

## Section 4.9.2. Bethesda (B) Overlay Zone

### A. Purpose

The purpose of the B Overlay Zone is to implement the recommendations of the Bethesda Downtown Plan as it relates to density, building heights, affordable housing, parks, and design.

### B. Land Uses

The land uses of the underlying zones apply.

Surface Parking for Use Allowed in the Zone is not allowed as a principal use on a site from which density has been transferred.

### C. Development Standards

#### 1. Building Height

Except as provided in Subsection 3 concerning MPDUs, the maximum building height is limited to the height allowed in the underlying zone.

#### 2. Density

a. In the CR or CRT zone, a development may exceed the mapped FAR on a site if the Planning Board approves a sketch or site plan under Section [7.3.3](#) or Section [7.3.4](#) that includes the allocation of gross floor area from Bethesda Overlay Zone (BOZ) Density, or FAR Averaging under Section [4.9.2.C.5](#).

b. BOZ Density means the total square footage of gross floor area by which new development in the Bethesda Downtown Plan Area may cumulatively exceed the maximum square footage of gross floor area allowed under the mapped CR and CRT zones. BOZ Density is determined by subtracting the gross floor area of existing and approved development from 32.4 million (the total gross floor area recommended by the Bethesda Downtown Plan). The Planning Board must periodically publish the gross floor area remaining in BOZ Density.

#### i. Land Use

The gross floor area allocated from BOZ Density may be developed as Commercial or Residential square footage.

#### ii. Qualification

To qualify for BOZ Density, a proposed development must:

A. use all gross floor area allowed by the mapped CR or CRT FAR and may not transfer BOZ Density to any other property.

B. except as provided under Subsection 3 concerning MPDUs, make a Park Impact Payment before the issuance of any building permit application at a rate of \$10 per square foot of approved BOZ Density gross floor area. The Planning Board, after advertising and holding a public hearing, must adjust this payment rate on July 1 of each odd-numbered year by the annual average increase or decrease in a published construction cost index for the two most recent calendar years. If a property owner dedicates land designated in the master plan as a recommended open space to the M-NCPPC Parks Department, the Planning Board may reduce the amount of square footage for which a Park Impact Payment must be made.

### **3. Moderately Priced Dwelling Units (MPDUs)**

#### **a. General Requirement**

For any development application that includes 20 or more residential dwelling units, the Planning Board may only approve the application if the development provides at least 15% MPDUs under the provisions of Chapter 25 A.

#### **b. Building Height**

If a project exceeds 17.5% MPDUs and is located in the Height Incentive Area as delineated in Subsection E, the height limit of the applicable zone does not apply to the extent required to provide MPDUs. The additional height is calculated as the floor area provided for MPDUs above 15% divided by the average residential floor plate area, where each whole number and each remaining fraction allows an increase of 12 feet.

#### **c. Park Impact Payment**

- i. A Park Impact Payment is not required for the gross floor area allocated for MPDUs.
- ii. If a project provides at least 17.5% MPDUs and is located outside of the Height Incentive Area, any Park Impact Payment is reduced by subtracting the gross floor area used for MPDUs in excess of 15% from the gross floor area that is subject to a Park Impact Payment.
- iii. If the development includes at least 25% MPDUs, a Park Impact Payment is not required for any residential gross floor area.

#### **d. Public Benefit Points**

- i. The Planning Board may only grant public benefit points for providing more than 15% of the residential units as MPDUs under Chapter 25A.
- ii. The Planning Board may grant MPDU public benefit points for providing more than 15% MPDUs at the rate of 15 points for every 1% of the number of units in the project above 15%. Any fraction of 1% increase in MPDUs entitles the applicant to an equal fraction of 15 points. For points to be awarded, at least one more MPDU than would be required at 15% must be provided.
- iii. For a project providing more than 15% MPDUs, one less public benefit point category than required under Section [4.5.4.A.2](#) must be satisfied.
- iv. For a project providing at least 20% MPDUs, other public benefit point categories are not required except for: 1) Exceptional Design, and 2) Energy Conservation and Generation in the High-Performance Area.

### **4. Public Benefit Points**

The requirements for public benefit points are established by Division 59.[4.7](#), except as provided in Subsection 3 concerning MPDUs and as follows:

- a. The Planning Board must not grant any public benefit points for transit proximity under Section 59.[4.7.3.B](#).
- b. Park Impact Payment

- i. If a Park Impact Payment is not required under Section 59.4.9.2.C.2.b.ii and the applicant makes a payment, the Planning Board may grant one point for every \$5,000 payment up to 20 public benefit points.
- ii. If a Park Impact Payment is required under Section 59.4.9.2.C.2.b.ii, the Planning Board may grant public benefit points only if the Park Impact Payment exceeds the minimum required. The number of public benefit points that the Planning Board may grant is determined by dividing the amount of the payment greater than the required payment by the required payment, and multiplying this result by 100.
- iii. The maximum number of points from a Park Impact Payment is 30.
- c. Within the High-Performance Area designated in the Bethesda Downtown Plan, the Planning Board must determine that the development achieves 15 public benefit points from Energy Conservation and Generation under Section 59.4.7.3.F.3.
- d. If the applicant reaches an agreement with the Department of Housing and Community Affairs to retain or provide affordable housing rents for dwelling units located anywhere in the Overlay zone area, the Planning Board may grant 6 public benefit points for every 1% of units in the project included in the rental agreement. Any fraction of 1% increase in the number of units covered by the agreement entitles the applicant to an equal fraction of 6 points. For this purpose, affordable housing is defined as rents that are affordable to a household with a household income of 80 percent of Area Median Income (AMI) or below, for 20 years. The agreement with the Department of Housing and Community Affairs may include limits on the income of residents for the affordable dwelling units.
- e. If an applicant reaches an agreement with the Department of Housing and Community Affairs and another property owner for the use of an off-site existing dwelling, within the Bethesda Downtown Area as an MPDU, the Planning Board may grant 15 public benefit points for every 1% of MPDU units in the project included in the MPDU agreement above the minimum required 15% MPDUs.
- f. The Planning Board must determine that the development achieves at least 10 points for exceptional design under Section 59.4.7.3.E.4. The maximum number of public benefit points for exceptional design is 30. The Planning Board must appoint a Design Advisory Panel composed of relevant independent professionals, including at least one resident of Bethesda, and consider the comments from that panel on all projects before making their determination concerning exceptional design points.
- g. In addition to the other adjustment for maximum public benefit points made in this subsection, the number of maximum allowed public benefit points in the following categories are increased to the number of points indicated:

Minimum Parking	20
Through Block Connection	30
Streetscape Improvement	30
Dwelling Unit Mix	30
Architectural Elevations	30
Exceptional Design	30
Public Open Space	30

	Public Art	20
	Tower Setback	20
	Cool Roof	15
	Energy Conservation	25
	Vegetated Area	15
	Vegetated Roof	20

## 5. FAR Averaging (Density transfers)

- a. Any gross floor area allowed by the underlying zone may be transferred to any site in the Bethesda Downtown Plan.
- b. Additional public benefit points above the minimum number are not required for FAR Averaging.
- c. Gross floor area increased above mapped density because of FAR Averaging is not required to make a Park Impact Payment.

## 6. Parking Standards

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

## 7. Public Open Space

- a. The Public Open Space requirement under Section 4.5.4.B.1.a may be reduced by the Planning Board.
- b. Any project whose open space requirement is 10% or less may be required to make an improvement or contribution to off-site public open space under Section 6.3.6.C instead of providing the open space.

## D. Development Procedures

1. Except as modified in this subsection, the development procedures of the underlying zone apply.
2. Sketch plan and site plan approval under Section 7.3.3 and Section 7.3.4, respectively, are required for all development in the Bethesda Overlay zone that uses the FAR Averaging provisions of Section 4.9.2.C.5.
3. To approve a site plan, the Planning Board must find that the proposed allocation of gross floor area, in addition to the sum of previously approved or built developments, does not exceed 32,400,000 square feet of gross floor area.
4. If the Planning Board approves a site plan using BOZ Density, the applicant must have a building permit application, accepted by the Department of Permitting Services, that includes the core and shell of the principal building within two years of the date of the Planning Board's resolution. Within two years after the Department of Permitting Services accepts the building permit application that includes the core and shell of the principal building, the applicant must obtain that building permit. The

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

### E. Height Incentive Area Map



(Legislative History: Ord. No. 18-28, §3.)