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.
<table>
<thead>
<tr>
<th>Provisions in ZTA 16-20 as amended</th>
<th>Nature of the change from the ZTA as introduced</th>
</tr>
</thead>
<tbody>
<tr>
<td>All references to priority sending and receiving areas are deleted.</td>
<td>The Council deleted priority sending and receiving areas.</td>
</tr>
<tr>
<td>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. (<em>Lines 55-59</em>)</td>
<td>The introduced ZTA only restricted land use in priority sending areas.</td>
</tr>
<tr>
<td>The additional building height that is allowed for more than 12.5% MPDUs would not apply to any project providing 15% or fewer MPDUs. (<em>Lines 61-69</em>)</td>
<td>The ZTA as introduced was less clear in its reference to the current code.</td>
</tr>
<tr>
<td>Bonus density, density transfers, and MPDUs allowed to increase the floor area allowed by a property’s mapped FAR. (<em>Lines 70-92</em>)</td>
<td>The ZTA as introduced was silent on the potential for exempting MPDUs from the calculation of FAR.</td>
</tr>
<tr>
<td>The FAR of all MPDUs is excluded if the project provides a minimum of 17.5% MPDUs. (<em>Lines 128-130</em>)</td>
<td>This was not addressed in the ZTA as introduced.</td>
</tr>
<tr>
<td>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. (<em>Lines 252-266</em>)</td>
<td>This is not changed from the introduced ZTA.</td>
</tr>
<tr>
<td>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. (<em>Lines 93-116</em>)</td>
<td>The ZTA as introduced did not contain the exemption from the park impact payment for 25% MPDUs.</td>
</tr>
<tr>
<td><strong>Provisions in ZTA 16-20 as amended</strong></td>
<td><strong>Nature of the change from the ZTA as introduced</strong></td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>--------------------------------------------------</td>
</tr>
<tr>
<td>Comments from a Design Review Panel are proposed to be required for all optional method projects. <em>(Lines 213-216)</em></td>
<td>As introduced, comments from the panel were only required for projects using bonus density.</td>
</tr>
<tr>
<td>Bonus density may be used for commercial or residential square footage. <em>(Lines 88-92)</em></td>
<td>Use was limited to the use allowed in the underlying zone.</td>
</tr>
<tr>
<td>All projects with residential units must provide 15% MPDUs. <em>(Lines 173-177)</em></td>
<td>As introduced, 15% MPDUs was only required of projects using bonus density.</td>
</tr>
<tr>
<td>No public benefit points for transit proximity. <em>(Lines 186-187)</em></td>
<td>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.</td>
</tr>
<tr>
<td>Public benefit points are awarded for projects that provide more than 15% MPDUs at 12 points for every additional 1% MPDU above 15%. <em>(Lines 181-185)</em></td>
<td>This is a new provision from the ZTA as introduced. A minimum of 15% MPDUs were required to qualify for bonus density.</td>
</tr>
<tr>
<td>Public benefit points allowed for the retention of market rate affordable units. <em>(Lines 199-209)</em></td>
<td>This is a new provision from the ZTA as introduced.</td>
</tr>
<tr>
<td>10 points for the park impact payment but no public benefit point for projects using Bonus Density (when the payment is required). <em>(Lines 188-194)</em></td>
<td>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.</td>
</tr>
<tr>
<td>Within the high performance areas, require at least 15 points from energy conservation or production. <em>(Lines 195-198)</em></td>
<td>This is a new requirement.</td>
</tr>
<tr>
<td>Require at least 10 points for exceptional design and a maximum of 30 points. <em>(Lines 210-213)</em></td>
<td>This is a new requirement for all sites; maximum number of points increased.</td>
</tr>
<tr>
<td>Provisions in ZTA 16-20 as amended</td>
<td>Nature of the change from the ZTA as introduced</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>Allow a transfer of density from anywhere in the Overlay zone to a site in the high performance area. <em>(Lines 218-220)</em></td>
<td>The introduced ZTA did not contain this provision thus, density transfers were limited to within 1/4 mile of the receiving site.</td>
</tr>
<tr>
<td>Eliminate the requirement for additional public benefit points for density transfers. <em>(Lines 221-222)</em></td>
<td>Under the current code, 50% more public benefit points are required.</td>
</tr>
<tr>
<td>The Planning Board may reduce the on-site open space required. <em>(Lines 229-231)</em></td>
<td>No change from the ZTA as introduced.</td>
</tr>
<tr>
<td>The minimum number of vehicle parking spaces are reduced by 20% with a further waiver possible. <em>(Lines 223-228)</em></td>
<td>This is a new provision.</td>
</tr>
</tbody>
</table>

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
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”
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.
[Singl**e 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. ARTICLE 59-1 is amended as follows:

* * *

Division 1.4. Defined Terms

* * *

Section 1.4.2. Specific Terms and Phrases Defined

In this Chapter, terms that are not specifically defined have their ordinary meaning. The following words and phrases have the meanings indicated.

* * *

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

* * *

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

Division 2.1. Zones Established

* * *

Section 2.1.3. Establishment of Zones

* * *

G. Overlay Zones

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

   a. Bethesda (B),

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

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

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

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

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

   [f] g. Fenton Village (FV),

   [g] h. Garrett Park (GP),

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

   [i] j. Montgomery Village (MV),
Sec. 3. ARTICLE 59-4 is amended as follows:

Division 4.9. Overlay Zones

Section 4.9.2. Bethesda (B)

A. Purpose

The purpose of the [[Bethesda]] B Overlay Zone is to [[appropriately allocate density within the Bethesda Downtown area that will protect existing residential neighborhoods, provide additional land for parks and open space, expand the County’s affordable housing inventory, promote high quality design, and modify density averaging provisions for Priority Sending Sites]] implement the recommendations of the Bethesda Downtown
Plan as it relates to density, building heights, affordable housing goals, parks, and design.

B. Land Uses

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

2. Surface Parking for Use Allowed in the Zone is not allowed as a use on a [[Priority Sending Site]] site from which density has been transferred.

C. Development Standards

1. Building Height

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

   b. [[Subsection 4.7.3.D.6.c.i. only applies within the High Performance Area designated in the Bethesda Downtown Plan.]] If more than 15% [[of the number]] of the dwelling units in a residential development are MPDUs under Chapter 25A, the height limit of the applicable zone does not apply to the extent required to provide MPDUs above 15%.

2. Density

   a. [[A]] In the CR or CRT zone, a development may exceed the [[mapped CR or CRT FAR]] mapped FAR on a site if the Planning Board approves [[, on]] a sketch [[and]] or site plan [[,]] under Section 7.3.3 or Section 7.3.4 that includes the allocation of [[FAR]] gross floor area from Bonus Density, FAR Averaging under Section 4.9.2.C.5., or the provision of more than 17.5% MPDUs.

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

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

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

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

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

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

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

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

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

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

3. [[FAR Averaging


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

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

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

d. Density transferred from a Priority Sending Site is exempt from the BLT purchase requirements of Section 4.7.3.F.1.a.

e. Before a certified site plan for a development using density transferred from an Open Space Priority Sending Site may be approved, all development rights must be extinguished on the Open Space Priority Sending Site by a recorded instrument approved by the M-NCPPC.

f. Before a certified site plan for a development using density transferred from an Affordable Housing Priority Sending Site may be approved, the owner of the sending site must enter into an agreement with the Department of Housing and Community Affairs to retain a minimum of 30 percent of the existing affordable housing units, defined as 65 percent of Area Median Income (AMI) or below, for 20 years.

g. Before a certified site plan for a development using density transferred from a Historic/Community Resource Priority Sending Site may be approved, all development rights not
associated with an existing structure, and any amount of square
footage determined by the Planning Board in reviewing a
Sketch Plan to be necessary for operational purposes, must be
extinguished on the Historic/Community Resource Priority
Sending Site by a recorded instrument approved by the
M-NCPPC.

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

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

Moderately Priced Dwelling Units

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

4. Public Benefit Points

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

a. The Planning Board may only grant public benefit points for
providing more than 15% of the residential units as MPDUs
under Chapter 25A. MPDU public benefit points for more than
15% MPDUs must be 12 points for every 1% of additional MPDUs above 15%.

b. The Planning Board must not grant any public benefit points for transit proximity under Section 59.4.7.3.B.

c. If a park impact payment is not required under Section 59.4.9.2.C.2.c and the applicant makes a payment, the Planning Board may grant up to 10 public benefit points under the category of major public facility. If a park impact payment is required under Section 59.4.9.2.C.2.c, the Planning Board may grant public benefit points only if the park impact payment exceeds the minimum required.

d. Within the High Performance Area designated in the Bethesda Downtown Plan, the Planning Board must determine that the development achieves 15 public benefit points from Energy Conservation and Generation under Section 59.4.7.3.F.3.

e. If the applicant enters into 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 must grant 6 public benefit points for every 1% of units included in the rental agreement. Any fraction of 1% increase in the number of units covered by the agreement entitles the applicant to an equal fraction of 6 points. For this purpose, affordable housing is defined as rents that are affordable to a household with a household income of 80 percent of Area Median Income (AMI) or below, for 20 years.
f. The Planning Board must determine that the development achieves at least 10 points for exceptional design under Section 59.4.7.3.E.4. The maximum number of public benefit points for exceptional design is 30. The Planning Board must appoint a Design Review Advisory Panel and consider the comments from that panel on all projects before making their determination concerning exceptional design points.

5. FAR Averaging (Density transfers)
   a. Any floor area allowed by the underlying zone may be transferred to any site located in the High Performance Area designated in the Bethesda Downtown Plan.
   b. Additional public benefit points above the minimum number are not required for FAR Averaging.

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

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

D. Development Procedures
   1. Sketch plan and site plan approval under Section 7.3.3 and Section 7.3.4, respectively, are required for all development in the Bethesda Overlay zone that uses the FAR [[averaging]] Averaging provisions of Section [[4.9.2.C.3.]] 4.9.2.C.5.
2. To approve a site plan [[with Bonus Density FAR]], the Planning Board must find that the proposed allocation of [[FAR from Bonus Density]] gross floor area, in addition to [[all]] the sum of previously approved or built [[allocations]] developments, does not exceed [[3,289,000]] 32,400,000 square feet of gross floor area.

3. [[Within 2 years of when the Planning Board approves a site plan using Bonus Density, the applicant must provide the Planning Department proof of acceptance of the core and shell building permit application no later than 15 days after the Department of Permitting Services. No later than two years after the Department of Permitting Services accepts the core and shell building permit application, the applicant must obtain at least a core and shell building permit. The deadlines for applying for and obtaining a core and shell building permit under this section may not be extended. If an applicant fails to apply for or obtain a building permit within the time allowed under this section, the site plan approval is revoked.]] If the Planning Board approves a site plan using bonus density, the applicant must have the Department of Permitting Services accept a building permit application that includes the core and shell of the principal building within two years of the date of the Planning Board’s resolution. Within two years after the Department of Permitting Services accepts the building permit application that includes the core and shell of the principal building, the applicant must obtain that building permit. The applicant must provide the Planning Department proof of acceptance of the building permit application and issuance of the building permit within 15 days of the Department of Permitting Services accepts the application and issues the permit, respectively. The deadlines under
this section may not be extended. If an applicant fails to comply with any of the deadlines under this section, the entire site plan approval is revoked.

*     *     *

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

*     *     *

B. Land Uses

1. The following uses are prohibited:

   *     *     *

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

   *     *     *

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

*     *     *

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

*     *     *

D. Development Standards

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

   *     *     *

E. Site Plan

1. Any development that must file a preliminary plan of subdivision under Chapter 50 requires approval of a site plan by the Planning Board under Section 7.3.4, unless excluded under Section [4.9.4.E.2] 4.9.5.E.2.
Section [4.9.5] 4.9.6. Clarksburg West Environmental (CWE) Overlay Zone

D. Development Standards

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

E. Site Plan

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

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

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

C. Development Standards

1. Building Height

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

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

* * *

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

* * *

C. Land Uses

The land uses and use standards of the underlying zone are applicable unless
the development standards in Section [4.9.8.D] 4.9.9.D are more restrictive,

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

E. Existing Buildings and Uses

3. a. A legal use existing on February 28, 2016 is conforming and may be continued. Expansion of any such use must satisfy the standards of the current zone under Article 59-3.

b. An existing Charitable, Philanthropic Institution (as defined by Section 3.4.2) may expand without conditional use approval, but must satisfy Section [4.9.10.D] 4.9.11.D.

c. An existing Storage Facility (as defined by Section 3.6.8.e.1) owned and operated by a Charitable, Philanthropic Institution may expand by up to the lesser of 10% or 30,000 square feet without conditional use approval, but must satisfy Section [4.9.10.D] 4.9.11.D.

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

D. Site Plan

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

D. Parking

1. Pedestrian Access

The major point of pedestrian access for an off-street parking facility that occupies contiguous land area integral to the regional shopping
center property may extend more than 500 feet walking distance from
an entrance to the center to satisfy the number of spaces required

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

* * *

* * *
C. Development Standards

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

* * *

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

* * *

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

* * *

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

* * *

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

* * *

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

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

B. Optional Method

1. In General

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

a. Applicability

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

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

d. Development with Moderately Priced Dwelling Units

i. A property developed under Section [4.9.16.B] 4.9.17.B must satisfy Chapter 25A.

ii. A density bonus allowed under Chapter 25A is calculated after the base density of the property has been increased under Section [4.9.16.B] 4.9.17.B through TDRs.

e. Additional Findings

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

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

Section [4.9.18] 4.9.19. Upper Paint Branch (UPB) Overlay Zone
B. Exemptions

The following are exempt from Section [4.9.18] 4.9.19:

C. Land Uses


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

E. Waiver

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

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

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

B. Exemptions

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

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

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

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

<table>
<thead>
<tr>
<th>Old ZONING ORDINANCE Article 59-C: Zoning Districts; Regulations.</th>
<th>New ZONING ORDINANCE</th>
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<tbody>
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<tr>
<td>Division 59-C-18. Overlay Zones.</td>
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<tr>
<td>Sec. 59-C-18.17. Chevy Chase neighborhood retail preservation overlay zone.</td>
<td>Sec. [4.9.3] 4.9.4. Chevy Chase Neighborhood Retail (CCNR) Overlay Zone</td>
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<tr>
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<tr>
<td>Article 59-C: Zoning Districts; Regulations.</td>
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<tr>
<td>Sec. 59-C-18.22. Neighborhood retail overlay zone.</td>
<td>Sec. [4.9.6] 4.9.7. Community-serving Retail (CSR) Overlay Zone</td>
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</table>

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

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council