
401 by less than 1,000 square feet and does not require site plan approval
402 under Section [4.9.15.D.1.c] 4.9.16.D.1.c, the Planning Board or its
403 designee must review the building permit to determine compliance
404 with master plan recommendations and the provisions of this Overlay
405 zone. If an existing building is located on the site or on an adjacent
406 property, the minimum setback of the zone may be reduced to
407 conform to the existing setback on the site or on the adjacent property.

408 * * *

409 **Section [4.9.16] 4.9.17. Transferable Development Rights (TDR) Overlay Zone**

410 * * *

411 **B. Optional Method**

412 **1. In General**

413 The TDR Overlay optional method of development permits an
414 increase in the maximum residential density, if the development
415 satisfies the requirements for optional method development using
416 Transferable Development Rights under Section [4.9.16.B] 4.9.17.B.

417 **a. Applicability**

418 The procedures and requirements in Section [4.9.16.B] 4.9.17.B
419 apply to the transfer of development rights from land in the AR
420 zone to land in a Transferable Development Rights (TDR)
421 Overlay zone. The Planning Board may approve subdivision of
422 such land at densities up to the maximum density allowed in the
423 applicable TDR Overlay zone and substantially conforming to
424 the recommendations in the applicable master plan.

425 * * *

426 **c. Recording of Development Right**

427 * * *

428 ii. A final record plat for a subdivision using transferred
429 development rights must contain a statement including
430 the development proposed, the zoning classification of
431 the property, the number of development rights used, and
432 a notation of the recordation of the conveyance as
433 required by Section [4.9.16.B] 4.9.17.B.

434 **d. Development with Moderately Priced Dwelling Units**

435 i. A property developed under Section [4.9.16.B] 4.9.17.B
436 must satisfy Chapter 25A.
437 ii. A density bonus allowed under Chapter 25A is calculated
438 after the base density of the property has been increased
439 under Section [4.9.16.B] 4.9.17.B through TDRs.

440 * * *

441 **e. Additional Findings**

442 In addition to the findings required for approval of a site plan
443 under Section 7.3.4, for projects developed under Section
444 [4.9.16.B] 4.9.17.B, the Planning Board must find that the
445 proposed development provides an appropriate range of
446 housing types that takes advantage of existing topography and
447 environmental features and achieves a compatible relationship
448 between the proposed development and adjoining land uses.

449 * * *

450 **Section [4.9.17] 4.9.18. Twinbrook (TB) Overlay Zone**

451 * * *

452 **Section [4.9.18] 4.9.19. Upper Paint Branch (UPB) Overlay Zone**

453 * * *

454 **B. Exemptions**

455 The following are exempt from Section [4.9.18] 4.9.19:

456 * * *

457 **C. Land Uses**

458 1. Except as listed in Section [4.9.18.C.2] 4.9.19.C.2 and Section
459 [4.9.18.C.3] 4.9.19.C.3, the land uses of the underlying zone apply.

460 The use standards of the underlying zone apply unless the
461 development standards in Section [4.9.18.D] 4.9.19.D are more
462 restrictive, in which case Section [4.9.18.D] 4.9.19.D must be
463 followed.

464 * * *

465 3. If validly existing on July 1, 1997, the uses in Section [4.9.18.C.2]
466 4.9.19.C.2 may be continued under the requirements in effect at the
467 time the use was established. Any expansion requires compliance with
468 the UPB Overlay zone.

469 * * *

470 **E. Waiver**

471 The applicable review body may grant a waiver of the development
472 standards in Section [4.9.18.D] 4.9.19.D if it finds that:

473 * * *

474 4. Alternative water quality and control techniques are used to meet the
475 purposes of Section [4.9.18] 4.9.19.

476 **Section [4.9.19] 4.9.20. Upper Rock Creek (URC) Overlay Zone**

477 * * *

478 **B. Exemptions**

479 1. The following are exempt from Section [4.9.19] 4.9.20:

480 * * *

481 **D. Waiver**

482 The applicable review body may grant a waiver of the development
 483 standards in Section [4.9.19.C] 4.9.20.C if it finds that:

484 * * *

485 4. Alternative water quality and quantity control techniques are used to
 486 meet the purposes of Section [4.9.19] 4.9.20.

487 * * *

488 **Sec. 4. OLD ZONING ORDINANCE TO NEW ZONING**
 489 **ORDINANCE SECTION CROSS REFERENCE is amended as follows:**

490

<p style="text-align: center;">Old ZONING ORDINANCE Article 59-C: Zoning Districts; Regulations.</p>	<p style="text-align: center;">New ZONING ORDINANCE</p>
<p style="text-align: center;">* * *</p>	
<p>Division 59-C-18. Overlay Zones.</p>	
<p style="text-align: center;">* * *</p>	
<p>Sec. 59-C-18.11. Residential and open space preservation overlay zone for the Town of Garrett Park.</p>	<p>Sec. [4.9.8] <u>4.9.9</u>. Garrett Park (GP) Overlay Zone</p>
<p style="text-align: center;">* * *</p>	
<p>Sec. 59-C-18.14. Overlay zone for the Burtonsville Employment Area of the Fairland Master Plan.</p>	<p>Sec. [4.9.2] <u>4.9.3</u>. Burtonsville Employment Area (BEA) Overlay Zone</p>
<p>Sec. 59-C-18.15. Environmental Overlay Zone for the Upper Paint Branch Special Protection Area.</p>	<p>Sec. [4.9.18] <u>4.9.19</u>. Upper Paint Branch (UPB) Overlay Zone</p>
<p style="text-align: center;">* * *</p>	
<p>Sec. 59-C-18.17. Chevy Chase neighborhood retail preservation overlay zone.</p>	<p>Sec. [4.9.3] <u>4.9.4</u>. Chevy Chase Neighborhood Retail (CCNR) Overlay Zone</p>

<p style="text-align: center;">Old ZONING ORDINANCE Article 59-C: Zoning Districts; Regulations.</p>	<p style="text-align: center;">New ZONING ORDINANCE</p>
<p>Sec. 59-C-18.18. Sandy Spring/Ashton Rural Village Overlay Zone.</p>	<p>Sec. [4.9.14] <u>4.9.15</u>. Sandy Spring/ Ashton Rural Village (SSA) Overlay Zone</p>
<p>Sec. 59-C-18.19. Fenton Village Overlay Zone.</p>	<p>Sec. [4.9.7] <u>4.9.8</u>. Fenton Village (FV) Overlay Zone</p>
<p>Sec. 59-C-18.20. Ripley/South Silver Spring Overlay Zone.</p>	<p>Sec. [4.9.12] <u>4.9.13</u>. Ripley/South Silver Spring (RSS) Overlay Zone</p>
<p>Sec. 59-C-18.21. Takoma Park/East Silver Spring commercial revitalization overlay zone.</p>	<p>Sec. [4.9.15] <u>4.9.16</u>. Takoma Park/ East Silver Spring Commercial Revitalizations (TPESS) Overlay Zone</p>
<p>Sec. 59-C-18.22. Neighborhood retail overlay zone.</p>	<p>Sec. [4.9.6] <u>4.9.7</u>. Community-serving Retail (CSR) Overlay Zone</p>
<p>Sec. 59-C-18.23. Rural village center overlay zone.</p>	<p>Sec. [4.9.13] <u>4.9.14</u>. Rural Village Center (RVC) Overlay Zone</p>
<p>Sec. 59-C-18.24. Environmental overlay zone for the Upper Rock Creek Special Protection Area.</p>	<p>Sec. [4.9.19] <u>4.9.20</u>. Upper Rock Creek (URC) Overlay Zone</p>

491

492 * * *

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

495

496 This is a correct copy of Council action.

497

498

499 _____
 Linda M. Lauer, Clerk of the Council