



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

---



Gregory Russ, Planner Coordinator, FP&P, [gregory.russ@montgomeryplanning.org](mailto:gregory.russ@montgomeryplanning.org), 301-495-2174



Pamela Dunn, Chief, FP&P, [pamela.dunn@montgomeryplanning.org](mailto:pamela.dunn@montgomeryplanning.org), 301-650-5649

Completed: 1/19/17

---

Description

ZTA 16-20 would establish the Bethesda Overlay Zone (BOZ) 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.

Summary

**Staff recommends approval, with minor modifications of ZTA 16-20 to implement the recommendations of the *Planning Board Draft of the Bethesda Downtown Plan* by establishing the Bethesda Overlay Zone. The minor changes recommended by staff are to clarify the intent that once a site plan using bonus density is approved by the Planning Board, the applicant must have a core and shell building permit application accepted by DPS within two years. In addition, a core and shell building permit must be obtained within two years of acceptance by DPS of the core and shell building permit application (*lines 148-160 of the ZTA*).**

**Background/Analysis**

On October 6, 2016, the Board unanimously recommended transmitting a Zoning Text Amendment (later introduced by County Council as ZTA 16-20) to the County Council for introduction that would establish the Bethesda Overlay Zone to implement recommendations and goals of the *Planning Board Draft Bethesda Downtown Plan*.

The County’s Zoning Text Amendment Advisers reviewed the Planning Board draft ZTA and provided minor plain language edits to the text. These edits are included in ZTA 16-20 as introduced by the County Council.

The aim of the 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.

**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.

Montgomery County’s new Zoning Ordinance, enacted in October 2014, provides valuable tools for developing a mix of residential and non-residential uses within the Commercial Residential (CR) or Commercial Residential Town (CRT) zones, such as those of Downtown Bethesda. At the same time, these zones allow for public amenities and benefits, including affordable housing, energy conservation, public open space and high quality designs of streetscapes and buildings. One of the proposed methods for achieving several of these benefits 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.

Generally, the Bethesda Overlay Zone:

- Establishes a funding mechanism for parks and open space critical to support additional development
- Expands the County’s affordable housing inventory
- Ensures high quality design through the use of a Design Review Advisory Panel.
- Modifies the density averaging rules for certain priority sites in the Plan area. The Sector Plan designates Open Space Priority Sending Sites, Historic/Community Resources Priority Sending Sites and Affordable Housing Sending Sites. Density transfers from these sites are encouraged to facilitate, respectively, the creation or enlargement of urban parks, protection of significant landmarks and retention of affordable housing.

In order to accomplish these objectives, the Plan recommends zoning individual properties CR with the currently mapped density limit and with the building heights recommended in the Sector Plan. These properties will also be covered under the Bethesda Overlay Zone.

Specifically, the Bethesda Overlay Zone under ZTA 16-20 will:

- Cover all properties within the Sector Plan boundary.
- Set a cap on development to ensure that additional density in the Plan Area (excluding mapped CR and CRT density) does not exceed 3,289,000 square feet. (*Lines 63-69*)
- Allow development to exceed the mapped CR density limit on a property if overlay zone density is available and the proposed development meets certain requirements. (*Lines 62-96*)
- Allow the Planning Board to reduce the public use space requirement (*lines 92-93*)
- Allow a project that makes a Park Impact Payment to qualify for up to 10 incentive density points under the category of major public facility (*lines 94-96*)
- Establish the requirements for additional density received through the Bethesda Overlay Zone, including a requirement to provide a Park Impact Payment, provide 15 percent MPDUs and participate in a Design Review Advisory Panel at the Concept Plan and/or Sketch Plan application phase. (*Lines 72-91*)
- Not give additional building height for projects with MPDUs located outside of the High Performance Area. (*Lines 57-61*)
- Establish the process for obtaining approval of a development with overlay zone density and using it in a timely manner so that unused density is not hoarded. (*Lines 139-160*)
- Modify the density averaging rules to encourage transfers of density from the Priority Sending Sites identified in the Sector Plan. (*Lines 97-138*)

Overall, staff believes that the proposed overlay zone consistently implements the recommendations of *Planning Board Draft Bethesda Downtown Plan* 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 changes. The minor changes are to clarify the intent that once a site plan using bonus density is approved by the Planning Board, the applicant must have a core and shell building permit application accepted by DPS within two years. In addition, a core and shell building permit must be obtained within two years of acceptance by DPS of the core and shell building permit application (*lines 148-160*).

#### **Attachments**

1. ZTA No. 16-20
2. Map-Proposed Overlay Zone Boundary

# ATTACHMENT 1

Zoning Text Amendment No.: 16-20  
Concerning: Overlay Zone – Bethesda  
Draft No. & Date: 2-11/30/16  
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 Overlay Zone is to appropriately allocate

48 density within the Bethesda Downtown area that will protect existing

49 residential neighborhoods, provide additional land for parks and open space,

50 expand the County's affordable housing inventory, promote high quality

51 design, and modify density averaging provisions for Priority Sending Sites.

52 **B. Land Uses**

53 1. The land uses of the underlying zones are applicable.

54 2. Surface Parking for Use Allowed in the Zone is not allowed on a  
55 Priority Sending Site from which density has been transferred.

56 **C. Development Standards**

57 1. Building Height

58 a. Except as provided in subsection b, the maximum building  
59 height is limited to the height allowed in the underlying zone.

60 b. Subsection 4.7.3.D.6.c.i. only applies within the High  
61 Performance Area designated in the Bethesda Downtown Plan.

62 2. Density

63 a. A development may exceed the mapped CR or CRT FAR on a  
64 site if the Planning Board approves, on a sketch and site plan,  
65 the allocation of FAR from Bonus Density. Bonus Density is  
66 the total square footage by which approved development in the  
67 Downtown Bethesda plan area may cumulatively exceed the  
68 maximum square footage allowed under the mapped CR and  
69 CRT zones. Bonus Density is limited to 3,289,000 square feet.

70 b. FAR allocated from Bonus Density may be developed with any  
71 Commercial or Residential use allowed in the underlying zone.

72 c. To qualify for Bonus Density FAR, a proposed development  
73 must:

74 1. Use all mapped CR or CRT FAR associated with the  
75 property. Density may not be transferred from the  
76 property.

77 2. Provide a minimum of 15 percent MPDUs, excluding any  
78 Bonus Density transferred from a Priority Sending Site.

79 3. Make a Park Impact Payment before the filing of any  
80 building permit application at a rate of \$10 per square



81 foot of approved Bonus Density FAR. If a property  
82 owner dedicates land designated in the master plan as a  
83 recommended/enhanced open space to the M-NCPPC  
84 Parks Department, the Planning Board may reduce the  
85 amount of square footage for which a Park Impact  
86 Payment must be made.

87 4. Be reviewed by the Design Review Advisory Panel at  
88 sketch plan and site plan review to help ensure the  
89 development achieves the highest level design quality,  
90 consistent with the master plan, design guidelines, and  
91 other applicable requirements.

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

94 e. A project that makes a Park Impact Payment may qualify for up  
95 to 10 incentive density points under the category of major  
96 public facility.

97 **3. FAR Averaging**

98 a. The Bethesda Downtown Plan designates certain properties as  
99 Priority Sending Sites to encourage the creation or enlargement  
100 of urban parks, protect significant historic and community  
101 resources, and retain existing affordable housing.

102 b. Density transferred from a Priority Sending Site may be  
103 included in a sketch plan or site plan application for any CR or  
104 CRT-zoned site within the Sector Plan Area boundary.

105 c. Density transferred from a Priority Sending Site may be used  
106 on another site without the Priority Sending Site being under  
107 the same sketch plan or site plan.

- 108           d.     Density transferred from a Priority Sending Site is exempt from  
109           the BLT purchase requirements of Section 4.7.3.F.1.a.
- 110           e.     Before a certified site plan for a development using density  
111           transferred from an Open Space Priority Sending Site may be  
112           approved, all development rights must be extinguished on the  
113           Open Space Priority Sending Site by a recorded instrument  
114           approved by the M-NCPPC.
- 115           f.     Before a certified site plan for a development using density  
116           transferred from an Affordable Housing Priority Sending Site  
117           may be approved, the owner of the sending site must enter into  
118           an agreement with the Department of Housing and Community  
119           Affairs to retain a minimum of 30 percent of the existing  
120           affordable housing units, defined as 65 percent of Area Median  
121           Income (AMI) or below, for 20 years.
- 122           g.     Before a certified site plan for a development using density  
123           transferred from a Historic/Community Resource Priority  
124           Sending Site may be approved, all development rights not  
125           associated with an existing structure, and any amount of square  
126           footage determined by the Planning Board in reviewing a  
127           Sketch Plan to be necessary for operational purposes, must be  
128           extinguished on the Historic/Community Resource Priority  
129           Sending Site by a recorded instrument approved by the  
130           M-NCPPC.
- 131           h.     If all or part of an Open Space Priority Sending Site off of  
132           which no density has been transferred is dedicated to the M-  
133           NCPPC Parks Department, it may qualify for public benefit  
134           points as a major public facility.

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

139 **D. Development Procedures**

- 140 1. Sketch plan and site plan approval under Section 7.3.3 and Section  
141 7.3.4, respectively, are required for all development in the Bethesda  
142 Overlay zone that uses the FAR averaging provisions of Section  
143 4.9.2.C.3.
- 144 2. To approve a site plan with Bonus Density FAR, the Planning Board  
145 must find that the proposed allocation of FAR from Bonus Density, in  
146 addition to all previously approved allocations, does not exceed  
147 3,289,000 square feet.
- 148 3. Within ~~[[2]]~~ two years of when the Planning Board approves a site  
149 plan using Bonus Density, the applicant must provide the Planning  
150 Department proof of acceptance of the core and shell building permit.  
151 ~~[[application no later than 15 days after the Department of Permitting~~  
152 ~~Services accepts it. No later than]]~~ Within two years of when ~~[[after]]~~  
153 the Department of Permitting Services accepts the core and shell  
154 building permit application, the applicant must provide the Planning  
155 Department proof of issuance of the ~~[[obtain at least a]]~~ core and shell  
156 building permit. The deadlines ~~[[for applying for and obtaining a~~  
157 core and shell building permit]] under this section may not be  
158 extended. If an applicant fails to provide the proof of ~~[[apply for or~~  
159 obtain]] applying for or obtaining a building permit within the time  
160 allowed under this section, the site plan approval is revoked.

161 \* \* \*

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

163 \* \* \*

164 **B. Land Uses**

165 1. The following uses are prohibited:

166 \* \* \*

167 k. Light Manufacturing and Production, except as noted in Section  
168 [4.9.2.B.3] 4.9.3.B.3;

169 \* \* \*

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

172 \* \* \*

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

174 \* \* \*

175 **D. Development Standards**

176 1. Except as allowed under Section [4.9.4.B] 4.9.5.B, the maximum total  
177 impervious surface area for any development after August 4, 2014 is  
178 15% of the total area under application for development.

179 \* \* \*

180 **E. Site Plan**

181 1. Any development that must file a preliminary plan of subdivision  
182 under Chapter 50 requires approval of a site plan by the Planning  
183 Board under Section 7.3.4, unless excluded under Section [4.9.4.E.2]  
184 4.9.5.E.2.

185 \* \* \*

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

187 \* \* \*

188 **D. Development Standards**

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

194     \*    \*    \*

195     **E.    Site Plan**

196           1.     Any development that must file a preliminary plan of subdivision  
197                     under Chapter 50 requires approval of a site plan by the Planning  
198                     Board under Section 7.3.4, unless excluded under Section [4.9.5.E.2]  
199                     4.9.6.E.2 or Section [4.9.5.E.3] 4.9.6.E.3.

200     \*    \*    \*

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

202     \*    \*    \*

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

204     \*    \*    \*

205     **C.    Development Standards**

206           1.     Building Height

207     \*    \*    \*

208                     b.     Maximum building height is 60 feet along any street  
209                             confronting any block that includes property in a Residential  
210                             Detached zone and, when a building is allowed to be higher  
211                             than 60 feet under Section [4.9.7.C.1.c] 4.9.8.C.1.c, each  
212                             additional foot in building height above 60 feet requires at least  
213                             an additional one foot stepback from the front of the building  
214                             along Fenton Street;

215     \*    \*    \*

- 216 e. For properties with frontage on both Wayne Avenue and Fenton  
217 Street, in spite of the height limitations in Section [4.9.7.C.1.b]  
218 4.9.8.C.1.b through Section [4.9.7.C.1.d] 4.9.8.C.1.d, maximum  
219 building height may be increased by 15 feet for a building that  
220 includes residential uses or a mix of residential and commercial  
221 uses, if such additional height is not more than 200 feet from  
222 the right-of-way line for Fenton Street as recommended in the  
223 Approved and Adopted 2000 Silver Spring CBD Sector Plan;  
224 however, any building using additional height must be set back  
225 from abutting Residentially zoned land no less than the setback  
226 required in the abutting Residential zone or the height of the  
227 building, whichever is greater.
- 228 f. Building heights may be approved under the standards of  
229 Section [4.9.7.C.1] 4.9.8.C.1 without regard to the building  
230 height recommendations of the master plan.

231 \* \* \*

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

233 \* \* \*

234 **C. Land Uses**

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

238 \* \* \*

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

240 \* \* \*

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

242 \* \* \*

243 **E. Existing Buildings and Uses**

244 \* \* \*

- 245 3. a. A legal use existing on February 28, 2016 is conforming and  
246 may be continued. Expansion of any such use must satisfy the  
247 standards of the current zone under Article 59-3.
- 248 b. An existing Charitable, Philanthropic Institution (as defined by  
249 Section 3.4.2) may expand without conditional use approval,  
250 but must satisfy Section [4.9.10.D] 4.9.11.D.
- 251 c. An existing Storage Facility (as defined by Section 3.6.8.e.1)  
252 owned and operated by a Charitable, Philanthropic Institution  
253 may expand by up to the lesser of 10% or 30,000 square feet  
254 without conditional use approval, but must satisfy Section  
255 [4.9.10.D] 4.9.11.D.

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

257 \* \* \*

258 **D. Site Plan**

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

261 **E. Parking**

262 \* \* \*

263 **2. Pedestrian Access**

264 The major point of pedestrian access for an off-street parking facility  
265 that occupies contiguous land area integral to the regional shopping  
266 center property may extend more than 500 feet walking distance from  
267 an entrance to the center to satisfy the number of spaces required  
268 under Section [4.9.11.E.1.a] 4.9.12.E.1.a.

269 \* \* \*

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

271 \* \* \*

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

273 \* \* \*

274 **C. Development Standards**

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

277 \* \* \*

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

279 \* \* \*

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

285 \* \* \*

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

288 \* \* \*

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

291 \* \* \*

292 **D. Site Plan**

293 \* \* \*

294 3. For any addition, reconstruction, or alteration that changes a building  
295 by less than 1,000 square feet and does not require site plan approval  
296 under Section [4.9.15.D.1.c] 4.9.16.D.1.c, the Planning Board or its



297 designee must review the building permit to determine compliance  
298 with master plan recommendations and the provisions of this Overlay  
299 zone. If an existing building is located on the site or on an adjacent  
300 property, the minimum setback of the zone may be reduced to  
301 conform to the existing setback on the site or on the adjacent property.

302 \* \* \*

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

304 \* \* \*

305 **B. Optional Method**

306 **1. In General**

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

311 **a. Applicability**

312 The procedures and requirements in Section [4.9.16.B] 4.9.17.B  
313 apply to the transfer of development rights from land in the AR  
314 zone to land in a Transferable Development Rights (TDR)  
315 Overlay zone. The Planning Board may approve subdivision of  
316 such land at densities up to the maximum density allowed in the  
317 applicable TDR Overlay zone and substantially conforming to  
318 the recommendations in the applicable master plan.

319 \* \* \*

320 **c. Recording of Development Right**

321 \* \* \*

322 ii. A final record plat for a subdivision using transferred  
323 development rights must contain a statement including

324 the development proposed, the zoning classification of  
325 the property, the number of development rights used, and  
326 a notation of the recordation of the conveyance as  
327 required by Section [4.9.16.B] 4.9.17.B.

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

- 329 i. A property developed under Section [4.9.16.B] 4.9.17.B
- 330 must satisfy Chapter 25A.
- 331 ii. A density bonus allowed under Chapter 25A is calculated
- 332 after the base density of the property has been increased
- 333 under Section [4.9.16.B] 4.9.17.B through TDRs.

334 \* \* \*

335 **e. Additional Findings**

336 In addition to the findings required for approval of a site plan  
337 under Section 7.3.4, for projects developed under Section  
338 [4.9.16.B] 4.9.17.B, the Planning Board must find that the  
339 proposed development provides an appropriate range of  
340 housing types that takes advantage of existing topography and  
341 environmental features and achieves a compatible relationship  
342 between the proposed development and adjoining land uses.

343 \* \* \*

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

345 \* \* \*

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

347 \* \* \*

348 **B. Exemptions**

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

350 \* \* \*

351 **C. Land Uses**

352 1. Except as listed in Section [4.9.18.C.2] 4.9.19.C.2 and Section  
353 [4.9.18.C.3] 4.9.19.C.3, the land uses of the underlying zone apply.  
354 The use standards of the underlying zone apply unless the  
355 development standards in Section [4.9.18.D] 4.9.19.D are more  
356 restrictive, in which case Section [4.9.18.D] 4.9.19.D must be  
357 followed.

358 \* \* \*

359 3. If validly existing on July 1, 1997, the uses in Section [4.9.18.C.2]  
360 4.9.19.C.2 may be continued under the requirements in effect at the  
361 time the use was established. Any expansion requires compliance with  
362 the UPB Overlay zone.

363 \* \* \*

364 **E. Waiver**

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

367 \* \* \*

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

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

371 \* \* \*

372 **B. Exemptions**

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

374 \* \* \*

375 **D. Waiver**

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

378 \* \* \*

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

381 \* \* \*

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

384

Old ZONING ORDINANCE Article 59-C: Zoning Districts; Regulations.	New ZONING ORDINANCE
* * *	
<b>Division 59-C-18. Overlay Zones.</b>	
* * *	
Sec. 59-C-18.11. Residential and open space preservation overlay zone for the Town of Garrett Park.	Sec. [4.9.8] <u>4.9.9</u> . Garrett Park (GP) Overlay Zone
* * *	
Sec. 59-C-18.14. Overlay zone for the Burtonsville Employment Area of the Fairland Master Plan.	Sec. [4.9.2] <u>4.9.3</u> . Burtonsville Employment Area (BEA) Overlay Zone
Sec. 59-C-18.15. Environmental Overlay Zone for the Upper Paint Branch Special Protection Area.	Sec. [4.9.18] <u>4.9.19</u> . Upper Paint Branch (UPB) Overlay Zone
* * *	
Sec. 59-C-18.17. Chevy Chase neighborhood retail preservation overlay zone.	Sec. [4.9.3] <u>4.9.4</u> . Chevy Chase Neighborhood Retail (CCNR) Overlay Zone
Sec. 59-C-18.18. Sandy Spring/Ashton Rural Village Overlay Zone.	Sec. [4.9.14] <u>4.9.15</u> . Sandy Spring/ Ashton Rural Village (SSA) Overlay Zone
Sec. 59-C-18.19. Fenton Village Overlay Zone.	Sec. [4.9.7] <u>4.9.8</u> . Fenton Village (FV) Overlay Zone
Sec. 59-C-18.20. Ripley/South Silver Spring Overlay Zone.	Sec. [4.9.12] <u>4.9.13</u> . Ripley/South Silver Spring (RSS) Overlay Zone
Sec. 59-C-18.21. Takoma Park/East Silver Spring commercial revitalization overlay zone.	Sec. [4.9.15] <u>4.9.16</u> . Takoma Park/ East Silver Spring Commercial Revitalizations (TPESS) Overlay Zone
Sec. 59-C-18.22. Neighborhood retail overlay zone.	Sec. [4.9.6] <u>4.9.7</u> . Community-serving Retail (CSR) Overlay Zone
Sec. 59-C-18.23. Rural village center overlay zone.	Sec. [4.9.13] <u>4.9.14</u> . Rural Village Center (RVC) Overlay Zone
Sec. 59-C-18.24. Environmental overlay zone for the Upper Rock Creek Special Protection Area.	Sec. [4.9.19] <u>4.9.20</u> . Upper Rock Creek (URC) Overlay Zone

385 \* \* \*

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

388

389 This is a correct copy of Council action.

390

391 \_\_\_\_\_

392 Linda M. Lauer, Clerk of the Council

