

Project Summary and Planning Board's Draft Recommendations 2024

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OVERVIEW

Montgomery County is undertaking a review of its public benefits point system (point system) for Commercial-Residential and Employment Zones. This project was approved as a part of the Planning Department's FY2023 annual work program by the county council. This document summarizes the project's goals, key takeaways from analysis conducted by Planning Staff and the consultant, various outreach and engagement efforts undertaken to date, and the recommendations as approved by the Planning Board after a series of working sessions with Planning Staff. The intent of this document is to provide readers with a comprehensive understanding of the project, the Planning Board's draft recommendations and next steps anticipated for County Council's review, adoption, and roll out of the updated policy.

PROJECT CONTEXT

The point system currently applies to four zones: the Commercial Residential (CR); Commercial Residential Town (CRT); Life Science Center (LSC); and Employment Office (EOF) zones. A central goal for creating these zones was to promote infill development throughout the commercial areas of the county that would deliver a mix of uses and public benefits commensurate with an appropriate range

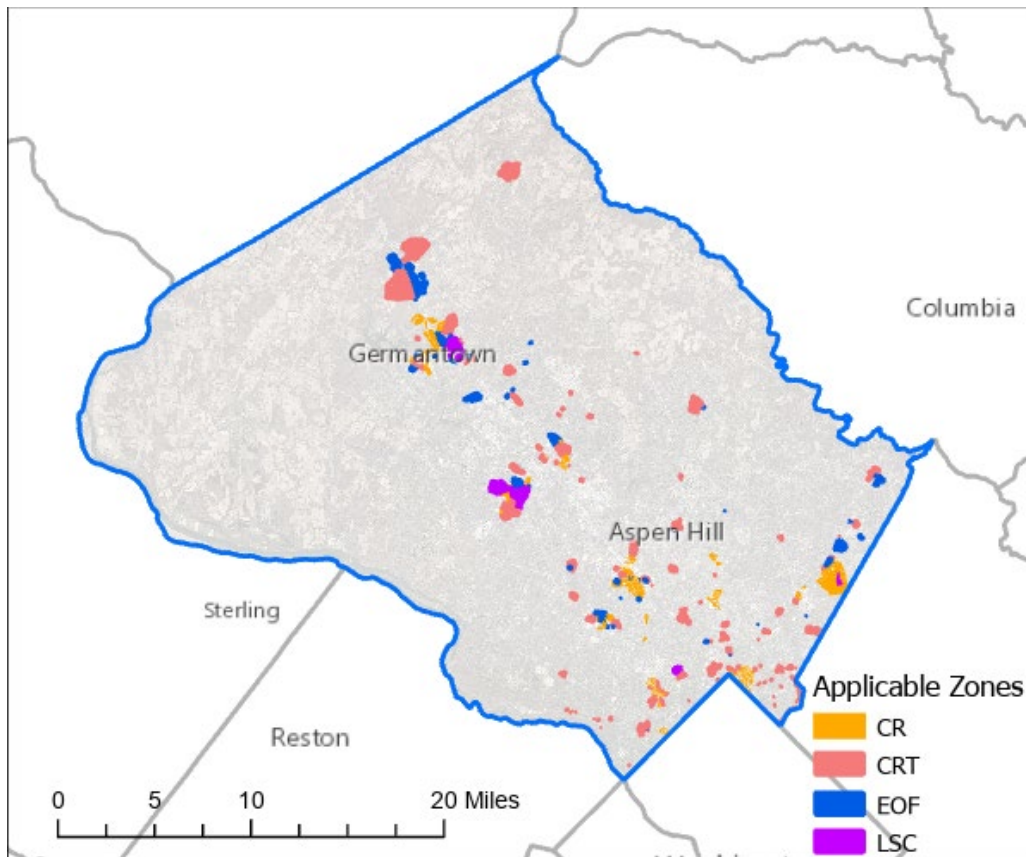


Figure 1 - The optional method of development is applicable to the Commercial Residential (CR), Commercial Residential Town (CRT), Life Science Center (LSC), and Employment Office (EOF) zones.

of densities. The point system was designed to evaluate these public benefits and provide greater transparency regarding what developers were being asked to provide as a condition of approval. Another key goal was to ensure a faster and more efficient development review process while keeping the community informed regarding the delivery of public benefits in exchange for the approved density.

Currently, the public benefits are selected from a menu with seven categories for public benefits, organized generally under planning themes such as mixed-use development, transportation etc. Since the policy's inception in 2010, Montgomery Planning has implemented this policy as delineated in Section [59.4.5](#) of the Zoning Ordinance and further elaborated in the [Incentive Density Implementation Guidelines \('CR Guidelines'\)](#). The CR Guidelines state that in approving any incentive density based on the provision of public benefits, the Planning Board must consider the policy objectives and priorities of the applicable master or sector plan and design guidelines, among other factors related to the size and context of the project. This directive therefore establishes a key role master and sector plans are expected to play in prioritizing which public benefits are considered during the optional method of development approval process.

Over the past fourteen years, the policy has been incrementally adjusted but has not benefitted from a comprehensive review. In the past five years, a series of countywide policies have been adopted including Thrive Montgomery 2050 and the Climate Change Action Plan, which set an ambitious course for the county's future. An update is therefore necessary to modernize the policy and align it with evolving county priorities and market conditions, particularly as it governs some of the largest and most economically significant developments in the County. This will also ensure the policy continues to support high density development in the strategically located CR and Employment Zones.

MECHANICS OF THE CURRENT POLICY

Following the Zoning Ordinance update of 2014, the standard and optional methods of development were applied to four zones: Employment Office (EOF), Life Sciences (LSC), Commercial Residential (CR), and Commercial Residential Town (CRT). Development in these zones is based on Floor Area Ratio.

DEVELOPMENT OPTIONS

Any given development within these four zones may be allowed under the standard method (typically limited to 0.5 or 1 FAR, zone dependent) or an optional method above that threshold which requires the provision of public benefits.

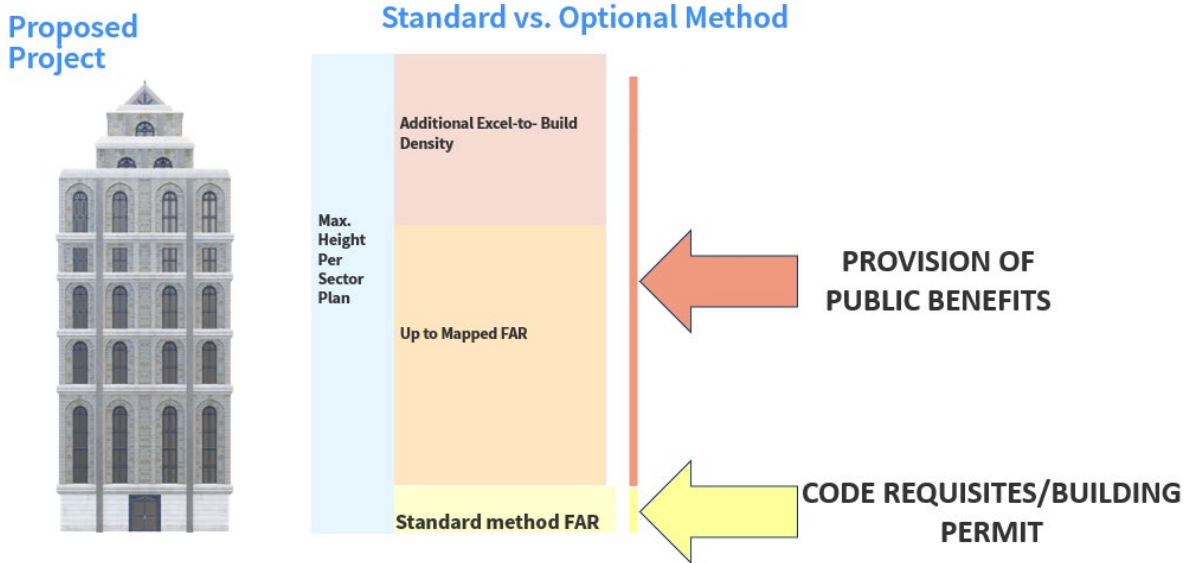


Figure 2 –Development scenarios for Standard and Optional Method within the four incentive zones

Standard method of development can potentially move forward to the Department of Permitting Services for building permit without any review by the Planning Department or Planning Board, however there are several nuances in the zoning ordinance based on proximity to residential zones, height, and overlay zones that may require standard method of development receive a site plan approval from the Planning Board.

Optional method of development applies when a project proposes density above the standard method. Standard method development limits density to 0.5 FAR or 10,000 square feet (whichever is greater) in the CR and LSC zones, and 1.0 FAR or 10,000 square feet in the CRT and EOF zones. Optional method projects require a Sketch Plan and Site Plan approval from the Planning Board and provision of public benefits based on the CR Guideline categories and points.

Commercial/Residential and Employment Zones Incentive Density Implementation Guidelines September 2017			
Zone	Tract Size or Max Total FAR	Public Benefit Points (minimum)	Number of Benefit Categories
CRT	< 10,000 SF OR <1.5 max FAR	25	2
	≥10,000 SF OR ≥1.5 max FAR	50	3
CR	< 10,000 SF OR <1.5 max FAR	50	3
	≥10,000 SF OR ≥1.5 max FAR	100	4
LSC	< 10,000 SF OR <1.5 max FAR	15	1
	≥10,000 SF OR ≥1.5 max FAR	30	2
EOF	< 10,000 SF OR <1.5 max FAR	30	2
	≥10,000 SF OR ≥1.5 max FAR	60	3

Figure 3- Existing Implementation Guidelines and the Public Benefits Calculation Table

Additional Excel-to-Build Density is a newer approach that has been employed by the 2017 *Bethesda Downtown Sector Plan*, where a project may exceed the optional method mapped FAR by providing a benefit beyond the typical public benefits. In Bethesda’s case, this is administered through the Bethesda Overlay Zone and the additional public benefit is a Park Impact Payment. Excel-to-Build Density is likely to be utilized by more master and sector plans in the future.

CODE REQUISITES

For projects that require site plan review, whether it is for standard method or optional method of development, there is a significant amount of technical review and findings that the Planning Board must make to approve a project. These criteria are referred to as “Code Requisites”, enumerated in the list below. These requisites ensure that the project is meeting all the base requirements relative to the County’s environmental regulations, historic preservation law, transportation, safety, and development standards as well as master and sector plan recommendations. These requirements have grown over time as codes have been updated and expectations for development in the County have increased.

- Chapter 22 (Forest Conservation Law)
- Growth and Infrastructure Policy (GIP)
- Local Area Transportation Review (LATR)
- Historic Preservation
- Chapter 25A (MPDU LAW)
- Agency Approval (SWM/FDA/DOT/DPS/DHCA)
- Complete Streets Guide/ROW dedication
- Sector Plan conformance:
 - Streetscape standards
 - Through block connections
 - Open space/parks
 - Design guidelines and/or Design Advisory Panel
 - Green cover/tree canopy/environmental enhancement

PROJECT GOALS

The Planning Board’s draft recommendations identify best practices and recommend actionable changes to the point system while ensuring a balance between the public benefits required, the costs of development, and county policy priorities. The overarching goals are:

- Align the Point System with updated county priorities, including guidance from:
 - Thrive Montgomery 2050
 - Climate Action Plan
 - County’s Racial Equity and Social Justice law
 - Master and Sector Plan Recommendations

- Modernize the Point System to address current real estate and building industry practices.
- Develop clear standards to effectively maximize the positive impact of public benefits.
- Improve coordination of the Point System with existing legislation including:
 - Inclusionary Zoning Law
 - Preservation Programs including Building Lot Termination (BLTs) & Transfer of Development Rights (TDRs).

ENGAGEMENT AND INTERAGENCY COORDINATION

Equitable and impactful community engagement is central to Montgomery Planning's work. Accordingly, planning staff used a multi-pronged approach to engage stakeholders and community members. In addition to the data analysis, the project team relied upon input from the following internal and external stakeholders to gain a fuller understanding of the issues to be considered and the potential impacts of proposed changes.

- An internal working group of staff from various divisions provided insights to the project team regarding the strengths and weaknesses of the current system as experienced during the master planning process, and shared obstacles faced during implementation of the current policy through regulatory review. The internal working group also acted as a fact checking body for the project team's analysis and assumptions and identified potential enhancements for all deliverables.
- A technical working group representing frequent users and monitors of the current point system including real estate and design professionals, county agency and government representatives, land use attorneys and policy experts etc. shared lessons learned from utilizing the current policy, related the experience of working under similar programs in peer jurisdictions, and highlighted the greatest needs this update should address.
- One-on-one meetings with various interest groups with a stake in specific aspects of the current point system, including public agencies, non-profits, advocacy groups, and business representatives etc. helped staff gain a deeper understanding of the various considerations to be accounted for while drafting recommendations.
- Virtual open houses invited the public into the planning process and provided opportunities to question, comment, and share ideas about the current policy and potential updates.
- Interagency coordination with partners at the Department of Permitting Services, Department of Transportation, Department of Housing and Community Affairs, Department of Environmental Protection, Office of Agriculture, Montgomery Parks, and the Arts and Humanities Council helped refine specific recommendations to make them better aligned with other county laws and ensure the proposed public benefits are easily implementable.

SUMMARY OF ANALYSIS

Staff and the real estate consultant [Hayat Brown](#) spent significant effort analyzing the current policy. The list below summarizes the range of analytical efforts conducted:

- Review of the performance of the policy since 2010 in terms of total development and public benefits approved under the Optional Method.
- Evaluation of the clarity, quality, and practicality of the implementation guidelines and requirements, as well as the rubric and structure of public benefits menu.
- Assessment of the cost to provide public benefits, with special focus on understanding the cost of providing MPDUs for points.
- Financial feasibility analysis of prototypical standard method and optional method projects to understand the value of incentive density, the ability to support additional costs, and the impacts of including public benefits in a pro forma.
- Study of other successful incentive zoning programs nationwide for benchmarking and identifying best practices to consider as a part of this update.
- Comprehensive review of the regulatory processes in neighboring jurisdictions to review high density development near transit in exchange for public benefits.

The Planning Board reviewed this analysis in December of 2023, and the major takeaways are summarized below:

- There has been uneven development activity across the four incentive zones. A majority of the approved optional method projects with public benefits are located in the CR zone. Of the 67 projects approved, 53 have been in the CR zone, 13 in the CRT zone, 1 in the EOF zone, and no projects in the LSC zone.
- Montgomery County has the largest menu of discrete, defined public benefits compared to all regional and national jurisdictions reviewed in this study.
- Despite the vast menu, optional method projects have repeatedly delivered a handful of public benefits regardless of the underlying zone or market conditions.
- Master plans have prioritized specific public benefits but have not always been effective at ensuring their delivery.
- Considerations of cost and feasibility were not a key determinant in the creation of the current system. This is in stark contrast to many national and regional jurisdictions, particularly in Virginia, where development applications are required to submit financial data related to the cost of providing public benefits and the value of incentive density in order to ensure a sense of proportionality.
- Montgomery County is unique in that negotiations for public benefits take place after the incentive zoning has already been mapped to a parcel through a sector plan's Sectional Map Amendment or a Local Map Amendment. In most other jurisdictions, this process takes place during an active rezoning application.

- A stronger alignment between public benefits and updated county policy goals as outlined in documents such as Thrive Montgomery 2050 and the Climate Action Plan is needed.

These major takeaways from the analysis, stakeholder input, and guidance received from the Planning Board informed Staff's approach while drafting recommendations. Full documentation of the analysis can be found in Attachment C.

KEY RECOMMENDATIONS

The following represent the Planning Board's key draft recommendations to update this policy. Each is further described in greater detail later in the document.

- Streamline the menu of public benefits and align it with county policy priorities by organizing public benefits under four categories:
 - Housing For All
 - Environmental Resilience
 - Infrastructure for Compact Growth
 - Complete Community Amenities
- Under the four new categories, consolidate the number of public benefits from thirty-six to thirteen, with tiered options for participation in each benefit.
- Shift from an indirect, point-based calculation for evaluating public benefits to a more direct and proportional, FAR based approach.
- Apply the policy strategically across the four zones:
 - Remove the optional method of development requirement from EOF zoned properties. Enable projects to build up to the mapped FAR under Standard Method with a Site Plan requirement above 0.5 FAR.
 - Regulate the delivery of public benefits in LSC zoned properties through the Great Seneca Life Sciences (GSLs) Overlay Zone. Remove the optional method of development requirement for LSC zoned properties outside the GSLs Overlay Zone but continue to require a Site Plan application above 0.5 FAR.
 - Lower the optional method threshold in the CRT zone from greater than 1 FAR to greater than 0.5 FAR to align with CR zone.
- Require all optional method projects in the CR and GSLs Overlay Zone to purchase BLTs or TDRs and allow the Agricultural Land Preservation Fund (ALPF) to buy and sell both BLTs and TDRs on behalf of development applicants and farmland owners.
- Allow applicants to request Excel-To-Build Density beyond the mapped FAR in the CR and CRT zones, where permitted by the master or sector plan.
- Offer payment-in-lieu options where practical.
- Utilize Alternative Compliance framework in Division 4.7 of the zoning code to provide flexibility during regulatory review.
- Create a real time data hub to track public benefits.

- Perform a periodic review of the overall policy every five years. Updates may require amendments to the zoning code. Public Benefit Categories, Tiered Structure and Public Benefit descriptions should be defined in the zoning code. Public benefit details and evaluation process should be included within the Implementation Guidelines.
- For Existing Masterplans:
 - o The Implementation Guidelines should provide a “cross walk” between the existing and updated menu of public benefits. (See draft crosswalk memo as Appendix E)
 - o Some plans may require a ZTA to update certain Overlay Zone requirements etc. where applicable, related to public benefits.
- For New Masterplans:
 - o New masterplans can either adopt the new menu of public benefits as is or adjust it through a mechanism such as an overlay zone. (example: GSLS Overlay Zone)
 - o If a new masterplan modifies the menu, it should include updated guidance as a part of its own Implementation Section.
- Incentivize needed benefits, even if they are regulatory requirements and allow “double-dipping” where it makes practical sense.

APPLYING THE UPDATED POLICY TO THE FOUR ZONES

ZONE BY ZONE RECOMMENDATIONS

Planning staff’s analysis uncovered that while the optional method of development is allowed in four zones (EOF, LCS, CR and CRT), there has been uneven development activity across the four zones. Optional method development chiefly occurs in only two of the zones, CR and CRT. This is not surprising since the point system was initially created for the CR zone within the *2010 White Flint Sector Plan* and later expanded to include other zones across the County. The EOF and LSC zones also cater to a specific type of development with unique considerations relative to investment and financial feasibility. Given these variations, it is recommended that this updated system of public benefits be applied in a more strategic manner for each zone.

EMPLOYMENT OFFICE ZONE (EOF)

Properties within the EOF zone are typically developed with older Class B or C office buildings or light-industrial warehouse type facilities within the mid and upper areas of the County. While critical to the county’s tax base, these assets have struggled in the current market conditions and consequentially properties have aged with little reinvestment. A deeper spatial and zoning analysis revealed that over 80% of the properties within the EOF Zone are not zoned at a sufficient FAR that would allow for Optional Method Development (Optional Method above 1 FAR). Only one optional method project has been approved in the EOF zone since 2010, and that property has since been rezoned to CR. Additionally, this zone is no longer being applied by Staff during the creation of new master or sector plans.



Figure 4 - Typical properties within the EOF Zone.

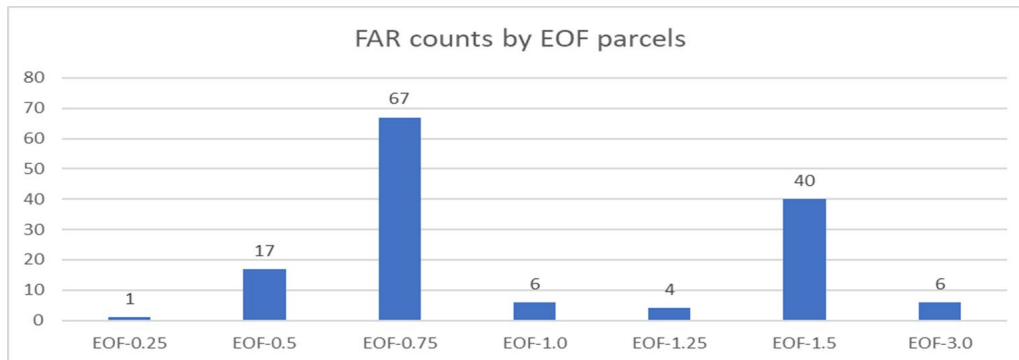


Figure 5 - Chart showing the distribution of Mapped FAR across the various EOF parcels in the County.

EOF Recommendations:

Based on the extremely limited use of the Optional Method of development and the financial feasibility considerations relative to the typical building types found in this zone, the Planning Board recommends the following:

- 1) Remove EOF from zones that require the Optional Method of Development.
- 2) Allow existing EOF properties to develop up to the full mapped FAR through the Standard Method of Development.
- 3) Require a Site Plan for development above 0.5 FAR to ensure Code Requisites are still being met.

LIFE SCIENCES (LSC)

Properties with LSC zoning are predominantly located within the Midcounty Planning Area, specifically within the boundary of the *2010 Great Seneca Science Corridor Master Plan*. Only three other LSC zoned properties exist outside of the *2010 Great Seneca Science Corridor Master Plan* boundary, and each of these properties is either already built out or has a limited zoning capacity or conditions of approval that would preclude its ability to develop under the Optional Method. The Midcounty Planning Team is currently undertaking an update to the *2010 Great Seneca Science Corridor Master Plan* and proposing an overlay zone that would require specific public benefits that are critical to the success of this life science hub. The Incentive Zoning Update team collaborated

closely with Midcounty Planning Team to ensure that the public benefits required by the overlay zone generally align with recommendations to update the overall menu of public benefits.



Figure 6 - Typical properties within the LSC Zone

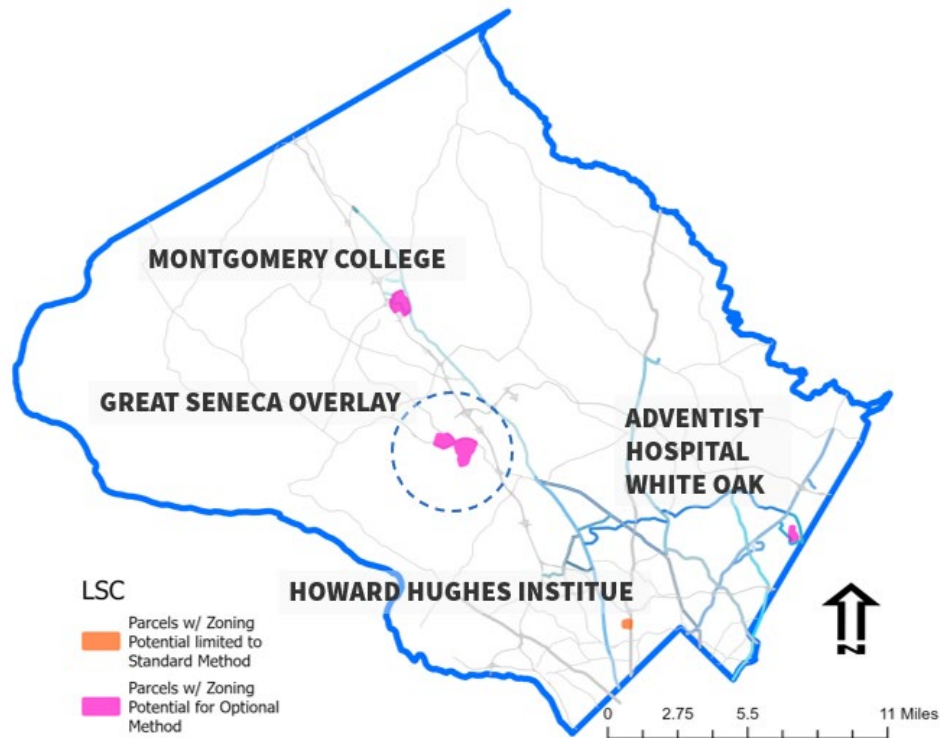


Figure 7 - Map showing the distribution of LSC zoned parcels across the county. Only three LSC properties are not covered by the boundary of the proposed GSLS Overlay Zone.

LSC Recommendations:

Given the geographic concentration of LSC zoned properties within the Great Seneca Plan area, the proposal for an overlay zone and the unlikely application of this zone to additional parts of the county, the Planning Board recommends the following:

- 1) Regulate Optional Method Development and delivery of public benefits for LSC properties through the GSLS Overlay Zone.
- 2) Exempt remaining (three) LSC properties from providing public benefits under the Optional Method of Development.
- 3) Require a Site Plan for development above 0.5 FAR to ensure Code Requisites are still being met.

COMMERCIAL RESIDENTIAL (CR) & COMMERCIAL RESIDENTIAL TOWN (CRT)

The CR & CRT zones are intended to facilitate mixed use infill development near transit. Of the two, the CR zone is intended to support the highest densities. Parcels within this zone range in FAR from 0.5 to 8.0 with most properties zoned with sufficient FAR to pursue the Optional Method of development (development greater than 0.5 FAR). The CR Zone has received the largest number of development approvals through the Optional Method process and the zone is consistently applied to properties through the master and sector planning processes.



Figure 8 - Development in the CR zone has a wide range of intensity and uses.

The CRT zone is intended to be a less intense version of the CR zone in terms of density and permitted uses. However, development and zoning data shows that this zone has been applied to a large range of FAR (0.25-4.75 FAR) as well. We have seen some significant projects built with this type of zoning. A

key difference between the CR and CRT zones is the threshold for Optional Method of development. In the CR zone, projects greater than 0.5 FAR must pursue the Optional Method and provide public benefits while in the CRT zone, the threshold is set at greater than 1.0 FAR. This is an important distinction since almost 60% of parcels within the CRT zone are currently zoned lower than 1.0 FAR and presently could be developed using the Standard Method of development. Many large properties have CRT zoning and significant projects can be built below the 1.0 FAR threshold, without the provision of any public benefits. We anticipate this zone will continue to be used by master and sector plans, particularly along growth corridors in the county. It is appropriate to expect CRT projects building to densities above 0.5 FAR to provide public benefits, similar to the CR zoned properties.

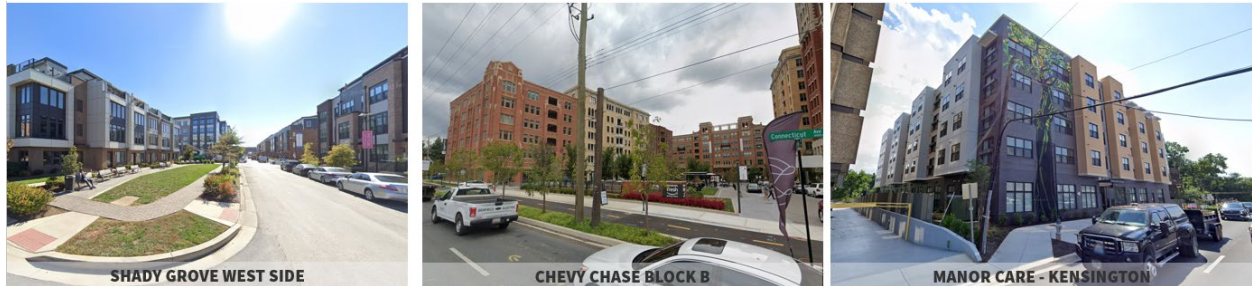


Figure 9 - The CRT zone has seen a mix of mid to high density development.

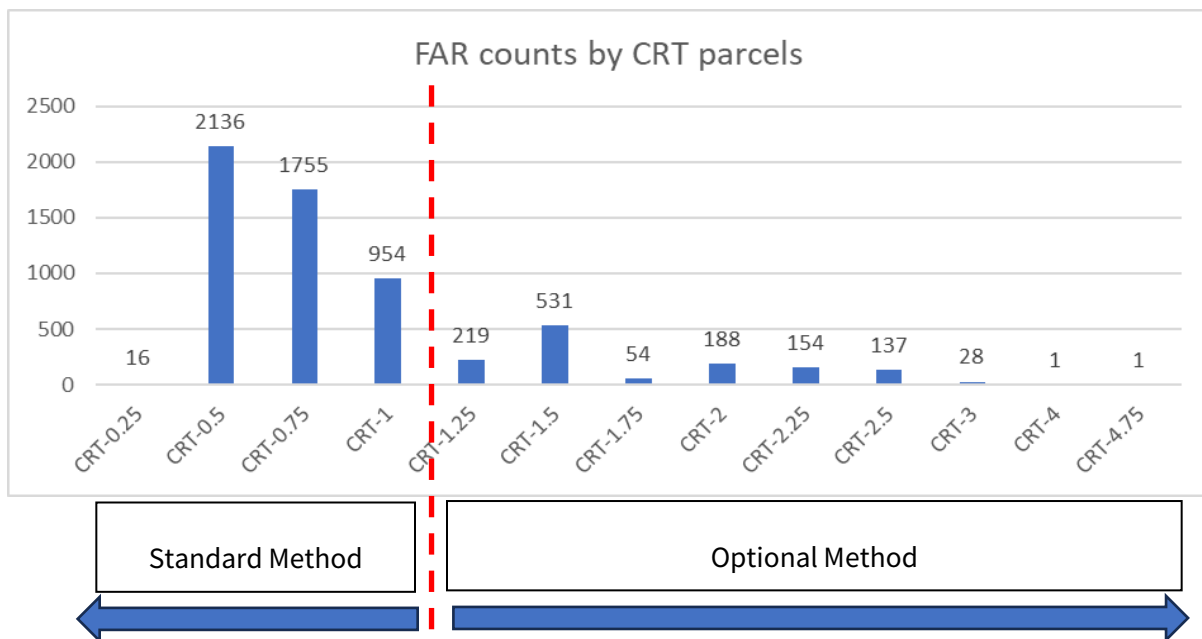


Figure 10 - Chart showing the distribution of Mapped FAR across the various CRT parcels in the county. A majority of CRT parcels have a mapped FAR that can be fully built under the Standard Method.

CR & CRT Recommendations:

Given the similar characteristics and expected continued application of both these zones to additional properties across the county near transit, the Planning Board recommends the following for both CR and CRT zones:

- 1) Establish a standardized Optional Method threshold set at greater than 0.5 FAR for both CR and CRT zones.
- 2) Continue to use a density framework that includes standard method FAR, incentive density up to the mapped FAR per parcel, and additional Excel-To-Build density, established per master and sector plans.
- 3) Approve Incentive Density in FAR increments in exchange for scalable public benefits, enabling applicants to earn the right to build up to the mapped FAR or utilize Excel-To-Build density once the mapped FAR has been fully utilized.
- 4) Continue to use a menu-based approach but grant masterplans the flexibility to modify the menu of public benefits for their applicable geography.
- 5) Prescribe maximum heights during master planning with room for some additional Excel-To-Build density where appropriate.

RECOMMENDATIONS RELATED TO BLTS AND TDRS IN THE CR AND GSLS OVERLAY ZONE

The current point system incentivizes the preservation of agricultural land through two programs: Building Lot Termination (BLTs) and Transferable Development Rights (TDRs). The Optional Method of development requires the purchase of BLTs in the CR and LSC zones in exchange for public benefit points. In the CR zone, an applicant must purchase BLT easements, or make payments to the Agricultural Land Preservation Fund (ALPF), in an amount equal to 7.5 percent of the incentive density floor area. In the LSC zone, that requirement is for an amount equal to 50 percent of the incentive density floor area, with stipulations.

TDRs are also included as an optional public benefit on the menu but are not a mandatory requirement for any zone. It is therefore not surprising that while many projects have purchased BLTs, not a single Optional Method project has included the purchase of TDRs as a public benefit. Essentially, BLTs and TDRs currently “compete” with each other on the public benefit menu even though they are intended to achieve the same goal of preserving farmland in the county.

Staff worked collaboratively with the Office of Agriculture to propose recommendations to restructure the requirement for the BLTs and TDRs in the CR and GSLS Overlay Zone. The Planning Board recommends removing BLTs and TDRs from the public benefit menu and instead making it a code requisite for Optional Method of Development in CR and GSLS Overlay Zone. To provide flexibility and stimulate demand equally for both programs, the Board recommends that projects be allowed to purchase either BLTs or an equivalent dollar amount of TDRs. Under this setup, all CR and GSLS

zoned properties would qualify as receiving areas for the purchase of BLTs and TDRs. Projects may purchase one or a combination of BLTs and TDRs as described below:

IN THE CR AND GSLS OVERLAY ZONE:

- a. An applicant must purchase BLT easements, or make payments to the Agricultural Land Preservation Fund (ALPF), in an amount equal to 7.5 percent of the incentive density floor area under the following parameters:
 - i. One BLT must be purchased, or equivalent payment made for every 31,500 square feet of gross floor area comprising the 7.5 percent incentive density floor area.
 - ii. A private BLT easement must be purchased in whole units.
 - iii. BLT payments must be made to the ALPF, based on the amount established by Executive Regulations under Chapter 2B; if a fraction of a BLT easement is needed, a payment based on the gross square footage of incentive density must be made for at least the fraction of the BLT easement.
- b. Alternatively, applicants may purchase an equivalent dollar amount of TDRs directly from a farmland owner or make payments to the ALPF. The ALPF may purchase TDRs from farmland owners and sell whole TDRs to an applicant at the same cost as the purchase price paid by the ALPF. Partial TDRs must be rounded up to the next whole TDR. TDRs purchased will provide bonus density to the optional method project under the following parameters:
 1. Each TDR purchased qualifies for 4,400 sf of additional bonus density.
 2. TDR bonus density may be used towards any permitted use within the zone applicable to the optional method project.

These recommendations will equally stimulate demand for both preservation programs and simplify the process for applicants to purchase TDRs and receive the additional density bonus which could be used to build more housing or job creating commercial uses near transit. These recommendations have been reviewed by the Office of Agriculture and the Agricultural Preservation Advisory Board has provided a letter of support for these recommended updates to the policy (Appendix D).

PROPOSED STRUCTURE OF THE UPDATED PUBLIC BENEFITS MENU

PROPOSED PUBLIC BENEFIT CATEGORIES FOR THE CR AND CRT ZONES

The structure of the new system has been simplified and aligned with the county's key policy priorities. The existing system has seven categories for public benefits, organized generally under planning themes such as mixed-use development, transportation etc. The Planning Board is proposing to consolidate the categories to four topics that better align with the county's key policy priorities and also represent critical local needs highlighted through master and sector plans:

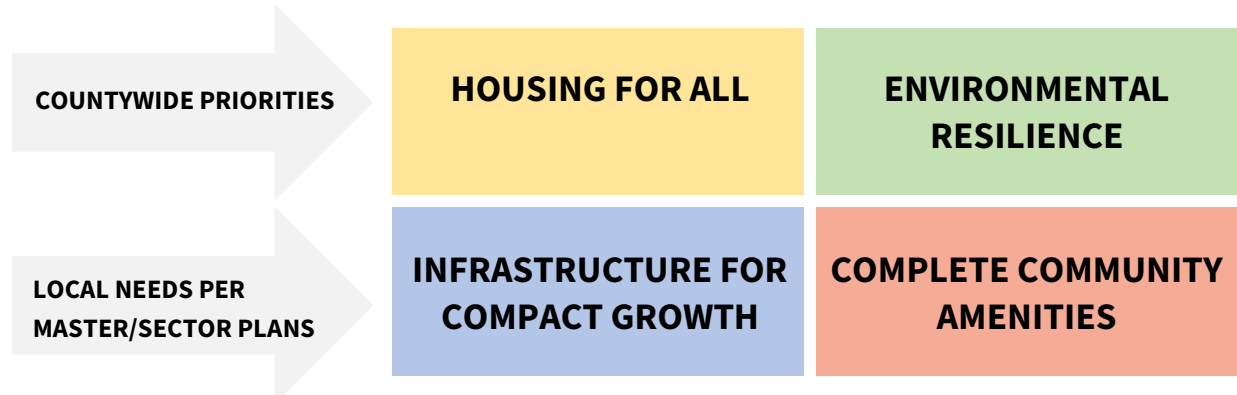


Figure 11 – Proposed four categories that align with Countywide priorities and local needs per Master and Sector Plans.

Most importantly, these four categories reflect key elements needed to implement the vision outlined in Thrive Montgomery 2050 and the County's Climate Action Plan. Thrive calls for focusing future growth along our transit corridors in a compact footprint and ensuring existing and new neighborhoods enjoy the benefits of Complete Communities with access to daily needs within a 15-minute walk or a 5-minute bike ride. The Climate Action Plan has set an ambitious target to eliminate greenhouse gas emissions by 2035. The four proposed categories will strongly align the public benefits with countywide goals and ensure that all new Optional Method development moves the needle on achieving these critical outcomes. Staff also considered the proposed categories and benefits from an equity lens. For example, the provision of affordable housing and larger family sized units in high income areas with amenities and transit will provide access to these resources to a broader swath of the county's population. Similarly, the delivery of sustainable buildings, parks and green site design features will increase green cover and improve air quality within our Equity Focus Areas, and the mixing of uses in walkable settings will encourage physical activity, improve public health, and build social capital.

PROPOSED PUBLIC BENEFITS FOR THE CR AND CRT ZONES

Each category will continue to have a list of focused public benefits. Currently there are thirty-six public benefits in the menu and the Planning Board is proposing to reduce that to thirteen distinct public benefits under the four main policy categories as follows:

HOUSING FOR ALL	ENVIRONMENTAL RESILIENCE
MPDUs Family sized units Deeper levels of affordability	Energy Green Buildings Sustainable Site Design
INFRASTRUCTURE FOR COMPACT GROWTH	COMPLETE COMMUNITY AMENITIES
Offsite Improvements Public Facility Street Grid and Trail Extensions	Art and Placemaking Neighborhood Services & Mixed Use Great Public Realm Design Excellence

Figure 12 - Chart showing the distribution of proposed public benefits within the four categories.

It must be noted that while the recommendation is for a shorter list of public benefits, each benefit has been outlined in a “Four-Tier Structure”, providing even greater flexibility for applicants to deliver public benefits through a range of options. Payment-in-lieu alternatives have also been included where appropriate for added flexibility. Additionally, an alternative compliance pathway is recommended as a backup option in situations where the Planning Board determines that there is a unique site, a use characteristic, a unique benefit to the public, or a development constraint.

A TIERED APPROACH TO EVALUATING PUBLIC BENEFITS FOR THE CR AND CRT ZONES

Currently, the system calculates the public benefit points required based on tract size or square footage proposed. While there is a prescriptive range of required points, in practice, projects typically are required to provide the maximum public benefit points (100 points for the CR zone and 50 points for the CRT zone). This requirement does not consider whether a project proposes a low or a high FAR. Essentially, the requirement for public benefits does not scale effectively with the intensity of development and it sometimes results in asking too much of smaller projects and not enough from larger projects.

The Planning Board is proposing to modernize the calculation of public benefits in alignment with regional and national best practices, based on FAR. As a project increases the proposed FAR, it will need to provide greater public benefits commensurate with the scale of development. The delivery of each public benefit will earn the applicant the right to build up to a certain amount of mapped FAR. Under each public benefit, there will be four tiers of participation. The lower tiers are assigned a lower FAR and therefore require a project to deliver a less intense public benefit. Higher tiers unlock greater amounts of FAR but also require more intensive public benefits. Each public benefit includes a Tier 4, referred to as a “Top Tier”. If a Project delivers this level of an extraordinary public benefit, understanding this involves considerable cost, no other public benefits will be required of the Project. This is very similar to the current provision in the CR Guidelines that state if a project delivers 20% MPDUs, no other public benefits are required.

PUBLIC BENEFIT CATEGORY	
PUBLIC BENEFIT	
TIER 1 0.25 FAR	Small scale public benefit incorporated into the project.
TIER 2 1.0 FAR	Medium scale public benefit incorporated into the project.
TIER 3 1.5 FAR	Substantial public benefit incorporated into the project.
TIER 4/TOP TIER Up to mapped FAR	An extraordinary public benefit incorporated into the project. No payment in lieu options. NO OTHER PUBLIC BENEFITS REQUIRED

Figure 13 – Table showing structure of proposed tiered evaluation system for each public benefit. As the intensity of the public increases, projects earn the right to build a greater portion of their mapped FAR or additional Excel-To-Build density as permitted by the applicable master or sector plan.

PUBLIC BENEFITS DETAILS FOR THE CR AND CRT ZONE

As described previously, the proposed menu for the CR and CRT zones consists of thirteen distinct public benefits under the four overall categories. Each benefit offers participation at four tiers as summarized above. A project can earn the right to build a certain amount of its mapped FAR based on the public benefit it provides. This section describes each public benefit in detail. Implementation

related criteria will be included within the Implementation Guidelines, which staff will update once the final version of this policy is approved and adopted by County Council.

HOUSING FOR ALL

The Housing for All category incentivizes the delivery of affordable housing at varying levels for rent and for sale, as well as the provision of units that can house families and intergenerational households near transit. Thrive Montgomery 2050 states that a variety of housing types priced for a range of incomes is essential to integration and equity and highlights how our current housing supply does not meet the needs of our current or future households. Thrive stresses that the County needs more of every type of rental and for-sale housing. These public benefits were developed in coordination with the Department of Housing and Community Affairs (DHCA) and Countywide Planning & Policy Staff to ensure the benefits directly align with needs within the County. Please note, these recommended benefits do not change the current requirements of Chapter 25A, as reviewed and administrated by DHCA. Similarly, these benefits do not change the bonus density or height provisions contained in the Zoning Ordinance for Optional Method Development in the CR and CRT Zone. These recommendations also do not alter the bonus density provisions as outlined in the recently adopted House Bill 538.

Public Benefit Categories

Greater percentages or more affordable MPDUs than code/sector plan requirements	Family sized market rate & affordable units for rent & sale	Deeper levels of affordability as average AMI
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Figure 14 – Table showing recommended public benefits under the Housing For All category.

Providing greater percentages or more affordable MPDUs than code/sector plan requirements

The current CR Guidelines allow projects to receive incentive points for providing more than 12.5% MPDUs, even in High-Income Areas of the County where the minimum MPDU requirement has been

increased to 15% MPDUs at 70% Average Median Income. The Planning Board recommends keeping the incentive for including MPDUs within a project but only approving Optional Method FAR for providing MPDUs beyond what is currently required by the code or applicable sector plan, whichever is greater. This would allow projects that provide MPDUs beyond the base requirements in increments of 2.5% to earn the right to build a portion of their mapped FAR. For example, in an area where the base MPDU requirement is 12.5%, providing 15% MPDUs currently awards 30 points. In the proposed system, delivering 15% MPDUs in such a project would earn the right to build 1.25 FAR of the projects Optional Method density.

Family sized market rate and affordable units for rent and sale.

The current CR Guidelines incentivize a ‘dwelling unit mix’. This public benefit was not commonly used, and it required a percentage of units to be studios, 1 bedroom, 2 bedrooms, and 3/4 bedrooms. Almost all residential developments in the CR and CRT zone automatically provide a mix of studios, 1 bedroom, and 2-bedroom units to cater to market demand and diversify their offerings. In consultation with DHCA, it was determined that the greatest gap in demand and supply of affordable units lies in larger bedroom units that can accommodate families and intergenerational households. Since these units are more costly to build-and-operate on a per square foot basis, the Planning Board recommends incentivizing their delivery in both market rate and affordable unit types. As proposed, the menu would award the right to build up to 0.25 FAR to projects that deliver at least 5% of their total units (market rate and affordable) as three bedroom or larger and up 1.0 FAR to projects that deliver at least 10% of their units as three bedroom or larger in multifamily apartment buildings. Similarly, in single family, townhomes and two-over-twos, projects could earn the right to build 0.25 FAR or 1 FAR for providing a minimum of 5% or 10% of all MPDUs with 4 bedrooms or greater.

Deeper levels of affordability as Average Median Income (AMI)

Current MPDU law (Chapter 25A) allows MPDUs to be marketed to those with an average median income of 70%. According to DHCA’s 2023 Rent and Income Limits, the Area Median Income (for a family of four) in Montgomery County was \$152,100. Given this high countywide AMI, MPDUs providing deeper levels of affordability than 70% AMI are greatly needed. This public benefit will incentivize projects that target their MPDUs to an average 60% AMI. Participation in this benefit will be available in three tiers, with the right to build up to 1.0 FAR being applied to projects that provide at least 15% MPDUs at an average 60% AMI (Tier 2), and the right to build up to 1.5 FAR being awarded to projects that provide 20% MPDUs at an average 60% AMI (Tier 3).

The Tier 4 public benefit is defined as a project that provides at least 25% MPDUs at an average 60% AMI. Projects that deliver this substantial public benefit will not be required to provide any other public benefits. There are several important factors that have led to the Planning Board’s recommendation for this Top Tier. Recently, the State adopted House Bill 538, which allows qualifying projects providing 20% affordable units to households earning 60% AMI to receive a 30% additional density bonus, in addition to the Bonus Density and Height provisions already contained in our Zoning Ordinance. Additionally, in Planning Staff’s review of Optional Method projects, it was observed that

projects either provided 15%-17.5% MPDUs or scaled up to provide 25% MPDUs, which is the threshold at which they also qualified to receive County Impact Tax credits.

AFFORDABLE HOUSING: Performance Thresholds & “Earned” FAR increments.

MPDU %	Total "Earned" FAR
Min. Requirement per MPDU Law or Sector Plan	-
Min. Req. +2.5%	1.25
Min. Req. +5.0%	1.5
Min. Req. +7.5%	1.75
Min. Req. +10%	2.0
25% MPDUs at avg. 60% AMI	Up To Mapped FAR

Notes:

- “Earned” FAR does not include the MPDU density bonus.
- Qualifying projects providing 20% MPDUs receive a 30% additional density bonus per House Bill 538.
- Projects providing 25% MPDUs receive impact tax reductions.
- Projects providing 25% MPDUs at various levels of affordability averaging at 60% of AMI receive impact tax reductions and do not need to provide any additional public benefits.

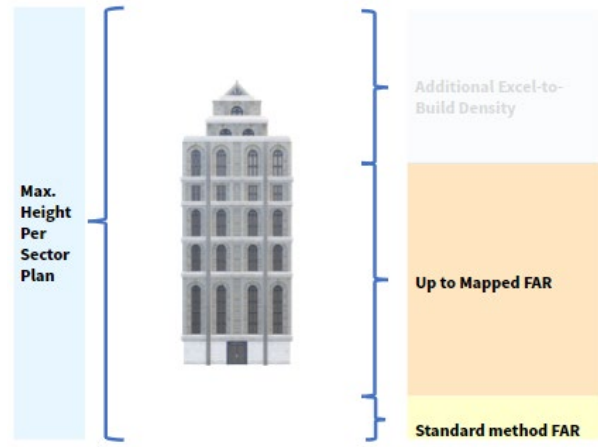


Figure 15– Table showing recommended Optional Method Density for providing MPDUs beyond the base requirements per the MPDU Law or the applicable master or sector plan.

ADDITIONAL HOUSING AGREEMENTS: Performance Thresholds & “Earned” FAR increments.

TIERS	Additional Housing Related Public Benefits
TIER 1 0.25 FAR	<ul style="list-style-type: none"> • In multifamily apartment buildings, provide a minimum of 5% of all units (Market Rate + MPDUs) with 3 bedrooms or greater. Provide a proportional number of units with 3 bedrooms or greater as MPDUs, or • In single family, townhomes, and two-over-tuos, provide a minimum of 5% of all MPDUs with 4 bedrooms or greater.
TIER 2 1.0 FAR	<ul style="list-style-type: none"> • In multifamily apartment buildings, provide a minimum of 10% of all units (Market + MPDUs) with 3 bedrooms or greater. Provide a proportional amount of units with 3 bedrooms or greater as MPDUs, or • In single family, townhomes, and two-over-two’s, provide a minimum of 10% of all MPDUs with 4 bedrooms or greater. or • Enter into an agreement with DHCA to provide at least 15% of the dedicated MPDUs at various levels of affordability averaging at 60%.
TIER 3 1.5 FAR	<ul style="list-style-type: none"> • Enter into an agreement with DHCA to provide at least 20% of all units as MPDUs at various levels of affordability averaging at 60% of AMI.
TIER 4 Up to Mapped FAR	<ul style="list-style-type: none"> • Provide a minimum of 25% of all units as MPDUs at various levels of affordability averaging at 60% of AMI.

Figure 16 – Table showing additional housing related public benefits at various tier of participation as recommended by the Planning Board.

ENVIRONMENTAL RESILIENCE

The Environmental Resilience category incentivizes energy efficient buildings, the use of renewable energy and incorporation of sustainable site design principles. The County's Climate Action Plan has ambitious targets to cut greenhouse gas emissions 80% by 2027 and 100% by 2035. The building and transportation sectors are major contributors of greenhouse gases within the county. By incentivizing projects within the CR and CRT zones to pursue clean energy, electrification, enhanced environmental performance, sustainable site design, and flood risk mitigation, these recommendations aim to align the public benefits system with the most critical objectives of the Climate Action Plan. These public benefits were developed in coordination with the Sustainability, Energy, and Mechanical Team within the Division of Commercial Building Construction and the Water Resources Section at the Department of Permitting Services (DPS) as well as Department of Environmental Protection (DEP) staff. DPS staff are proposing broader updates to the County's Construction Code and Green code as well to ensure that all new buildings are built and perform to the required standards of sustainability such that the county can achieve its Climate Action Plan Goals. The public benefit system incentivizes projects to exceed those base code requirements. It is anticipated that these public benefits will need to be reevaluated with successive code cycle updates that typically occur every three years to ensure they remain achievable and align with the updated Construction Code and Green code.




ENERGY	GREEN BUILDING	SUSTAINABLE SITE DESIGN
Exceed energy efficient standards. Use renewables and/or generate onsite energy to work towards net zero target.	Meet/Exceed Alternative Compliance Path through LEED Certification or other DPS approved certification programs.	Green site design principles such as: biophilic design, enhanced green roof, bird friendly design, pervious pavement, tree save, and adaptive reuse.
		

Figure 17 – Table showing recommended public benefits for Environmental Resilience category with examples of green design features.

Energy Efficiency

This public benefit incentivizes the delivery of energy efficient buildings beyond what is required by the County Construction Code and Green Code. Projects earn the right to build a portion of their mapped FAR by providing levels of energy efficient buildings. As projects exceed the base code requirements by a greater percentage, they earn the right to build a greater portion of their mapped FAR. The Top Tier benefit in this category is awarded to a building that can achieve net zero energy performance. In that case, the project would not be expected to provide any other public benefit. The current system incentivizes buildings that exceed energy efficiency standards and the Bethesda Downtown Sector Plan made this category a requirement for a portion of the plan area. The Planning Board recommends this valuable public benefit should be continued with the proposed update.

ENERGY: Performance Thresholds & “Earned” FAR increments

TIER	ENERGY EFFICIENCY
TIER 1 0.25 FAR	Exceed current energy efficient standards by 10%
TIER 2 1.0 FAR	Exceed current energy efficiency standards by 17.5%
TIER 3 1.5 FAR	Exceed current energy efficiency standards above 25%
TIER 4 Up to mapped FAR	Achieve a net zero energy performance

Note: Thresholds to be reviewed with code cycle updates.

Figure 18 – Table showing recommended tiers of participation under the Energy Efficiency Public Benefit.

Renewable Energy

This proposed public benefit incentivizes projects that utilize renewable energy from within the regional catchment area or generate renewable energy onsite. The more renewable energy a project utilizes or generates onsite, the more FAR is awarded to the project. The Top Tier level of participation under this public benefit is awarded to a project that would generate 100% of their renewable energy onsite. In that case, the project would not be expected to provide any other public benefit.

ENERGY: Performance Thresholds & “Earned” FAR increments

TIER	RENEWABLE EFFICIENCY
TIER 1 0.25 FAR	Utilize or generate 1/3 of renewable energy onsite or within regional catchment area. (PJM or Maryland SREC market)
TIER 2 1.0 FAR	Utilize or generate 2/3 of renewable energy onsite or within regional catchment area. (PJM or Maryland SREC market)
TIER 3 1.5 FAR	Utilize or generate 3/4 of renewable energy onsite or within regional catchment area. (PJM or Maryland SREC market)
TIER 4 Up to mapped FAR	Generate 100% renewable energy onsite.

Note: Thresholds to be reviewed with code cycle updates.

Figure 19 – Table showing recommended tiers of participation under the Renewable Efficiency Public Benefit.

Green Buildings

This public benefit incentivizes projects that achieve the Alternative Compliance Path for Green Buildings by pursuing a LEED certification or other DPS approved certification programs. LEED has several levels of compliance. Projects could earn the right to build a smaller portion of their mapped FAR by achieving a lower-level certification like LEED Silver while a LEED GOLD certification would earn projects the right to build a greater portion of the mapped FAR. The Top Tier participation in this public benefit would be awarded to a LEED Platinum project. DPS staff currently accepts Alternative Compliance through LEED certification, and this public benefit will incentivize projects to perform beyond the base code requirements while using a nationally recognized sustainability standard.

It is important to note that a project can be LEED certified but not necessarily be energy efficient. If a project were designed to be both energy efficient and LEED certified, the project may earn FAR for both public benefits.

GREEN BUILDINGS: Performance Thresholds & “Earned” FAR increments.

TIER	GREEN BUILDING
TIER 1 0.25 FAR	Meet Alternative Compliance Path for Green Code and achieve LEED Silver + 21 points.
TIER 2 1.0 FAR	Meet Alternative Compliance Path for Green Code and achieve LEED Gold
TIER 3 1.5 FAR	Meet Alternative Compliance Path for Green Code and achieve LEED Gold and one of the following: full electrification or mass timber construction
TIER 4 Up to mapped FAR	Meet Alternative Compliance Path for Green Code and achieve LEED Platinum

Note: Thresholds to be reviewed with code cycle updates

Figure 20 – Table showing recommended tiers of participation under the Green Building Public Benefit.

Sustainable Site Design

This public benefit is intended to incentivize projects that incorporate sustainable features into their site design. Elements being incentivized in this category include the following:

- Biophilic design where architecture and landscape enhance exposure of users to natural elements, promoting health and wellness.
- Enhanced green roofs to provide passive cooling, capture stormwater and provide habitat using native plantings.
- Bird friendly building and site design to protect local and migratory birds from deadly strikes.
- Pervious pavement to increase stormwater retention on site and minimizing runoff.
- Retaining existing trees on site with adequate soil volumes to ensure plant health.

- Adaptively reusing a building on site or within the plan area that reuses existing structures, thereby lowering the embodied energy of a project.

Each of these elements contains criteria for compliance within the four tiers. Projects that include small scale criteria of these elements would earn the right to build a smaller portion of the mapped FAR. As the earned FAR increases, more criteria from multiple elements are required. To achieve the Top Tier in this category, at least four elements of sustainable design must be incorporated into a project, or at least 100,000 square feet of an existing building must be adaptively reused. In that case, the project would not be expected to provide any other public benefit.

SUSTAINABLE SITE DESIGN: Performance Thresholds & “Earned” FAR increments.

TIER	SUSTAINABLE SITE DESIGN
TIER 1 0.25 FAR	Design a site that includes one of the following sustainable elements: <ul style="list-style-type: none"> - 2 principles of Biophilic design - Enhanced green roof with a minimum coverage of 20% of the roof (min. 6 inches in depth) - 2 categories of bird friendly design - Pervious pavement for 10% of the surfaces - Retain min. 10% DBH of existing trees on site with adequate soil volume (All trees 3”-24” DBH) <p>- OR adaptively reuse at least 10,000 SF of floor area of an existing building onsite or within the plan area.</p>
TIER 2 1.0 FAR	Design a site that includes two of the following sustainable elements: <ul style="list-style-type: none"> - 4 principles of Biophilic design - Enhanced green roof with a minimum coverage of 40% of the roof (min. 6 inches in depth) - 3 categories of bird friendly design - Pervious pavement for 25% of the surfaces - Retain 10%-30% DBH of existing trees on site with adequate soil volume (All trees 3”-24” DBH) <p>- OR adaptively reuse at least 50,000 SF of floor area of an existing building onsite or within the plan area.</p>
TIER 3 1.5 FAR	Design a site that includes three of the following sustainable elements: <ul style="list-style-type: none"> - 6 principles of Biophilic design - Enhanced green roof with a minimum coverage of 50% of the roof (min. 6 inches in depth) - 4 categories of bird friendly design - Pervious pavement for 40% of the surfaces - Retain 30%-50% DBH of existing trees on site with adequate soil volume (All trees 3”-24” DBH) <p>- OR adaptively reuse at least 75,000 SF of floor area of an existing building onsite or within the plan area</p>
TIER 4 Up to mapped FAR	Design a site that includes four of the following sustainable elements: <ul style="list-style-type: none"> - 6 principles of Biophilic design - Enhanced green roof with a minimum coverage of 60 % of the roof (min. 6 inches in depth) - 5 categories of bird friendly design - Pervious pavement for 50% of the surfaces - Retain >50% DBH of existing trees on site with adequate soil volume (All trees 3”-24” DBH) <p>- OR adaptively reuse at least 100,000 SF of floor area of an existing building onsite or within the plan area.</p>

Figure 21 – Table showing recommended tiers of participation under the Sustainable Site Design public benefit.

INFRASTRUCTURE FOR COMPACT GROWTH

The public benefits contained in this category are focused on delivering facilities that enhance connectivity and create an infrastructure framework to support compact growth as outlined in Thrive. Projects that provide offsite improvements for pedestrian, cycling, and transit access facilities including bus/BRT stops, or improve streetscapes by undergrounding utilities, providing seating, tree plantings, lighting etc. could earn the right to build varying levels of their mapped FAR. FAR may also be approved for projects that build out a compact grid of streets or extend trails to fill in key missing segments of the overall street and trail network.

This category, along with Complete Community Amenities, is intended to be a roadmap for the creation of fifteen-minute neighborhoods along the county’s growth corridors. The proposed list of public benefits below should be tailored based on the needs of the applicable Sector Plan, specifying critical trails, roadways and transportation related public facilities needed for the given area.

It should be noted that certain public benefits listed under this category may be “recommended” per a master or sector plan or be “required” for meeting the Local Area Transportation Review (LATR). Projects meeting certain LATR requirements are eligible for impact tax reductions although such reductions may or may not cover the entire cost of providing the required infrastructure. The Planning Board recommends that such elements if provided should still be incentivized by enabling the project to earn the right to build a portion of its mapped FAR.

Offsite Improvements	Public Facility	Grid and trail extensions
Provide offsite streetscape improvements along a public street. Construct offsite bicycle improvements. Upgrade offsite stormwater facilities or runoff conveyance/storage.	Dedicate land and/or financially contribute to a major public facility per the Sector Plan or a Functional Plan. Underground utilities along site frontage of Subject Property and/or offsite.	Reduce curb cuts or construct a portion of trail or contribute to an existing CIP. Construct new public streets that provides through block connectivity with preferred intersection spacing per the Complete Streets Design Guide or contribute to an existing CIP. Provide a major connection over an environmentally sensitive area or major arterial highway that will highly contribute to the network.
		

Figure 22 – Table showing recommended public benefits related to Infrastructure For Compact Growth with examples of facility improvements to the public realm

Offsite Improvements

With offsite improvements, projects that deliver streetscape, bicycle, stormwater management improvements or flood conveyance / storage upgrades may receive incentive density for these improvements. The improvements are scaled to provide a lower square foot of improvement for the lower tiers and as the area of improvements increase, so does the achievable FAR. The Top Tier in this category would be a major improvement to a stormwater or flood management facility such as installing significant offsite bioretention areas or runoff storage facilities on public or private property, daylighting and/or increasing the carrying capacity of piped stream etc., as recommended in a master or sector plan.

This public benefit introduces the option of payment in lieu, for added flexibility. The preference is for public benefits to be constructed and delivered with the project, however there are cases where financial contribution may be preferred. Payment in lieu is further discussed under the section titled “Ensuring Flexibility”. In that case, the contribution shall be based on a cost per square foot and paid based on the entire project’s proposed density, with the cost per square foot increasing with the FAR tier proposed. The Planning Board suggests that payment-in-lieu options may be useful when a receiving CIP project exists, and the public benefit is so large that no individual property can single-handedly deliver the required feature or amenity.

OFFSITE IMPROVEMENTS: Performance Thresholds & “Earned” FAR increments.

TIERS	Offsite Improvements
TIER 1 0.25 FAR	Provide offsite streetscape improvements at least 2,000 square feet or Contribute a minimum of \$0.33 per s.f. of gross floor area to a CIP project within the plan area
TIER 2 1.0 FAR	Provide offsite streetscape improvements for at least 4,000 square feet or Construct offsite bicycle infrastructure improvements for at least 1,000 linear feet or Provide offsite stormwater management upgrades with an estimated cost of at least \$300,000 or Contribute a minimum of \$1.00 per s.f. of gross floor area
TIER 3 1.5 FAR	Provide offsite streetscape improvements for at least 5,000 square feet or Construct offsite bicycle infrastructure improvements for at least 1,800 linear feet or Provide offsite stormwater management upgrades with an estimated cost of at least \$500,000 or Contribute a minimum of \$2.00 per s.f. of gross floor area
TIER 4 2.0 FAR	Provide a major improvement or reinforcement to run off conveyance/storage and/or stormwater treatment facility as recommended in a Sector Plan.

Figure 23 – Table showing recommended tiers of participation under the Offsite Improvements Public Benefit.

Public Facilities

The public benefits within this category will depend largely on the needs of a given master or sector plan. The Planning Board recommends that within the lower FAR tiers, smaller public facilities such as bus/BRT stops and bike parking be eligible to earn the right to build a small portion of the mapped FAR. Earned FAR will increase with the size and complexity of the public facility, with the Top Tier benefit being a potential police station or structured public parking garage with an estimated cost of at least 1 million dollars. Tiers 2 and 3 allow FAR for projects that will underground existing transformers, utility boxes and overhead utilities along the Site frontage or offsite within the plan area.

PUBLIC FACILITY: Performance Thresholds & “Earned” FAR increments.

TIERS	Public Facility
TIER 1 0.25 FAR	Dedicate land and/or construct a public facility like a bus stop/BRT station, bike parking, etc. with an estimated cost of at least \$100,000 or Contribute a min. of \$0.33 per s.f. of gross floor area to a CIP project within the plan area
TIER 2 1.0 FAR	Dedicate land and/or construct a public facility like a bus stop/BRT station, bike parking, etc. with an estimated cost of at least \$300,000 or Underground all transformers and utility boxes located along site frontages or Contribute a min. of \$1.00 per s.f. of gross floor area to a CIP project within the plan area
TIER 3 1.5 FAR	Dedicate land and/or construct a public facility like a new BRT station or enhancing a light rail or metro station etc. with an estimated cost of at least \$500,000 or Provide undergrounding of utilities along site frontage of Subject Property and/or offsite, with an estimated cost of at least \$500,000 or Contribute a min. of \$2.00 per s.f. of gross floor area to a CIP project within the plan area
TIER 4 2.0 FAR	Dedicate and fully construct a major public facility like a police station or a structured public parking garage with an estimated cost of at least \$1,000,000 or Provide undergrounding of utilities along site frontage of Subject Property and/or offsite, with an estimated cost of at least \$1,000,000.

Figure 24– Table showing recommended tiers of participation under the Public Facility public benefit.

Grid and Trail Extensions

This public benefit incentivizes projects that enhance the larger transportation network by extending or building missing pieces of Complete Street grids and trails. In the lower tiers of this category, projects that provide trail extensions on private or public property and/or projects that reduce curb cuts along their frontage may receive smaller amounts of FAR. As projects provide larger connective facilities like a public street or a grid of multiple public streets, the achievable FAR also increases, with the Top Tier being the construction of a street connection over/under a major arterial or through an

environmentally sensitive area that will be very expensive to build but highly contribute to a multimodal network.

GRID AND TRAIL EXTENSIONS: Performance Thresholds & “Earned” FAR increments.

TIERS	Grid and Trail Extensions
TIER 1 0.25 FAR	Construct a trail extension on private property with a cost of at least \$100,000 or Construct a public trail extension for a minimum 2,500 linear feet or Contribute a minimum of \$0.33 per s.f. of gross floor area to a CIP project within the plan area or Within a project design, reduce existing curb cuts by 50%.
TIER 2 1.0 FAR	Construct a public trail extension for a minimum 3,500 feet linear feet or Contribute a minimum of \$1.00 per s.f. of gross floor area or Build one new public street that provides through block connectivity as recommended by the Complete Streets Design Guide.
TIER 3 1.5 FAR	Construct a public trail extension for a minimum 6,000 linear feet or Within a proposed subdivision design, provide a grid of public streets as recommended by the Complete Streets Design Guide.
TIER 4 2.0 FAR	Provide a major connection over an environmentally sensitive area or major arterial highway that will highly contribute enhancing the bike, pedestrian and/or transit network.

Figure 25 – Table showing recommended tiers of participation under the Grid and Trail Extensions public benefit.

AMENITIES FOR COMPLETE COMMUNITIES

This category focuses on public benefits that help achieve Thrive Montgomery 2050’s goal of creating complete communities where residents can easily walk or bike to services and fulfill their daily needs. Accordingly, public benefits range from providing neighborhood retail and services, including public art, cultural programming and placemaking, and delivering high quality buildings and open spaces accessible to the public. Similar to the Infrastructure for Compact Growth Category, these public benefits are meant to be tailored to the needs of the local community through the master or sector plan process.



Art and Placemaking	Neighborhood Services & Mixed Use	Great Public Realm	Design Excellence
Provide artistic elements in projects, install public art, or organize publicly accessible programming. Affordable housing for artists. Arts or cultural public facilities like theater, art gallery, performance venue etc.	Provide retail uses, space for community meeting rooms and events, or a major public facility like a library or a recreation center.	Improve an existing park or provide a new park or privately owned public open space with high quality features and amenities.	Substantially conform to Design Guidelines and implement design excellence strategies related to building footprint, massing, architecture, parking, wellness etc.

Figure 26 – Table showing recommended public benefits for Complete Communities with examples of features that support placemaking and a strong public realm.

Art and Placemaking

The current CR Guidelines incentivize projects that provide public art reviewed by the Art Review Panel. The proposed update would expand this benefit to include public benefits that support the ecosystem the arts need to thrive holistically. The proposed public benefit would incentivize the provision of art, placemaking and cultural programming activities, and broaden the options to financially contribute to organizations including the Public Arts Trust Steering Committee, Urban Districts, Arts and Entertainment Districts and regional service centers. Each of these entities may further partner with a local arts nonprofit to implement art and programming within the sector plan area.

The FAR achievable in the lower tiers would be for providing placemaking and programming activities that are short-term and less cost intensive or for simply including artistic elements within the building and site design. A project could earn the right to build to a higher level of its mapped FAR if it does provide public art reviewed by the Art Review Panel or partner with one of the above-mentioned agencies to install public art within the plan area. Tier 3 level contemplates more permanent amenities like affordable artist housing or larger payment-in-lieu contributions. The top tier participation in this benefit would be awarded to a project that would provide a major public facility for the creating and exhibition of arts such as a theatre, art gallery, or performance space at least 20,000 s.f. in size. In that case, the project would not be expected to provide any other public benefit.

ART AND PLACEMAKING: Performance Thresholds & “Earned” FAR increments.

TIERS	Art and Placemaking
TIER 1 0.25 FAR	Provide artistic elements on buildings, garages or within streetscapes facing the public realm. or Provide (at least) monthly recurring publicly accessible programming such as Farmers' Market, Concerts etc. for min. 1year. or Contribute a min. of \$0.33 per s.f. of gross floor area for art or placemaking to the PATSC, an urban district, an arts & entertainment district, or a regional service center.
TIER 2 1.0 FAR	Install public art reviewed by the Art Review Panel or partner with an urban district, an arts nonprofit, or a regional service center to install art facing the public realm. or Provide (at least) monthly recurring publicly accessible programming such as Farmers' Market, Concert Series etc. for min. 3 years. or Contribute a min. of \$1.00 per s.f. of gross floor area for art or placemaking to the PATSC, an urban district, an arts & entertainment district, or a regional service center.
TIER 3 1.5 FAR	Provide at least 5% of units as artist housing or live/work units for artists earning up to 70% AMI in addition to the MPDUs provided. or Contribute a min. of \$2.00 per s.f. of gross floor area for art or placemaking to the PATSC, an urban district, an arts & entertainment district, or a regional service center.
TIER 4 Up to Mapped FAR	Provide a major Public Facility like a theater, art gallery, or a performance venue at least 20,000 s.f. in size onsite or within the plan area.

*Figure 27– Table showing recommended tiers of participation under the Art and Placemaking public benefit.***Neighborhood Services and Mixed Use**

These public benefits would incentivize projects to provide uses desired by a master or sector plan, typically neighborhood serving retail and services. The lower tier FAR is for projects that would provide a smaller space for retail and as the dedicated space for retail or community use in the project grows, the projects would earn the right to build to a higher portion of their mapped FAR. The top tier in this category is a major public facility that would benefit a community such as a recreation center or library at least 20,000 s.f. in size. In that case, the project would not be expected to provide any other public benefit.

NEIGHBORHOOD SERVICES & MIXED USE: Performance Thresholds & “Earned” FAR increments.

TIERS	Neighborhood Services & Mixed Use
TIER 1 0.25 FAR	Provide at least one bay of min. 2,000 s.f. within project for retail use, directly accessible by the public from a street/open space.
TIER 2 1.0 FAR	Provide at least three bays for a total of 10,000 s.f. within project for retail uses, directly accessible by the public from a street or open space.
TIER 3 1.5 FAR	Provide at least 15,000 SF within project for public use (Conference space, meeting rooms, event space etc.) onsite or within the plan area.
TIER 4 2.0 FAR or Mapped FAR	Provide a major public facility like a recreation center, library, educational facility etc. at least 20,000 s.f. in size onsite or within the plan area.

Figure 28 – Table showing recommended tiers of participation under the Neighborhood Services and Mixed Use public benefit.

Great Public Realm

The current CR Guidelines incentivize projects that provide more public open space than required. This recommended public benefit expands on that concept to incentivize projects that would provide well designed public open space with inclusive design features and/or intergenerational amenities. The lower tiers of participation are focused on smaller public open spaces like a neighborhood or pocket park and as the FAR increases, the required public open space increases in size to include park types such as a civic green. Projects will have the option to improve an existing facility, construct and own it as a privately owned public space, or convey the built facility to public ownership. The top tier of participation would require a project to construct an Urban Recreational Park of a minimum of 3 acres. Like other public benefits within this category, the master or sector plan should adjust the requirements to ensure they meet the vision outlined through the planning process.

GREAT PUBLIC REALM: Performance Thresholds & “Earned” FAR increments.

TIERS	Great Public Realm
TIER 1 0.25 FAR	Provide intergenerational amenities and inclusive design features within the public open space provided onsite. Min 0.25 acres. or Improve an existing park or public open space with intergenerational amenities and inclusive design features. Min 0.25 acres. or Contribute a min. of \$0.33 per s.f. of gross floor area for creating or improving public space.
TIER 2 1.0 FAR	Exceed the minimum required % of public open space on site by at least 50% as a min. 0.25 Acre Neighborhood Green per Energized Public Spaces Design Guidelines. or Contribute a minimum of \$1.00 per s.f. of gross floor area.
TIER 3 1.5 FAR	Provide a POPS or dedicate land, construct, and convey a park facility as a min. 1.5-acre Civic Green/Plaza per Energized Public Spaces Design Guidelines. or Contribute a min. of \$2.00 per s.f. of gross floor area creating or improving public space.
TIER 4 2.0 FAR or Mapped FAR	Provide a POPS or dedicate land, construct and convey a park facility as an “Urban Recreational Park” (minimum 3 acres), with approval on location and design from planning and parks staff.

Figure 29 – Table showing recommended tiers of participation under the Great Public Realm public benefit.

Design Excellence

The current CR Guidelines incentivize design excellence based on a list of criteria that at times can be subjective. Also, all master and sector plans now produce accompanying Design Guidelines that cover several aspects of design that are currently included within the menu. Therefore, the recommended list of design strategies is intended to be more straight forward, less subjective, and easier to review and implement. Planning Board approved Planning Staff’s list of ten distinct and objective strategies intended to deliver high quality architecture and site design. Projects can earn the right to build up to

their mapped FAR by including some or all of these strategies within a project. The more strategies from this list are integrated into a project's design, the more FAR is approvable for a project. Alternatively, a project could also achieve WELL Core certification at varying levels. WELL is a performance-based system for measuring, certifying, and monitoring features of the built environment that impact human health through well-being focused metrics such as air, water, nourishment, light, fitness, comfort and mind.

The top tier participation in this public benefit requires a project to achieve at least nine design strategies from the list or achieve WELL CORE Platinum Certification or Living Building Challenge Certification. These certifications are different than LEED in that they focus on regenerative design practices, meaning that instead of minimizing negative building impacts in LEED, the building will create a positive impact on the users of the building and the community its located in.

DESIGN EXCELLENCE: Performance Thresholds & “Earned” FAR increments.

TIERS	Design Excellence
TIER 1 0.25 FAR	Substantially conform to design guidelines and implement at least 3 strategies from the list or Achieve WELL CORE Bronze certification.
TIER 2 1.0 FAR	Substantially conform to design guidelines and implement at least 5 strategies from the list or Achieve WELL CORE Silver Certification.
TIER 3 1.5 FAR	Substantially conform to design guidelines and implement at least 7 strategies from the list or Achieve WELL CORE Gold Certification
TIER 4 Up to Mapped FAR	Substantially conform to the applicable design guidelines and implement 9 strategies from the list or Achieve WELL Platinum Certification or Living Building Challenge certification for the project.

List of Implementation Strategies

- Designing a building with a clear base, middle and top.
- Providing human scaled architectural elements along the ground floor facing all streets and public open spaces.
- Providing direct entry to all ground floor residential units lining a street or public open space.
- Adjusting the building massing and facade design to respond to the context of surrounding buildings.
- Lining at least 75% of the ground floor with active uses along all streets and major public spaces and providing ground floor entrances into the building every 100 feet.
- Placing all onsite parking below ground or lining all sides facing a street or open space with active uses like residential or commercial floor spaces.
- Designing the footprint, massing, and building facades to respond to solar orientation and local climate.

- Reducing the floor plate for the top two floors by at least 20% to create terraces and an interesting skyline.
- Designing all structured parking to be adaptable for alternative uses in the future.
- Using modular, prefabricated, or other innovative design and construction strategies to expedite project delivery.

Figure 30 – Table showing recommended tiers of participation under the Design Excellence public benefit.

ENSURING FLEXIBILITY

PAYMENT IN LIEU OPTIONS

It is preferred that public benefits are constructed and delivered by projects pursuing the Optional Method of development. However, payment in lieu may be a suitable option when certain criteria apply:

- The sector plan contemplates the creation of larger-scale facilities or amenities and creates a mechanism to receive payments in lieu.
- A capital improvement project exists to utilize the payments within the master or sector plan area.
- The public benefit under consideration is located off-site.

Planning Board recommends that a payment in lieu could be considered for the following public benefits:

- Infrastructure for Compact Growth Category:
 - Offsite Improvements
 - Public Facility
 - Grid and Trail Extensions
- Complete Community Amenities Category:
 - Art and Placemaking
 - Great Public Realm

Planning Board recommends that a payment in lieu should be based on a per square foot basis, pegged to the overall gross square footage of the project. This would enable the benefits to scale and be proportional to the proposed development. The Planning Board also recommends that the rate of payments be adjusted biannually based on *Engineering News Record's Baltimore Construction Cost Index*, which is also utilized to benchmark other payment-based programs within the county such as the Growth and Infrastructure Policy.

ALTERNATIVE COMPLIANCE OPTION

The Planning Board recommends utilizing an alternative compliance framework in Division 4.7 of the zoning code to provide flexibility during regulatory review. The Planning Board recommends that this update enable the board to approve an alternative method of compliance for the provision of a specific public benefit from the menu as modified by the applicable master/sector plan or functional plan, if it determines that there is a unique site, a use characteristic, a unique benefit to the public, or a development constraint. The Planning Board must also determine that the unique site, use characteristic, benefit to the public, or development constraint precludes the delivery of a standard public benefit from the applicable menu as modified by the Sector Plan and the alternative design or public benefit will:

- Satisfy the intent of the public benefit category it is within.
- Aligns with the overall vision of the applicable master/sector plan or functional plan.
- Enhances the applicable functional results or performance standards for the public benefit category.
- Be in the public interest.

CONCEPTUAL IMPLEMENTATION OF OPTIONAL METHOD FOR CR AND CRT ZONES

Under the proposed system, projects in the CR and CRT zones will be required to provide public benefits when building above the standard method threshold of 0.5 FAR. The amount of public benefits required will depend upon how much of the mapped FAR beyond 0.5 FAR a project is seeking to be approved by the Planning Board. If the applicable sector plan offers additional Excel-To-Build Density, a project may request additional FAR, once the mapped FAR has been fully utilized. Public benefits must be provided for the Excel-To-Build density as well. Essentially, projects will need to provide public benefits to earn the right to build beyond the 0.5 Standard Method FAR.

The Planning Board has proposed one exception to this requirement to account for small parcels in downtown locations which may have a very high mapped FAR, given the combination of their proximity to transit, small parcel size, and a tall, mapped height. For example, several parcels in downtown Bethesda, Silver Spring, and Wheaton have a mapped FAR in the 5.0-8.0 range and are only 5,000-40,000 square feet in size. For such parcels to utilize the Optional Method of development and fully utilize the mapped FAR, requiring public benefits beyond 0.5 FAR may impact feasibility. The Planning Board is therefore recommending that for properties with a mapped FAR of greater than 4.0 and a site size of less than 1-acre, public benefits must be provided to earn the right to build above 2.0 FAR, instead of 0.5 FAR, if the project is maximizing its mapped FAR. All other requirements for the Optional Method of development would still be effective beyond the 0.5 FAR threshold.

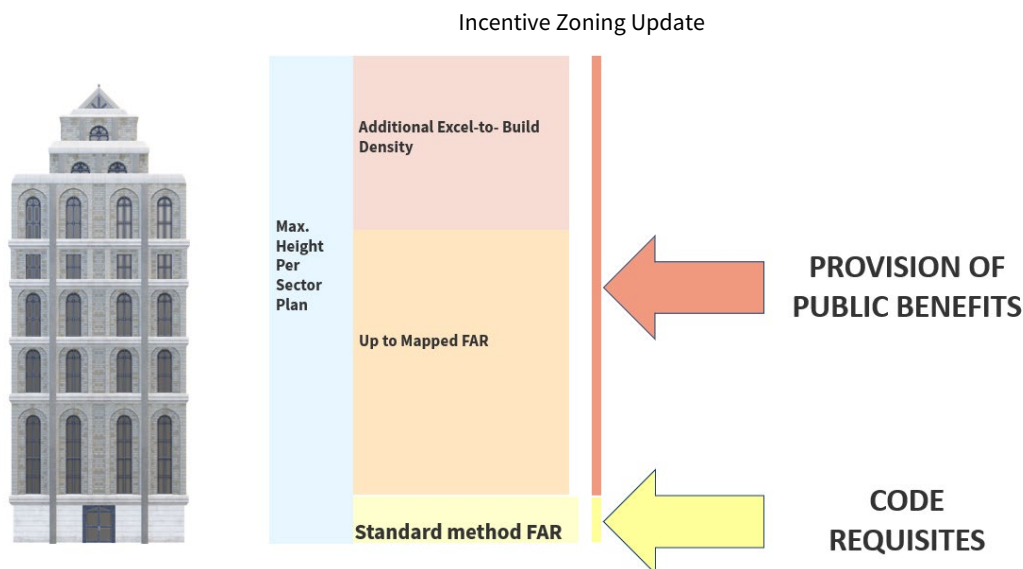


Figure 31 - Diagram showing how Optional Method projects will be required to provide public benefits to earn the right to build beyond the 0.5 Standard Method FAR.

Projects will have the option to choose from the menu of public benefits. However, a project must provide at least one public benefit from Housing For All or Environmental Resilience Categories and provide at least one public benefit from Infrastructure for Compact Growth or Complete Community Amenities Categories. This is an important requirement to ensure that every project delivers benefits that align with our countywide priorities, but also provides local infrastructure and amenities identified through the applicable master or sector plan. However, if a project provides an extraordinary, Tier 4 public benefit in any category, it will be exempt from providing any other public benefit.

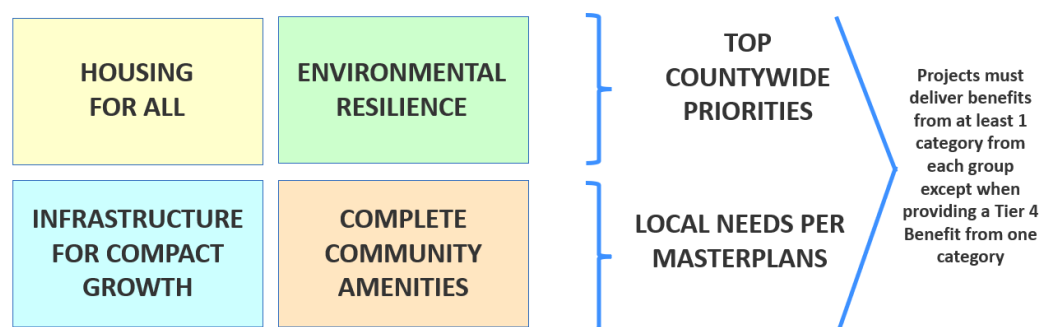


Figure 32– Diagram showing how Optional Method projects must provide benefits that address countywide priorities as well as community needs identified through the applicable master or sector plan.

As described previously, for each of the 13 benefits, there will be four tiers of participation available and providing each tier will earn the right to build a certain amount of FAR. Projects will be able to propose various combinations of benefits at different tiers to earn the right to build up to the total FAR being requested for approval. This approach will provide flexibility and maintain a sense of proportionality between the incentive density being requested and public benefits being provided.

HOUSING FOR ALL	ENVIRONMENTAL RESILIENCE
MPDUs	Energy
Family sized units	Green Buildings
Deeper levels of affordability	Sustainable Site Design
INFRASTRUCTURE FOR COMPACT GROWTH	COMPLETE COMMUNITIES
Offsite Improvements	Art and Placemaking
Public Facility	Neighborhood Services & Mixed Use
Street Grid and Trail Extensions	Great Public Realm
	Design Excellence

Figure 33 - Chart showing the distribution of proposed public benefits within the four categories.

PROJECT EXAMPLE

Let's assume a project is zoned CR 3.0 C3.0 R3.0 H250 and wants to build up to its maximum mapped FAR of 3.0. The Project will be required to provide public benefits that earn the right to build at least 2.5 FAR (3 FAR minus 0.5 (standard method)). This could be achieved in a variety of scenarios:

Scenario 1: A “Mixed Bag Approach” would allow the project to provide several lower tier benefits from all four categories. A project must provide at least one public benefit from Housing For All or Environmental Resilience Categories and provide at least one public benefit from Infrastructure for Compact Growth or Complete Community Amenities Categories.

Scenario 2: A “Limited Categories Approach” would allow the project to perhaps focus on only two categories and provide substantial public benefits that fall in the Tier2-Tier3 range. A project must provide at least one public benefit from Housing For All or Environmental Resilience Categories and provide at least one public benefit from Infrastructure for Compact Growth or Complete Community Amenities Categories.

Scenario 3: A “Top Tier Approach” would allow the project to provide an extraordinary Tier 4 public benefit from just one category and be exempt from providing any other benefits.

Incentive Zoning Update

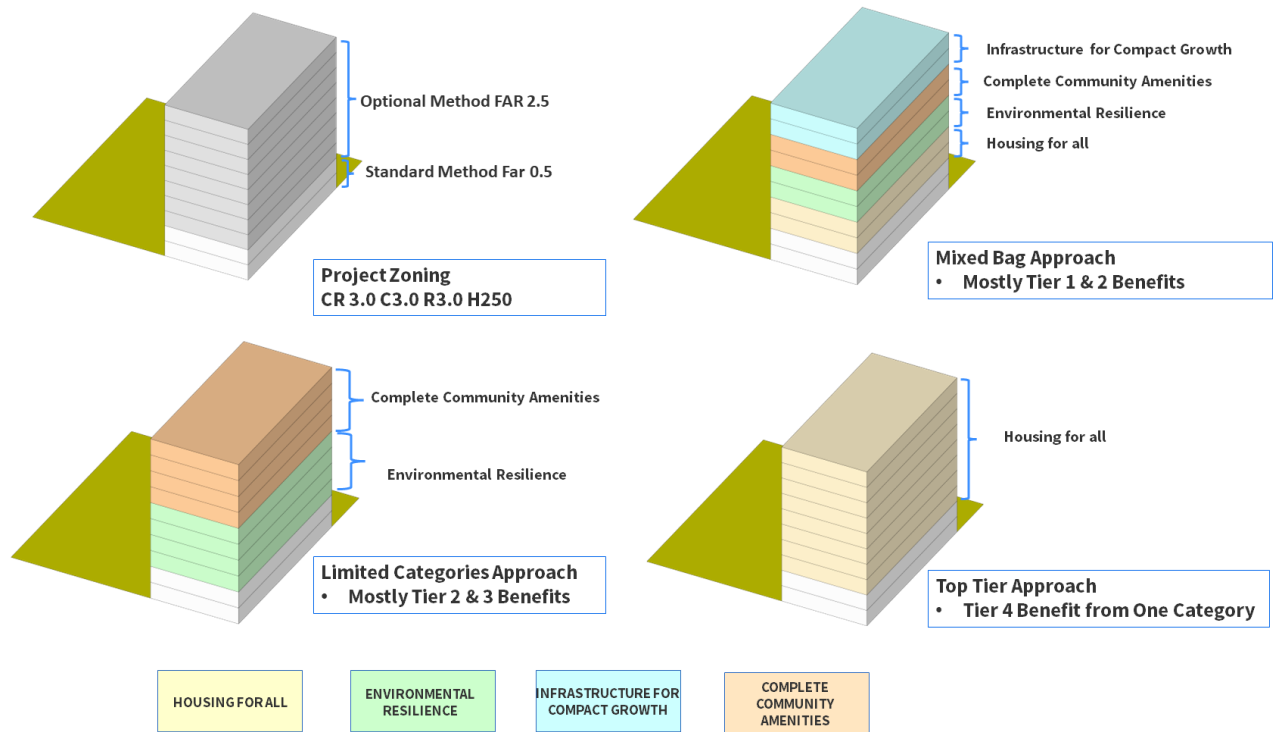


Figure 34 - Diagram showing how Optional Method projects could provide public benefits in a variety of ways to earn the right to build beyond the 0.5 Standard Method FAR.

Each of these would be an acceptable approach for providing public benefits, based on the menu as finalized by the applicable master or sector plan. Planning staff worked with the real estate consultant to conduct feasibility analysis for the various combinations of public benefits that could be provided per the recommendations.

COMPARING THE DELIVERY OF PUBLIC BENEFITS UNDER THE EXISTING SYSTEM VS. PROPOSED UPDATES

Planning staff used a case study approach to show how the new system would theoretically apply to a project that was approved by the Planning Board under the current public benefit point system. This comparative analysis highlights the strengths of the proposed updates. The case study project, Ava Wheaton, was approved in 2014 for the construction of up to 350,000 square feet of residential density for up to 324 units with 12.5% MPDUs on approximately 4.5 acres of CR 4.0 zoned land.



Figure 35 – Image of Ava Wheaton, approved and constructed under the existing CR Guidelines

The Project resulted in a total FAR of 1.75 and is a mid-rise residential apartment building with wood-over-concrete construction. The Project was reviewed under the existing CR Guidelines and provided the following list of public benefit points:

Table 1 – Approved Public Benefits for Ava Wheaton

Public Benefits	Points approved
Transit Proximity	30
Through Block Connection	7
Wayfinding Signage	5
Dwelling Unit Mix	5
Enhanced Accessibility	6.5
Streetscape	0.4
Structured Parking	10
Public Open Space	2
Exceptional Design	2.5
Architectural Elevations	5
Building Lot Terminations	5
Vegetated Wall	5
Tree Canopy	7.5
Vegetated Area	5
Cool Roof	5
Recycling Facility Plan	10
Total	110.9

This list of public benefits highlights several shortcomings of the current system uncovered in the Analysis Phase of the Project. This Project was required to provide the maximum 100 public benefit points, even though it proposed to build only 1.75 FAR of its total mapped FAR of 4.0. Essentially, the requirement for public benefit did not scale with a less intense project than the mapped FAR. On the other hand, while the project was able to qualify for 16 distinct public benefits, the scale and quality of these benefits fell short of providing meaningful amenities or services to the greater community beyond the project's residents. Most "public benefits" provided with this project were either internal to the building (Cool Roof, Recycling Plan, Enhanced Accessibility, Dwelling Unit Mix etc.), inherent to the construction of the project itself (Transit Proximity, Structured Parking etc.), or of a quality that compromised its utility for the greater public (Through Block Connection, Wayfinding Signage etc.).

Under the proposed new structure, the approved project would be required to provide fewer but more meaningful public benefits totaling up to 1.25 FAR (1.75 FAR (Proposed FAR) minus 0.5 (Standard Method FAR)). Based on the three scenarios provided above, the Project could achieve its mapped FAR in the following ways:

Scenario 1: A "Mixed Bag Approach"

The mixed bag approach with this project would provide smaller public benefits across the four categories. Even with the lower tier public benefits, these would provide benefits that align with county priorities and are beneficial for both residents of the project and the surrounding community.

Table 2 – Public Benefits that would achieve proposed FAR in a Mixed Bag Approach

Public Benefit	FAR
Standard Method	0.5
Tier 1: 5% dwellings larger bedroom	0.25
Tier 1: Energy efficiency: Exceed current code by 10%	0.25
Tier 1: Public facility: Bus Stop	0.25
Tier 1: Public Facility Bike Parking	0.25
Tier 1: Public Realm: Intergenerational amenities	0.25
Total FAR	1.75

Scenario 2: A “Limited Categories Approach”

If the Project were to achieve their mapped FAR by only providing two public benefits, it could deliver a medium scale Tier 2 benefit from the Environmental Category such as a LEED Gold certified building, and a Tier 1 benefit from the Infrastructure Category to provide offsite streetscape improvements for improving pedestrian safety within downtown Wheaton. While this list would be shorter than Scenario 1, the two public benefits provided would be significantly impactful in lowering the greenhouse gas emissions of this project, providing healthy and sustainable residential living arrangements, and improving the walkability of the neighborhood.

Table 3 – Public Benefits that would achieve proposed FAR in a Limited Categories Approach

Public Benefit	FAR
Standard Method	0.5
Tier 2: LEED Gold	1.0
Tier 1: Streetscape	0.25
Total FAR	1.75

Scenario 3: A “Top Tier Approach”

In case the project chose to provide a higher percentage of affordable housing, it could potentially qualify for Top Tier public benefit by providing 25% MPDUs at an average of 60% AMI. (This may make sense for projects that are built as public private partnerships or qualify for government financing and subsidies.) The analysis below shows the potential impact and bonus square footage as a result of the recently passed House Bill 538 and existing provisions in the Zoning Ordinance for bonus density.

Table 4 – Public Benefits that would achieve proposed FAR in a Top Tier Approach

Public Benefit	FAR
Standard Method	0.5
Tier 4: 25% MPDUs at 60% AMI	Up to the mapped FAR
Total FAR	3.0

If this Project commits the Top Tier option by providing 25% MPDUs at an average of 60% AMI, the Project would be eligible for bonus density from both the state and local level. The Zoning Ordinance allows bonus density at an increasing rate for projects that project MPDUs in excess of the

requirements of Chapter 25A, resulting in 35% of bonus density for a project that provides 25% MPDUs. The recently adopted State Bill 538 allows 30% of bonus density for projects that provide a minimum of 20% affordable units to households at or below 60% of AMI, in addition to the bonus density allowed by the Zoning Ordinance. Given the way that the State calculates affordability at 60%, MPDUs fit under the criteria and the project would be eligible for both the State and Local bonus density. When these bonus densities compound, as allowed, a significant increase in density can be achieved.

When applied to this Project that originally was approved for 350,000 square feet, the combined bonus density for providing 25% MPDUs would enable it to build up to 577,500 square feet. This would increase the Project's FAR from 1.75 to 3 FAR. The Top Tier requires that 25% of the total units be MPDUs targeted at an average 60% AMI. The project would also benefit from reduction in impact taxes, a significant financial incentive and the applicant will not be required to provide any other public benefit. It is not inconceivable that given the combination of a robust density bonus and financial impact tax reduction incentives, the project could have built up to a 3.0 FAR, providing considerably more housing in a transit serviced downtown location near parks, neighborhood retail and amenities like a library and a recreation center, thereby directly implementing the recommendations of Thrive Montgomery 2050, the 2012 Wheaton CBD and Vicinity Sector Plan, and the Climate Action Plan.

The calculations for bonus density are detailed below for reference:

Original Density: 350,000 square feet

*Zoning Ordinance Section 59.4.5.2.C for Bonus Density in the CR Zone with 25% MPDUs = 350,000 * 35% (30% plus 0.1% for each 0.1% increase in MPDUs above 20%) = 122,500 sf of local Bonus Density*

*State Bill 538 Bonus Density = (350,000) * 30% = 105,000 sf of additional state level density*

Original density (350,000) with Local bonus density (122,500) and State bonus density (105,000) = 577,500 sf

NEXT STEPS & ROLL OUT OF THE UPDATED POLICY

Several steps will be required to enact the recommended updates and roll out the new version of the policy:

- **County Council Review:** This project summary and additional attachments represent the Planning Board's draft recommendations. County council staff is anticipated to schedule working sessions with the Planning, Housing, & Parks Committee in the fall of 2024, followed by deliberations by full council.
- **Zoning Text Amendment Process:** Following Council's review, a zoning text amendment (ZTA) will be needed to update the various sections of County Code that the policy currently

references. The ZTA will then go through the required public hearing and Council’s review process prior to being approved. As proposed, the adoption of the recommendations will also require updates to the County’s Farmland Preservation Laws governing the BLT and TDR programs. Depending on guidance by the County Council, these may be covered within the same ZTA or require a separate ZTA to ensure that the recommendations related to these programs and the Optional Method of development can be successfully implemented. Planning staff anticipates this process to occur in the winter of 2024-25.

- **Update to Implementation Guidelines:** Upon adoption of the ZTA(s), Planning staff will create a new version of the Implementation Guidelines to provide guidance to applicants, Planning Staff, the Board, and other county agencies to apply the updated version of the policy. Staff anticipates this work to occur in the spring of 2025 with the roll out to occur by fall of 2025.

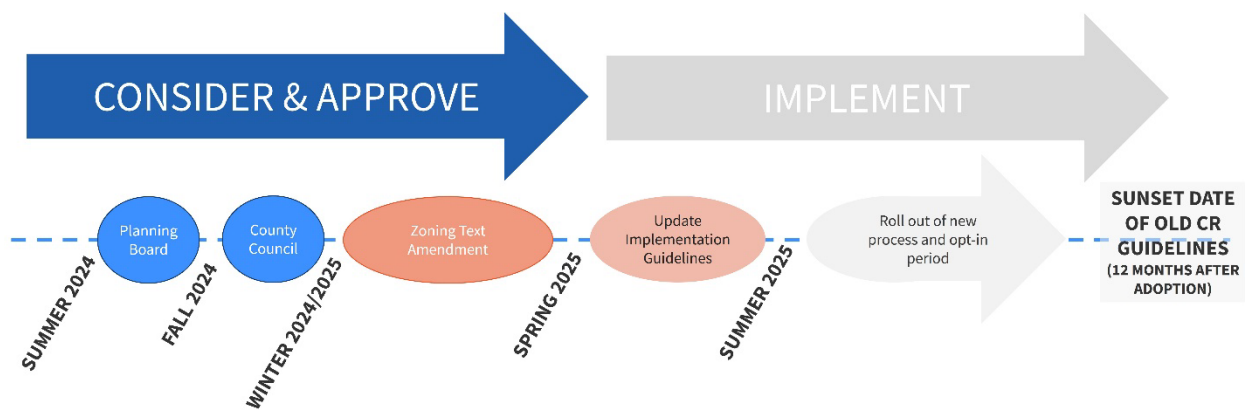


Figure 36 – Anticipated timeline for implementation

UPDATING THE IMPLEMENTATION GUIDELINES

The Implementation Guidelines are key to ensuring that projects are reviewed consistently throughout the process and noting where flexibility is appropriate. Development of the updated Guidelines will require additional outreach with the numerous agencies that have been consulted in the drafting of these recommendations. The Guidelines will need to address the following:

- **Criteria for review:** A standard set of criteria for each of the public benefits, submission materials for each application phase, and interagency coordination processes.
- **Project Amendments:** How amendments to Projects that were approved under the old guidelines should be reviewed and establish a threshold for when amendments would be subject to the new Guidelines.
- **Role of Sector Plans:** The Planning Board is proposing that sector plans be given more flexibility to tailor public benefits to the needs of the local communities as determined through the master or sector planning process. The Guidelines will address how the menu of

public benefits can be tailored by master or sector plans to ensure that public benefits meet local needs while also moving the needle on the County's key policy priorities.

- **“Crosswalk” of Public Benefits for Existing Master/Sector Plans:** Several Master/Sector Plans recommended and/or prioritized certain public benefits that should be delivered in Optional Method projects. The Implementation Guidelines will include a “crosswalk” between the existing and updated menu of public benefits so Master/Sector Plans approved prior to this update can transition to utilizing the new menu. It should be noted that some Master/Sector Plans may require a ZTA to update the Overlay Zone requirements etc. related to public benefits. (Please see Appendix E for a draft cross walk approach.)
- **Future updates to the Implementation Guidelines:** Additionally, the Planning Board recommends this policy be reviewed and updated periodically so it remains nimble and responsive to changing construction and energy codes, real estate market dynamics, planning priorities etc. Planning Board recommends an assessment of the policy every five years. The Planning Board also recommends that the rate of payments be adjusted biannually based on *Engineering News Record's Baltimore Construction Cost Index*. The Implementation Guidelines will be updated as needed to reflect future adjustments to the policy.

ROLL OUT OF THE NEW POLICY

The Planning Board recognizes that this is a comprehensive update to the policy and is therefore recommending an “opt-in” period to provide a flexible and smooth transition from the current to the proposed version. The Planning Board recommends that there be an “opt-in” period of 12 months from the passing of the ZTA when new development applications can choose to be reviewed under the existing or updated version of the policy. The Implementation Guidelines will provide a “cross walk” between the existing and updated menu of public benefits. Some plans may require a ZTA to update the Overlay Zone requirements etc. related to public benefits.

New masterplans can either adopt the new menu of public benefits as is or adjust it through a mechanism such as an overlay zone. (example: GSLS Overlay Zone). If a new masterplan modifies the menu, it should include updated guidance as a part of its own Implementation Section.

After the end of the opt-in period, all Optional Method developments should utilize the updated version of the policy for the CR and CRT zones, as amended by the applicable master or sector plans. As a reminder, the EOF zone will not be required to provide public benefits and the Great Seneca Life Science Overlay zone will regulate the delivery of public benefits within its boundaries.

MONITORING OF THE POLICY AND UPDATES

During the Project's analysis phase, Planning Staff encountered several challenges in collecting data related to the approval of public benefits, which was eventually pulled together from Planning Board

resolutions, staff reports, and building permit documents. This data was then entered into an online central data hub where all information can be easily accessed and parsed by geography, sector plan, type of benefit etc. Continued use of this online data hub will be valuable to gauge the performance of the new system and the Planning Board recommends it be utilized to track public benefits as they are approved under the Optional Method of Development in the CR and CRT zones this new version. As the Planning Board approves sketch and/or site plans under the Optional Method, the associated public benefits would be entered into the data base on a rolling basis. Planning staff will create this data hub after the ZTA is approved.

It is recommended that the policy be assessed every five years, with the assistance of the data hub to analyze how the policy has been applied and adjusted by various master plans and evaluate what public benefits have been received to determine if public benefit categories require updating. An intermittent check-in may be needed if significant changes are made to the County's Construction and Green Codes since those will impact some of the proposed benefits under the Environmental Resilience category.