

MEMORANDUM

January 7, 2010

TO: Planning, Housing, and Economic Development Committee

FROM: Jeff Zyontz, Legislative Attorney 

SUBJECT: Zoning Text Amendment 09-08, Commercial/Residential (CR) Zones - Establishment

Re-drafted CR zone attached

A re-drafted ZTA to establish CR zones, consistent with the Committee's instruction to staff, is attached. Staff was guided by the minutes of the Committee's worksessions. Comments appear where the Committee did not address an issue raised by the Planning Board or where the Planning Board staff submitted substantive changes to the text. There are 2 versions of the ZTA, as requested by the Planning Board Chairman. One version is in legislative format that indicates changes from the ZTA as introduced; the second version is clear text to illustrate how the Ordinance would read if the Committee's draft recommended changes were adopted.

Staff did not propose substantive changes to the detailed criteria in advance of the Committee's review of those provisions. Previous comments are repeated in the provisions concerning detailed criteria. Staff would propose going through the density-increasing criteria and then coming back to changes made to the first half of the ZTA.

Possible unintended consequences of the density incentives

Both County Executive Staff and Council staff are still concerned about the economics of the density incentives. Planning staff has found that the costs for virtually all incentives are inversely related to the maximum FAR. The greater the maximum FAR, the lower the cost per square foot of incentive density increase. This may cause CR zoned properties with low maximum FARs to either not be redeveloped using the standard method or not be redeveloped at all. This problem is exacerbated in markets less vibrant than North Bethesda. Such markets will not be allowed high density, and the economic return for any density is lower but the construction costs are identical to vibrant market areas. Development in less vibrant areas will seek only the lost incentives if they seek incentive density at all. Staff was informed that the County Executive may forward additional comments to the Committee on this issue.

For these reasons, staff recommends relating incentive densities to the amount of floor area (or a FAR) instead of a percentage of the incentive density.

Method of calculating incentive density

Planning Staff proposed 2 methods for calculating incentive density: 1) based on the amount of density proposed; and 2) based on the amount of density allowed. Staff had expected the calculation methods to either be based on an individual building or on the density of the entire site. Planning Staff will be available to explain their intent at the Committee meeting.

Incentive density criteria

Double credit possibilities

As introduced, some incentives fit into multiple incentive density categories. LEED Gold certification is partially obtained by having a green roof, a green wall, stormwater recharge and reuse, a vegetative area, and energy efficiency. A stormwater recharge facility may also be a facility for rainwater reuse. Exceptional design may also qualify for floor plate size and tower setback. The tower set back may result in qualifying for floor plate size. A community garden may also be a vegetative area or part of a green roof.

If the Committee does not choose to delete some of these criteria, staff recommends adding a provision to not allow a single facility to get multiple incentives.

Possible incentive criteria to delete

Community gardens
Floor plate size
Bio-retention and stormwater recharge
Rainwater reuse
Dark skies
LEED rating

Planning Board staff's view of remaining issues

On January 7, 2010 Planning Board staff sent the following as their view of unresolved issues and issues in need of clarification:

1. Sketch plan.
 - a. Planning Board may require modifications prior to approval.
 - b. Applicant may make modifications to sketch plan with site plan application if properly noticed.
 - c. If changes to sketch plan are made with site plan, Board must find that the changes do not substantially conflict with findings of previous approval.
2. Incentive density: three options.
 - a. No category percentage limit, individual benefit percentage ranges enumerated:
 1. Requirements for benefits from a certain number of categories.
 - A. Planning Board recommends a minimum of three categories.
 - B. Planning Board recommends keeping benefit language and ranges introduced in the revised text – not the introduced version

- b. Category percentage limit of 30%, no individual percentage ranges:
 - 1. 30% limit waived for transit proximity and community facilities.
 - 2. Ranges and details of public benefits based on Board-adopted guidelines.
 - 3. Basic required elements of public benefits laid out in ordinance.
 - c. Category percentage limit of 30%, individual percentage ranges enumerated.
 - 1. Planning Board recommends replacing introduced text with revised text.
3. BLTs.
- a. Change to most recent language sent to Council.
 - b. Make incentive, not requirement.
 - c. Keep provision for greater incentive for small lots.

November 23, 2009 Committee meeting summary

On November 23, the Planning, Housing, and Economic Development Committee came to the following conclusions:

- 1) Retain the definition of incentive density increase as the FAR proposed minus .5 (the FAR allowed by the standard method of development).
- 2) Revise the allowance for transit proximity (but amend definition to provide for developments with more than 1 lot) to:
 - a) have 3 categories: Metrorail, fixed guide way (light rail or bus), and bus on shared roadways with minimum headways; and
 - b) propose appropriate percentages of incentive density for the revised classifications.
- 3) Retain all of the major incentive categories as introduced (Transit Proximity, Connectivity and Mobility, Diversity, Design, and Environment) but no single category except for transit proximity could justify more than 30 percent of incentive density.
- 4) Revise the provision for the Planning Board to add incentive categories using the essential finding currently required for project plan approval.
- 5) Delete the minimum and maximum percentages of incentive density increase from the detailed criteria within major incentive categories (in part to allow a larger single public facility such as the recreation center in Friendship Heights or a full school site).
- 6) Allow for the conveyance of land for a public facility, such as a school site, as an option to get incentive density.
- 7) Review the draft to ensure that workforce housing is an option, not a requirement.
- 8) Restrict site plan review on grandfathered properties to the area impacted by a proposed change.
- 9) Include a definition of renovation and reconstruction.

The Committee requested a full re-draft of the CR zone before its next worksession on this issue.

Post Committee

After the Committee meeting, Council staff asked each of the Committee members the following questions:

- 1) How is the Planning Board going to determine that 30 percent of a major incentive category is warranted if there are no specific density increases for achieving any of the detailed criteria?
- 2) How would the goal of getting a major public facility or a major site for a public facility be achieved if a major incentive category is limited to 30 percent?
- 3) If the detailed criteria are to be retained, does the Committee believe that there is a public benefit worthy of a density increase for dark sky compliant lighting, green roofs, and all the other detailed criteria?

A majority of the Committee agreed with the following:

- 1) Remove the requirement to have a maximum of 30 percent of incentive density from each major category.
- 2) Require the use of some criteria from 2, 3, or 4 major categories, depending on transit proximity.
- 3) Delete the maximum for the Community Facility and add a criterion to allow the provision of major sites for public use.
- 4) Revise other detailed criteria in a future meeting.

<u>This packet contains</u>	<u>© Page</u>
ZTA 09-08 legislative format with comments	1 – 62
ZTA 09-08 – clean amended draft	63 – 87

Ordinance No:
Zoning Text Amendment No: 09-08
Concerning: Commercial/Residential (CR) Zones -
Establishment
Draft No. & Date: 5 - 1/4/10
Introduced: September 22, 2009
Public Hearing:
Adopted:
Effective:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: District Council at Request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- Establish Commercial/Residential (CR) zones; and
- Establish the intent, allowed land uses, development methods, general requirements, development standards, density incentives, and approval procedures for development under the Commercial/Residential zones.

By adding the following Division to the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-15 "COMMERCIAL/RESIDENTIAL ZONES"
Sections 59-C-15.1 through 59-C-15.9

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

OPINION

ORDINANCE

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

1 **Sec. 1. Division 59-C-15 is added as follows:**

2 * * *

3 **DIVISION 59-C-15. COMMERCIAL/RESIDENTIAL (CR) ZONES**

4
5 **59-C-15.1. Zones Established.**

6 **59-C-15.11.** The Commercial/Residential (CR) zones are established as
7 combinations of a sequence of ~~[[four]]~~ 4 factors: maximum total floor area
8 ratio (FAR), maximum non-residential FAR, maximum residential FAR,
9 and maximum building height. These zones are identified by a sequence of
10 symbols: CR, C, R, and H, each followed by a number where:

- 11 a) the number following the symbol "CR"- is the maximum total FAR;
12 b) the number following the symbol "C" is the maximum non-residential
13 FAR;
14 c) the number following the symbol "R" is the maximum residential
15 FAR; and
16 d) the number following the symbol "H" is the maximum building
17 height in feet.

18 The examples in this Division do not add, delete, or modify any provision of
19 this Division. Examples are provided only to demonstrate particular
20 applications of the provisions in the Division. Examples are not intended to
21 limit the provisions.

22 **59-C-15.12.** Each unique sequence of CR, C, R, and H is established as a
23 zone under the following limits:

- 24 a) the maximum total FAR must be established as an increment of 0.25
25 from 0.5 up to 8.0;
26 b) the maximum non-residential and residential FAR must be
27 established as an increment of 0.25 from 0.25 up to 7.5; and

28 c) the maximum height must be established as an increment of 5 feet up
29 to 100 feet and an increment of 10 feet from 100 feet up to 300 feet[[;
30 and]].

31 **[[d) permitted]]** 59-C-15.121. Permitted density may be averaged over 2
32 or more directly abutting or confronting lots in [[the same]] one or
33 more CR [[zone]] zones, provided that:

Comment: Issue raised by the Planning Board but not considered by the Committee.

- 34 1) the lots are subject to the same sketch plan;
- 35 2) the lots are created by the same preliminary subdivision plan;
- 36 3) the maximum total density and non-residential and residential
37 density limits apply to the entire development [[subject to the
38 sketch plan and subdivision plan.]] not to individual lots;
- 39 4) no building may exceed the maximum height set by the zone;
- 40 5) public benefits must be provided [[in proportion to any phased
41 development on individual lots]] under the phasing element of
42 an approved sketch plan; and
- 43 6) the resulting development must conform to the design and land
44 use objectives of the applicable master or sector plan and
45 design guidelines.

46 7) the total maximum density on the area zoned with a lower
47 maximum total FAR may not be exceeded.

Comment: Issue raised by Council staff but not considered by the Committee.

48 **59-C-15.13.** The CR zones can only be applied when specifically
49 recommended by an approved and adopted master or sector plan and only
50 by the sectional map amendment [[in conformance with the zoning
51 recommendations of an approved and adopted master or sector plan]]
52 process.

53 Examples:

- An area zoned CR-2.0, C1.0, R1.0, H80 allows a total FAR of 2.0, with maximum non-residential and residential FARs of 1.0, thereby requiring an equal mix of uses to obtain the total FAR allowed. The height for any building in this zone is limited to 80 feet.
- An area zoned CR-6.0, C3.0, R5.0, H200 allows a residential FAR of up to ~~[[of]]~~ 5.0, ~~[[whereas]]~~ a non-residential ~~[[density is only allowed an]]~~ FAR of up to 3.0, and a mix of the two uses could yield a total FAR of 6.0. This combination allows for flexibility in the market and shifts in the surrounding context. The height for any building in this zone is limited to 200 feet.
- An area zoned CR-4.0, C4.0, R4.0, H160 allows ~~[[the ultimate]]~~ complete flexibility in the mix of uses, ~~[[even]]~~ including buildings with no mix, because the maximum allowed non-residential and residential FARs are both equivalent to the total maximum FAR allowed. The height for any building in this zone is limited to 160 feet.

59-C-15.2. Description and Objectives of the CR Zones.

The CR zones permit a mix of residential and non-residential uses at varying densities and heights. The zones promote economically, environmentally, and socially sustainable development patterns where people can live, work, and have access to services and amenities while minimizing the need for automobile use. The application of the CR zones ~~[[are]]~~ is appropriate where ecological impacts can be moderated by co-locating housing, jobs, and services. The objectives of the CR zones are to:

- a) implement the policy recommendations of applicable master and sector plans;
- b) target opportunities for redevelopment of single-use areas and surface parking lots with a mix of uses;
- c) reduce dependence on the automobile by encouraging development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities;
- d) encourage an appropriate balance of employment and housing opportunities and compatible relationships with adjoining neighborhoods;

- 84 e) establish the maximum density and building height for each zone, while
- 85 retaining appropriate development flexibility within those limits; and
- 86 f) standardize optional method development by establishing minimum
- 87 requirements for the provision of the public benefits that will support and
- 88 accommodate density above the standard method limit.

89 **59-C-15.3. Definitions Specific to the CR Zones.**

90 The following words and phrases, as used in this Division, have the meaning
91 indicated. The definitions in Division 59-A-2 otherwise apply.

92 **Car share space:** a parking space that serves as the location of an in-service
93 vehicle used by a vehicle-sharing service.

94 **Cultural institutions:** public or private institutions or businesses including: art,
95 music, and photographic studios; auditoriums or convention halls; libraries and
96 museums; recreational or entertainment establishments, commercial; theater,
97 indoor; theater, legitimate.

98 **Day care facilities and centers:** facilities and centers that provide daytime care
99 for children and/or adults, including: child daycare facility (family day care,
100 group day care, child day care center); daycare facility for not more than 4
101 senior adults and persons with disabilities; and day care facility for senior
102 adults and persons with disabilities.

103 **Frontage:** a property line shared with an existing or master-planned public or
104 private road, street, highway, or alley right-of-way or easement boundary.

105 **LEED:** the series of Leadership in Energy and Environmental Design (LEED)
106 rating systems developed by the Green Building Council as amended.

107 **Locally-owned small business:** a commercial business that:

- 108 a) is majority-owned by a resident of Montgomery County or any
- 109 adjacent jurisdiction; and

110 **b)** meets the size standards as determined by the Small Business
111 Administration's Table of Small Business Size Standards (SBA Table)
112 or is a franchised company with total holdings by the local-owner that
113 meets the size standards of the Table.]]

114 **Live/Work unit:** Buildings or spaces within buildings that are used jointly for
115 [[commercial]] non-residential and residential purposes where the residential
116 use of the space is secondary or accessory to the primary use as a place of
117 work.

Comment: Planning Board staff would replace "is" with "may be".

118 **Manufacturing and production, artisan:** The manufacture and production of
119 commercial goods by a skilled manual worker or craftsman, such as jewelry,
120 metalwork, cabinetry, stained glass, textiles, ceramics, or hand-made food
121 products.

122 **[[Priority retail street frontage:** Frontage along a right-of-way identified in a
123 master or sector plan to be developed with street-oriented retail to encourage
124 pedestrian activity.]]

125 **Public Arts Trust Steering Committee:** A committee of the Arts and Humanities
126 Council that allocates funds from the Public Arts Trust.

127 **Public owned or operated uses:** Activities that are located on land owned by or
128 leased and developed or operated by a local, county, state, or federal body or
129 agency.

130 **Recreational facilities, participatory [[, indoor]]:** Facilities used for [[indoor]]
131 sports or recreation. [[Spectators would be incidental on a nonrecurring basis.
132 Such uses typically include bowling alleys, billiard parlors, indoor tennis and
133 handball courts, and health clubs.]]

134 **[[Recreational facilities, participatory, outdoor:** Facilities used for outdoor
135 sports or recreation. Spectators would be incidental on a nonrecurring basis.

136 Such uses typically include driving ranges, miniature golf courses, swimming
137 pools, and outdoor ice skating rinks.]]

138 **Reconstruction:** Building the same or less floor area on or within footprint of a
139 demolished or partially demolished building.

140 **Renovation:** An interior or exterior alteration that does not affect a building's
141 footprint.

142 **Seasonal Outdoor Sales:** A lot or parcel where a use or product is offered
143 annually for a limited period of time during the same calendar period each year.
144 The availability or demand for the use or product is related to the calendar
145 period, such as Christmas trees, pumpkin patches, or corn mazes.

146 **Transit proximity:** [[Level 1 proximity is based on the location of a project with
147 access to an existing or planned Metrorail Station. Level 2 proximity is based
148 on the location of a project with access to an existing or planned MARC
149 Station, light rail station, or a stop along a transportation corridor with fixed
150 route bus service where service intervals are no longer than 15 minutes during
151 peak commute hours.]] Transit proximity is determined at the time of a sketch
152 plan application and is categorized in three levels: 1. Proximity to an existing
153 or planned Metrorail Station; 2. Proximity to a station or stop along a rail or
154 bus line with a dedicated, fixed path; and 3. Proximity to a station or stop along
155 a bus line that does not have a dedicated, fixed path but has service intervals
156 that are no longer than 15 minutes during peak commute hours. A project
157 adjacent to or confronting a transit station or stop shares a property line,
158 easement line, or is only separated by a right-of-way from a transit station or
159 stop. In addition to a project that is adjacent or confronting, a project is [[also]]
160 considered to have access to a transit facility if [[all parcels and lots within]]
161 the project's gross tract area [[have]] in a single sketch plan has no more than

162 25 percent of [[their]] land area farther than the applicable distance from the
163 transit station or stop and if not more than 10 percent of the residential units in
164 the project are farther than the applicable distance from the station or stop. A
165 planned transit station or stop must be funded for construction within the first 4
166 years of the Consolidated Transportation Program or the Capital Improvement
167 Program. If a project qualifies for more than one transit proximity level, the
168 project may only take incentive density for one of the qualifying benefits.

169 **59-C-15.4. Methods of Development and Approval Procedures.**

170 Two methods of development are available under the CR zones.

171 **59-C-15.41. Standard Method.**

172 Standard method development must comply with the general requirements
173 and development standards of the CR zones. A site plan approval under
174 Division 59-D-3 is required for a standard method development project only
175 if:

- 176 a) the gross floor area exceeds 10,000 square feet; or
177 b) any building or group of buildings contains 10 or more dwelling units
178 [[; or]]
179 [[c) the proposed development generates 30 or more new peak-hour
180 trips]].

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182 **59-C-15.42. Optional Method.**

183 Optional method development must comply with the general requirements
184 and development standards of the CR zones and must provide public
185 benefits under Section 59-C-15.8 to obtain [[the full densities]] greater
186 density and height than allowed [[by the zone]] under the standard method
187 of development. A sketch plan and site plan are required for any

Comment: Planning Board staff would add "Unless other wise provided for in this division..."

188 development using the optional method. A sketch plan must be filed under
189 the provisions below; a site plan must be filed under Division 59-D-3. Any
190 required preliminary subdivision plan must be submitted concurrently with
191 the site plan.

Comment: Planning Board staff would amend this to require that a preliminary plan application be concurrent with a sketch plan or a site plan. An applicant MAY submit a preliminary plan with a sketch plan without amending the proposed text.

Council staff... delete the sentence starting with "Any..."

192 **[(a) Contents of a sketch plan:**

- 193 1) justification statement for optional method development
- 194 addressing the requirements and standards of this Division,
- 195 how the development will further the objectives of the
- 196 applicable master or sector plan, and how the development will
- 197 be more efficient and effective than the standard method of
- 198 development;
- 199 2) total FAR, conceptual uses and maximum densities per use;
- 200 3) building massing, height, public use and other open spaces, and
- 201 the relationship of proposed buildings to adjacent buildings;
- 202 4) general vehicular, pedestrian, and cyclist circulation and
- 203 access;
- 204 5) table of proposed public benefits and incentive density
- 205 requested for each benefit; and
- 206 6) general phasing of structures, uses, public benefits, and site
- 207 plans.

208 **b) Procedure for a sketch plan:**

- 209 1) Before filing a sketch plan application, an applicant must
- 210 comply with the provisions of Section 4 of the Manual for
- 211 Development Review Procedures for Montgomery County, as
- 212 amended, that concern the following procedures:

- 213 (a) notice:

- 214 (b) holding a public meeting; and
215 (c) posting the site of the submission.
216 2) The submittal, review procedure, and fees for a sketch plan are
217 the same as a pre-application submission under Section 50-
218 33A(a), except that there is no requirement to submit a
219 preliminary subdivision plan within 90 days.
220 3) The Planning Board may require some elements of the sketch
221 plan to be binding on any subsequent site plans.]]
222 a) A sketch plan application must contain:
223 1) A justification statement that addresses how the project meets
224 the requirements and standards of this Division for optional
225 method development and describes how the development will
226 further the objectives of the applicable master or sector plan;
227 2) An illustrative plan or model that shows the maximum densities
228 for residential and non-residential uses, massing, and heights of
229 buildings; locations of public use and other open spaces; and
230 the relationships between existing or proposed buildings on
231 adjoining tracts;
232 3) An illustrative diagram of proposed vehicular, pedestrian, and
233 bicycle access, circulation, parking, and loading areas;
234 4) A table of proposed public benefits and the incentive density
235 requested for each; and
236 5) The general phasing of structures, uses, public benefits, and
237 site plan applications.
238 b) Procedure for a sketch plan:

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- 1) Before filing a sketch plan application, an applicant must comply with the provisions of the Manual for Development Review Procedures, as amended, that concern the following:
 1. Notice;
 2. Posting the site of the application submittal; and
 3. Holding a pre-submittal meeting.

- 2) A public hearing must be held by the Planning Board on each sketch plan application no later than 90 days after the filing of an optional method development application unless a request to extend this period is requested by the applicant, Planning Board staff, or other interested parties. A request for an extension must be granted if the Planning Board finds it not to constitute prejudice or undue hardship on any interested party. A recommendation regarding any request for extension must be acted upon as a consent agenda item by the Planning Board on or before the 90-day hearing period expires. Notice of the extension request and recommendation by Staff must be posted no fewer than 10 days before the item's agenda date.

- 3) No fewer than 10 days before the public hearing on a sketch plan, Planning Board staff must submit its analysis of the application including its findings, comments, and recommendations with respect to the requirements and standards of this division and any other matters that may assist the Planning Board in reaching its decision on the application. This staff report must be included in the record of the public hearing.

265 4) The Planning Board must act within 30 days after the close of
266 the record of the public hearing, by majority vote of those
267 present and voting based upon the hearing record, to approve,
268 approve subject to modifications, conditions, or binding
269 elements, or disapprove.

Comment: This provision was not in the Planning Board staff's recommendations.

270 c) In approving a sketch plan, the Planning Board must find that the
271 following elements are appropriate in concept and appropriate for
272 further detailed review at site plan:

273 1) The plan meets the requirements and standards of this division,
274 the development will further the objectives of the applicable
275 master or sector plan, and will provide more efficient and
276 effective development of the site than the standard method of
277 development:

278 2) The proposed building massing and height and public use and
279 other open spaces are located and scaled to achieve compatible
280 relationships with each other and with existing and proposed
281 buildings and open space adjacent to the site and with adjacent
282 communities:

283 3) The general vehicular, pedestrian, and bicyclist access,
284 circulation, parking, and loading areas are adequate, safe, and
285 efficient:

286 4) The proposed public benefits and associated requested
287 incentive density will further the objectives of the applicable
288 master or sector plan; and

Comment: Planning Board staff would also add and will improve the environmental, economic, and social sustainability of the project and its environs.

289 5) The general phasing of structures, uses, public benefits, and
290 site plans is feasible and appropriate to the scale and
291 characteristics of the project.
292 d) At applicant's request, the Planning Board may approve changes or
293 modification of its findings regarding a sketch plan at the time of site
294 plan review. The applicant must identify any inconsistency between
295 the approved sketch plan and the proposed site plan in the notice of
296 application for the site plan.

Comment: The Planning Board staff's draft did not include the phrase "at the applicant's request."

297
298 **59-C-15.5. Land Uses.**

299 No use is allowed in the CR zones except as indicated below:

- 300 - Permitted Uses are designated by the letter "P" and are permitted
301 subject to all applicable regulations.
302 - Special Exception Uses are designated by the letters "SE" and may be
303 authorized as special exceptions under Article 59-G.

a) Agricultural	
Farm and country markets	<u>P</u>
Farm, limited to crops, vegetables, herbs, and ornamental plants	<u>P</u>
Nursery, horticultural – retail or wholesale	<u>P</u>
Seasonal outdoor sales	<u>P</u>
b) Residential	
Dwellings	<u>P</u>
Group homes, small or large	<u>P</u>
Hospice care facilities	<u>P</u>
Housing and related facilities for senior adults or persons with disabilities	<u>P</u>
Life care facilities	<u>P</u>
Live/Work units	<u>P</u>
Personal living quarters	<u>P</u>
c) Commercial Sales and Service	
Advanced technology and biotechnology	<u>P</u>
Ambulance or rescue squads	<u>P</u>
Animal boarding places	<u>SE</u>
Automobile filling stations	<u>SE</u>
Automobile rental services, excluding storage of vehicles and supplies	<u>P</u>
Automobile repair and services	<u>P</u>
Automobile sales, indoors and outdoors	<u>P</u>
Clinic	<u>P</u>
Conference centers	<u>P</u>
Eating and drinking establishments	<u>P</u>
Health clubs and gyms	<u>P</u>
Home occupations, major	<u>SE</u>
Home occupations, registered and no-impact	<u>P</u>
Hotels and motels	<u>P</u>
Laboratories	<u>P</u>
Dry cleaning and laundry pick-up stations	<u>P</u>
Offices, general	<u>P</u>
Recreational facilities, participatory[, indoor]	<u>P</u>
[[Recreational facilities, participatory, outdoor	<u>SE]</u>
Research, development, and related activities	<u>P</u>
Retail trades, businesses, and services of a general commercial nature	<u>P</u>
Self-storage facilities	<u>SE</u>
Veterinary hospitals and offices without boarding facilities	<u>P</u>
Warehousing, not including self-storage, less than 10,000 square feet	<u>P</u>

d) Institutional & Civic	
Charitable and philanthropic institutions	P
Cultural institutions	P
Day care facilities and centers	P
Educational institutions, private	P
Hospitals	P
Parks and playgrounds, private	P
Private clubs and service organizations	P
Publicly owned or publicly operated uses	P
Religious institutions	P
e) Industrial	
Manufacturing and production, artisan	P
Manufacturing, compounding, processing, or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries, synthetic molecules, and projects resulting from biotechnical and biogenetic research and development	P
Manufacturing and assembly of medical, scientific, or technical instruments, devices, and equipment	P
f) Other	
Accessory buildings and uses	P
Bus terminals, no-public	P
Parking garages, automobile	P
Public utility buildings, structures, and underground facilities	P
Radio and television broadcast studios	P
Rooftop mounted antennas and related unmanned equipment buildings, cabinets, or rooms	P

305 **59-C-15.6. General Requirements.**

306 Development in the CR zone must comply with the following requirements.

307 **59-C-15.61. Master Plan and Design Guidelines Conformance.**

308 Development that requires a site plan must be consistent with the applicable
 309 master or sector plan and must address any design guidelines [[adopted]]
 310 approved by the Planning Board to implement the applicable plan.

311 **59-C-15.62. Priority Retail Street Frontages.**

312 Development that requires a site plan and is located on a street identified as
 313 a priority retail street frontage in the applicable master or sector plan must
 314 [[provide the following:]] be developed in a manner that is consistent with

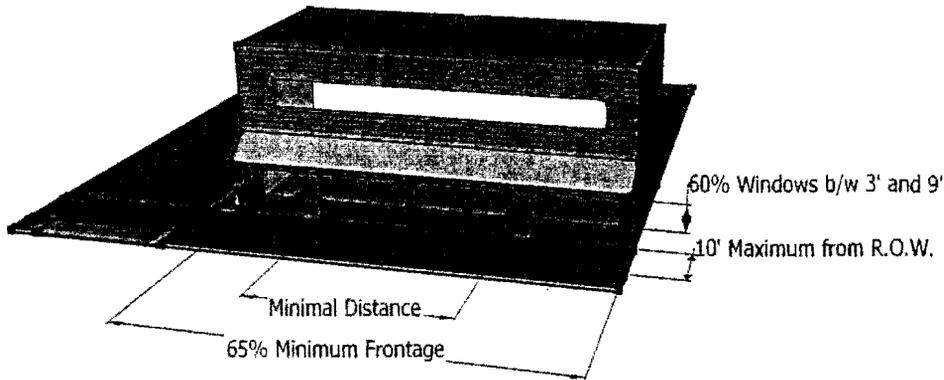
Comment: Planning Board staff would allow designation by the design guidelines.

315 the recommendations and objectives of the applicable plan and address any
316 applicable design guidelines approved by the Planning Board to implement
317 the applicable plan.

- 318 [(a) on-street parallel parking, unless specifically denied by the agency
319 maintaining the right-of-way;
- 320 b) majority of display windows and entrances arranged between zero
321 and 45 degrees to the sidewalk;
- 322 c) shop entrances spaced at minimal distances in order to activate the
323 street;
- 324 d) building façade along at least 65 percent of the aggregate length of
325 the front street right-of-way;
- 326 e) front building wall no farther than 10 feet from the public right-of-
327 way or 5 feet if no public utility/improvement easement (PUE or PIE)
328 is required; and
- 329 f) windows or glass doors on 60 percent of the building façade between
330 3 and 9 feet above sidewalk grade.

331 These provisions may be modified or waived by the Planning Board during
332 the review of a site plan if found to be unreasonably burdensome to a
333 proposed development due to conditions such as unusual lot size,
334 topography, limited frontage, or other atypical circumstance.

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Priority Retail Building Requirements Illustrative]]

59-C-15.63. Streetscape.

Streetscape improvements must be consistent with the recommendations of the applicable master or sector plan and must address any Planning Board approved design guidelines that implement the applicable plan.

59-C-15.64. Bicycle Parking Spaces and Commuter Shower/Change Facility.

- a) Bicycle parking facilities must be [[free of charge,]] secure[[.]] and accessible to all residents or employees of the proposed development.
- b) The number of bicycle parking spaces and shower/change facilities required is shown in the following table (calculations must be rounded to the higher whole number):

Comment: Planning Board staff would add: Unsecured, exterior bicycle parking, such as inverted U-racks, must be provided free of charge.

Bicycle and Shower/Change Facilities Required	
Use	Requirement
<i>Residential</i>	
<u>In a building containing less than 20 dwelling units.</u>	<u>At least 4 bicycle parking spaces.</u>
<u>In a building containing 20 or more dwelling units.</u>	<u>At least 0.5 bicycle parking spaces per dwelling unit, not to be [[less]] fewer than 4 spaces and up to a maximum of 100 required spaces.</u>

<p><u>In any group living arrangement expressly for senior citizens.</u></p>	<p><u>At least 0.1 bicycle parking spaces per unit, not to be [[less]] fewer than 2 spaces up to a maximum of 100 required spaces.</u></p>
<p><u>Non-Residential</u></p>	
<p><u>In a building with a total non-residential floor area of 1,000 to 9,999 square feet.</u></p>	<p><u>At least 2 bicycle parking spaces.</u></p>
<p><u>In a building with a total non-residential floor area of 10,000 to 99,999 square feet.</u></p>	<p>[[One bicycle parking space per]] <u>Two bicycle spaces for the first 10,000 square feet plus one additional space for every additional 10,000 square feet, up to a maximum of 100 [[required]] spaces.</u></p>
<p><u>In a building with a total non-residential floor area of 100,000 square feet or greater.</u></p>	<p>[[One bicycle parking space per]] <u>Two bicycle spaces for the first 10,000 square feet plus one additional space for every additional 10,000 square feet, up to a maximum of 100 [[required]] spaces. One shower/change facility for each gender available only to employees when the building is accessible.</u></p>

351 **59-C-15.65. Parking.**

352 a) ~~[[The maximum]]~~ (1) For projects that satisfy the requirements for
 353 transit proximity levels 1 or 2, the number
 354 of parking spaces provided on site must not
 355 exceed the minimum number established
 356 under Article 59-E., except that the
 357 maximum number of parking spaces for
 358 general retail and restaurant uses is 4 spaces
 359 for every 1,000 square feet of gross leasable
 360 area and no parking spaces are required for
 361 restaurant outdoor patron areas.

362 (2) All projects that do not satisfy the requirements for
 363 transit proximity levels 1 or 2, must meet the parking
 364 requirements established under Article 59-E, except that the
 365 number of parking spaces for general retail and restaurant uses

366 established in subsection (a)(1) may be provided without a
 367 waiver.

368
 369 b) [[The]] Except for retail and restaurant uses that satisfy subsection (a)
 370 and projects that satisfy transit proximity level 3, the minimum
 371 number of parking spaces required is based on transit proximity as
 372 follows:

Minimum Parking Requirements				
	Transit Proximity (Level 1 or 2)			
	¼ mile from transit	¼ to ½ mile from transit	½ mile to 1 mile from transit	>1 mile from transit
<u>Non-residential: the minimum number of required spaces under Article 59-E multiplied by the following factor:</u>	0.20	0.40	0.60	0.80
<u>Residential: the minimum number of required spaces under Article 59-E multiplied by the following factor:</u>	0.60	0.70	0.80	0.90

374
 375 c) Parking requirements must be met by any of the following:

- 376 1) providing the spaces on site;
- 377 2) constructing publicly available on-street parking, including on-
 378 street parking in the public right-of-way; or
- 379 3) entering into an agreement for shared parking spaces in a
 380 public or private facility within 1,000 feet of the subject lot,
 381 [[provided that]] if the off-site parking facility is not in an
 382 agricultural (Division 59-C-9), planned unit development
 383 (Division 59-C-7), or residential (Division 59-C-1) zone.

Comment: Executive staff does not recommend counting on-street parking without MCFS approving the area proposed for parking.

384 d) Every “car-share” space provided reduces the total minimum number
385 of required spaces by 6 spaces for non-residential use or 3 spaces for
386 residential use.

387 Example: A non-residential site requiring at least 100 spaces under Article 59-E would be
388 required to provide a maximum of 100 spaces on site. If that site was within ¼ to ½ mile of a
389 transit station, the minimum requirement for parking would be 40 spaces (100 x 0.40 = 40). If 2
390 car-share spaces were provided, that requirement would be 28 for non-residential use or 34 for
391 residential use.

392 e) The design of surface parking facilities must comply with the
393 following:

394 1) a parking facility at or above grade must not be located
395 between the street and the main front wall of the building or the
396 side wall of a building on a corner lot [[: however,]] unless the
397 Planning Board [[: may approve a design if it]] finds that [[: the
398 alternative design would provide safer and more]] safe and
399 efficient circulation would be better served by a different
400 arrangement:

401 2) if a site is adjacent to an alley, the primary vehicular access to
402 the parking facility must be from that alley; and

403 3) curb cuts must be kept to a minimum and shared by common
404 ingress/egress easements whenever possible.

405 f) The design of parking facilities with drive-through services must
406 comply with the following; however, the Planning Board may
407 approve a design if it finds that the alternative design would provide
408 safer and more efficient circulation:

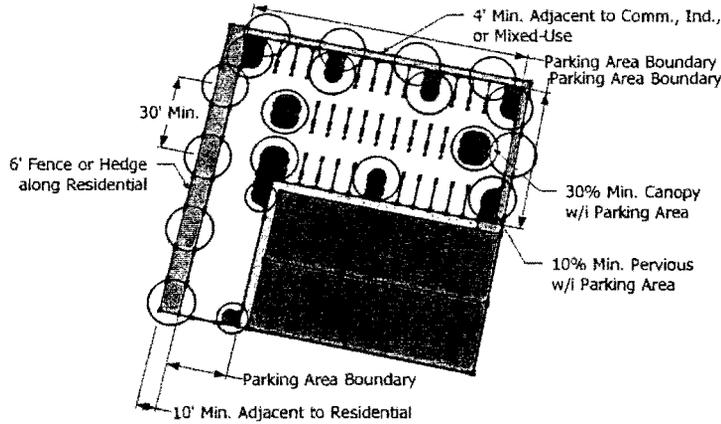
- 409 1) the driveway must not be located between the street and the
 410 main front wall of a building or the side wall of a building on a
 411 corner lot;
- 412 2) the drive-through service window must be located on the rear
 413 or side wall of the building provided that, in unusual
 414 circumstances such as an atypical lot configuration or steep
 415 site, if located on the side wall of the building, the drive-
 416 through service window must be permanently screened from
 417 any public street; and
- 418 3) curb cuts to a street must be minimized to one drive aisle of no
 419 more than 20 feet in width for two-way traffic or two drive
 420 aisles each of no more than 10 feet in width for one-way traffic.
- 421 g) [[Landscaping]] Except for an area along a driveway that is adjacent
 422 to non-residential uses, landscaping for surface parking facilities must
 423 satisfy the following requirements:

Comment: This is a Committee approved change but it can be simplified to just say "any drive through on a side wall must be permanently screened."

Comment: PB staff would have this read as follows: Landscaping for surface parking facilities must satisfy the following requirements, except when modifications are necessary for internal driveway and sidewalk connections between adjacent non-residential lots or parcels.

Minimum Landscape Standards for Surface Parking	
Subject	Requirement
<u>Right-of-Way Screening</u>	<u>6-foot width of continuous soil panel or stormwater management recharge facility (not including any PUE or PIE) with groundcover, planting bed, or lawn; a minimum 3-foot high continuous evergreen hedge or fence; and one deciduous tree per 30 feet of street frontage or per the applicable streetscape standards.</u>
<u>Adjacent to a lot or parcel in any Commercial, Industrial, or Mixed-Use Zone</u>	<u>4-foot width continuous soil panel or stormwater management recharge facility with groundcover, planting bed, or lawn; one deciduous tree per 30 feet of frontage.</u>
<u>Adjacent to a lot or parcel in an Agricultural or Residential District</u>	<u>10-foot width continuous soil panel or stormwater management recharge facility with groundcover, planting bed, or lawn; 6-foot high continuous evergreen hedge or fence; and one deciduous tree per 30 feet of frontage.</u>
<u>Internal Pervious Area</u>	<u>10 percent of the parking facility area comprised of individual areas of at least 100 square feet each.</u>
<u>Tree Canopy Coverage</u>	<u>30 percent of the parking facility area (at 15 years growth).</u>

424
425



Surface Parking Landscape Requirements Illustrative

426
427
428

59-C-15.7. Development Standards.

Development in any CR zone must comply with the following standards.

431

59-C-15.71. Density.

432

a) The maximum density for any standard method project is the greater of 0.5 FAR or 10,000 square feet of gross floor area. Any single land use or any combination of land uses allowed in the zone may achieve the maximum density.

433

434

435

436

b) The maximum total density and mix of maximum non-residential and residential density for any project using the optional method of development is specified by the zone. [[The difference between the standard method density and optional method density is defined as “incentive density” and is allowed under the incentive density provisions of Section 59-C-15.8.]]

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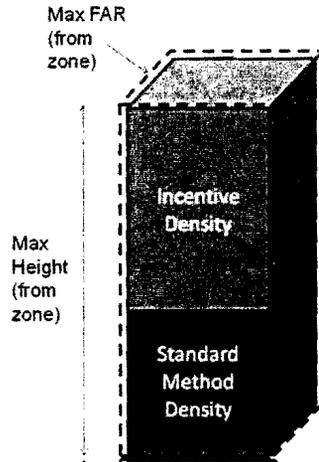
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59-C-15.72. Height.

- 443 a) The maximum height for any building or structure in a standard
- 444 method project is 40 feet.
- 445 b) The maximum height for any building or structure in an optional
- 446 method project is determined by the zone.

Comment: PB staff would revise to say that:
 The height of any individual building must not exceed the maximum height of the zone and must be consistent with the recommendations of the applicable master or sector plan.

447 [[



Incentive Density Illustration (with maximum FAR)]]

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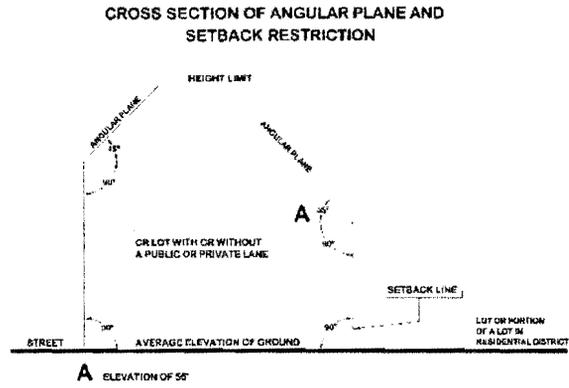
59-C-15.73. Setbacks.

- 451 a) [[A building]] Any building not under construction or completed
- 452 before the CR zone is applied must not be any closer to a lot line [[of
- 453 an]] shared with a lot or parcel in an agricultural (Division 59-C-9) or
- 454 residential (Division 59-C-1) zone than:

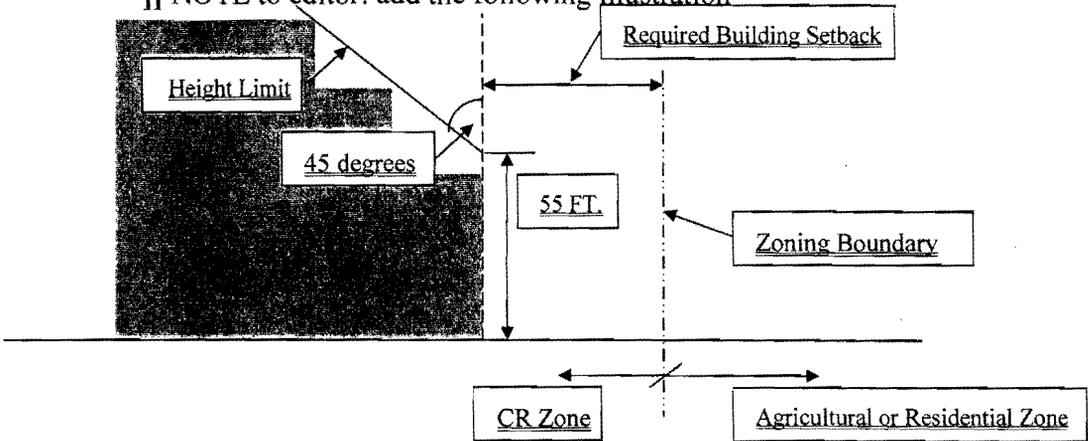
- 455 [[a)]] 1) 25 feet or the setback required by the adjacent lot,
- 456 whichever is greater; and
- 457 [[b)]] 2) the building must not project beyond a 45 degree angular
- 458 plane projecting over the lot measured from a height of
- 459 55 feet at the setback determined above, with the
- 460 exception of those features exempt from height and
- 461 setback restrictions under Section 59-B-1.

462 b) A building existing when the CR zone is applied may retain its pre-
463 existing setback if the height of the building is not increased.

464
465 ||



466 || NOTE to editor: add the following illustration
467



468
469
470 *Angular Plan Setback Illustration*

471 59-C-15.74. Public Use Space.
472

- 473 a) [[The minimum public]] Public use space is not required for any
 474 standard method project [[is 10 percent of the net tract area of the
 475 site]].
 476 b) Projects using the optional method of development must provide
 477 public use space as follows:]]

Comment: PB staff would change this to "net lot" area

Minimum Required Public Use Space (% of net lot area)				
Acres (Gross)	Number of Existing and Planned Right-of-Way Frontages			
	1	2	3	4+
< ½	0	0	4%	6%
½ - 1.00	0	4%	6%	8%
1.01 - 3.00	4%	6%	8%	10%
3.01 - 6.00	6%	8%	10%	10%
6.01 +	8%	10%	10%	10%

478]]
 479]]

Acres (Gross Tract Area)	Minimum Required Public Use Space (% of net tract area)
Equal to or less than 3.0	0
Greater than 3.0 but equal to or less than 6.0	5%
Greater than 6.0	10%

Comment: Planning Board staff revised the table above... a site under .5 acres with 4 frontages would be 5% and other wise zero. A 1 acres or less would be 5 percent for 3 frontages 10% for 4 frontages ... etc.
 See ATTACHMENT A starting on line 1118.

- 480]]
 481 c) Public use space must:
 482 1) be calculated on the net [[lot]] tract area [[of the site]] that was
 483 included in the sketch plan application:
 484 2) be rounded to the next highest 100 square feet;
 485 3) be easily and readily accessible to the public;
 486 [[4) be placed under a public access easement in perpetuity;]] and
 487 [[5]]4) contain amenities such as seating options, shade, landscaping,
 488 or other similar public benefits.
 489 d) Instead of providing on-site public use space, for any site of 3 acres
 490 or less, a development may propose the following alternatives,
 491 subject to Planning Board approval:

Comment: Planning Board staff would add a new 4) be distributed within the entire tract area included in the sketch plan application

- 492 1) public use space improvements [[to an area equal in]] of an
 493 equal or greater size within ¼ mile of the subject site; or
 494 2) a payment in part or in full to the Public Amenity Fund[[, equal
 495 to the average cost of required site improvements, added to the
 496 current square foot market value of the area required as public
 497 use space]] under Section 59-D-2.31.
 498 e) A development on a site larger than 3 acres may only provide
 499 off-site public use space in order to provide master-planned
 500 open space improvements, or a payment under subsection d)
 501 (2), for an area of equal or greater size required on site that is
 502 located within the master plan area.

503 **59-C-15.75. Residential Amenity Space.**

- 504 a) Any building containing 20 or more dwelling units must provide
 505 amenity space for its residents as follows:

<u>Required Residential Amenity Space</u>	
<u>Type of Amenity Space</u>	<u>Area of Amenity Space</u>
<u>Indoor space in a multi-purpose room, fitness room, or other common community room(s), at least one of which must contain a kitchen and bathroom.</u>	<u>20 square feet per dwelling unit up to 5,000 square feet.</u>
<u>Passive or active outdoor recreational space.</u>	<u>20 square feet per dwelling unit, of which at least 400 square feet must adjoin or be directly accessible from the indoor amenity space.</u>

- 507 b) The amenity space is not required for Moderately Priced Dwelling
 508 Units (MPDUs) on a site within a metro station policy area or where
 509 the Planning Board finds that there is adequate recreation and open
 510 space within a ½ mile radius of the subject site.
 511

- 512 c) The amenity space requirement may be reduced by ½ for Workforce
- 513 Housing Units (WFHUs) located within a metro station policy area or
- 514 if the minimum public open space requirement is satisfied on site.
- 515 d) The provision of residential amenity space may be counted towards
- 516 meeting the required recreation calculations under the M-NCPPC
- 517 Recreation Guidelines, as amended.

518 **59-C-15.8. Special Regulations for the Optional Method of Development**

519 **59-C-15.81. Incentive Density Provisions.**

520 This section establishes incentives for optional method projects to provide

521 public benefits in return for increases in density and height above the

522 standard method maximums, consistent with the applicable master or sector

523 plan, up to the maximum permitted by the zone.

- 524 a) The incentive density approved for each proposed public benefit is
- 525 calculated as a percentage of the total incentive density, which is the
- 526 incremental difference between the standard method maximum FAR
- 527 (0.5) and the proposed project FAR up to the maximum FAR allowed
- 528 by the zone.
- 529 b) Public benefits must be provided that enhance or contribute to the
- 530 environmental, economic, and social sustainability of a project and its
- 531 environs in at least 2 of the following major categories:
 - 532 1) transit proximity for residents, workers, and patrons;
 - 533 2) connectivity between uses and activities and mobility options
 - 534 3) diversity of uses and activities;
 - 535 4) quality of building and site design; and
 - 536 5) protection and enhancement of the natural environment.

Comment: See ATTACHMENT B, starting on line 1121 for Planning Staff recommended provisions based on deleting minimums and maximums for detailed incentive criteria.

537 Sections 59-C-15.82 through 59-C-15.86 elaborate the types of public
 538 benefits that may be accepted in each of these categories.

539 c) The number of major categories listed in subsection b) within which
 540 public benefits must be selected varies as follows:

541

<u>Transit Proximity</u>	<u>Level 1 Transit</u>	<u>Level 2 Transit</u>	<u>Level 3 Transit</u>
	<u>(Number of Major Categories)</u>		
<u>Adjacent or confronting</u>	<u>2</u>	<u>3</u>	<u>4</u>
<u>Within ¼ mile</u>	<u>3</u>	<u>4</u>	<u>4</u>
<u>¼ mile or further</u>	<u>4</u>	<u>4</u>	<u>4</u>

542

543 ~~[[b]]~~ d) The minimum and maximum incentive density percentage
 544 increases for each public benefit are established in Section 59-C-
 545 15.81(f).

546 ~~[[c]]~~ e) The Planning Board may accept, reject, or modify a proposed
 547 incentive density or modify the requested percentage above the
 548 minimum of incentive density established up to the maximum
 549 established. Except for those benefits with specific maximum
 550 standards, in approving incentive densities above the minimum, the
 551 Planning Board must consider:

- 552 1) the size and configuration of the parcel;
- 553 2) the policy objectives and priorities of the applicable master or
 554 sector plan;
- 555 3) the applicable design guidelines;
- 556 4) the relationship of the site to adjacent properties;

- 557 5) the presence or lack of similar benefits nearby; and
- 558 6) quantitative and qualitative enhancements provided exceeding
- 559 the delineated minimum incentive density standards.

560 [(d)]f) [[Public benefits that apply to 1 building in a multi-building
561 project must be weighted proportionally to the density of the
562 applicable building compared to the total density of the project.]]

563 Incentive density is calculated in one of two ways:

- 564 1) Method 1. The incentive density for public benefits that are
565 primarily related to buildings or building sites, such as LEED
566 rating, floor-plate size, through-block connection, or rainwater
567 recharge, may be distributed among one or more buildings or
568 sites within the tract included in a sketch plan application and
569 is based on the difference between the maximum standard
570 method density on the entire tract and the approved density of
571 the entire project as included in the sketch plan.

Comment: Should this be based only on the buildings or sites that include the public benefit?

572 *Example: If a project composed of three buildings in a CR 4.0*
573 *zone (regardless of use mix or height) proposes an FAR of 3.5*
574 *among the various buildings, the incentive density approved*
575 *for additional public open space is based on the difference*
576 *between 3.5 FAR and 0.5 FAR (the assumed standard method*
577 *maximum), or 3.0 FAR. Further, if the public open space is*
578 *awarded a 20% incentive, the resulting allowed incentive*
579 *density applied to the project would be 0.6 FAR.*

- 580 2) Method 2. The incentive density for a public facility, such as a
581 community center or land conveyed for a school or park, that is
582 conveyed and/or built as part of a project may be distributed

583 among one or more buildings or building sites within the tract
584 area included in a sketch plan application and is based on the
585 difference between the maximum standard method density on
586 the entire tract and the maximum allowed density of the zone.

Comment: Council staff thought the problem was whether the bonus related to the building or the site NOT propose vs. maximum density.

587 Example: If a project in a CR 6.0 zone (regardless of use mix
588 or height) proposes any FAR at or below 6.0 among various
589 buildings and/or sites, the incentive density approved for the
590 construction of a community recreation facility is based on the
591 difference between 6.0 FAR and 0.5 FAR (the standard method
592 maximum), or 5.5 FAR. Further, if the community recreation
593 facility is awarded a 30% incentive, the resulting incentive
594 density applied to the project would be 1.65 FAR.

595 3) The height of any individual building must not exceed the
596 maximum height of the zone and must be consistent with the
597 recommendations of the applicable master or sector plan.

598 [[e]] g) [[In addition to the public benefits set forth below, an
599 applicant may propose other public benefits that will further the goals
600 and objectives of the applicable master or sector plan for the purpose
601 of obtaining an incentive density increase.]] If the Planning Board
602 finds that a public benefit was not included in this subsection and
603 that the public benefit would make a project more efficient and
604 desirable than could be accomplished by the use of the standard
605 method of development, then the Planning Board may adopt
606 guidelines to allow a maximum of 30 percent incentive density for
607 any single new public benefit. Any such guidelines would be in

608 addition to any standards, requirements, or rules of incentive density
 609 calculation included in this subsection.

611 [[f) The Planning Board may grant no more than 30 percent of the total
 612 incentive density for a project for the connectivity, design, diversity,
 613 or environment incentive categories under (h) below or any public
 614 benefit approved under (e) above.]]

Comment: Planning Board staff drafted amendments that removed all minimums and maximums to allow the Planning Board to adopt guidelines to determine how the detailed criteria in would get to 30 %.

615 Example: A development in a CR zone with a maximum FAR of 5.5 would base all public
 616 benefit calculations on the incentive density of 5.0 FAR (5.5-0.5). Thus, being on a site
 617 adjacent to a metro station would yield an automatic incentive density of 2.5 FAR (5.0 x 0.50),
 618 and full density would be allowed by providing public benefits equal to an additional 50 percent.

619 [[g) Provision for inspections, maintenance, and enforcement of public
 620 benefits provided in return for incentive density must be established
 621 in a Site Plan Enforcement Agreement approved by the Department of
 622 Permitting Services and by resolution of the Planning Board before
 623 the certification of a site plan.]]

Comment: Civic Fed... if the developer should provide an item because it is just sound planning or design... it should not add density.

 N. Goldberg... with the density increases as high as they are proposed, the community may not get all that it wants ... particularly if the affordable housing criteria is used... 60 to 80 percent of incentive density may be for transportation or environment... incentives are not related to cost.

h) Table of density incentives: Incentive Zoning Table

Public Benefit	Percent of Incentive Density		Section Reference	Density Calculation method
	Minimum	Maximum		
<u>Transit Proximity</u>	<u>See section reference</u>		<u>15.82</u>	<u>1</u>
<u>Connectivity & Mobility</u>				
<u>Community Connectivity</u>	<u>10</u>	<u>20</u>	<u>15.831</u>	<u>1</u>
<u>Community Garden</u>	<u>5</u>	<u>10</u>	<u>15.832</u>	<u>1</u>
<u>Parking at the Minimum</u>	<u>10</u>	<u>20</u>	<u>15.833</u>	<u>1</u>
<u>Pedestrian Through-Block Connection</u>	<u>5</u>	<u>10</u>	<u>15.834</u>	<u>1</u>
<u>Public Parking</u>	<u>20</u>	<u>30</u>	<u>15.835</u>	<u>2</u>
<u>Transit Access Improvement</u>	<u>10</u>	<u>20</u>	<u>15.836</u>	<u>1</u>
<u>Diversity</u>				

Comment: M. Wellington... the amenities are insufficient

 J. Davis... do not give density for amenities the developer would provide as a matter of course

 B. Cope... these limits do not leave room for the community to get 1 big thing like the rec. center in Friendship Heights.

Comment: B. Sears... add a column to describe the method for calculating the density increase... per site, per building, per floor area

 add new criteria for providing master plan roads.

<u>Adaptive Buildings</u>	<u>15</u>	<u>30</u>	<u>15.841</u>	<u>1</u>
<u>Affordable Housing: MPDUs</u>	See section reference		<u>15.842</u>	<u>1</u>
<u>Affordable Housing: WFHUs</u>	See section reference			<u>1</u>
<u>Care Center</u>	<u>10</u>	<u>20</u>	<u>15.843</u>	<u>2</u>
<u>Community Facility</u>	<u>[[10]] 20</u>	<u>[[20]] 80</u>	<u>15.844</u>	<u>2</u>
<u>[[Local Retail Preservation]] Small Business retention</u>	<u>10</u>	<u>20</u>	<u>15.845</u>	<u>1</u>
<u>Unit Mix and Size</u>	<u>5</u>	<u>10</u>	<u>15.846</u>	<u>1</u>
<u>Public Facility Site</u>	<u>20</u>	<u>80</u>	<u>15.847</u>	<u>2</u>
<u>Design</u>				
<u>Floor Plate Size</u>	<u>10</u>	<u>20</u>	<u>15.851</u>	<u>1</u>
<u>Historic Resource Protection</u>	<u>10</u>	<u>20</u>	<u>15.852</u>	<u>1</u>
<u>Parking Below Grade</u>	<u>10</u>	<u>20</u>	<u>15.853</u>	<u>1</u>
<u>Podium/Tower Setback</u>	<u>5</u>	<u>10</u>	<u>15.854</u>	<u>1</u>
<u>Public Art</u>	<u>10</u>	<u>20</u>	<u>15.855</u>	<u>1</u>
<u>Public Plaza/Open Space</u>	<u>5</u>	<u>10</u>	<u>15.856</u>	<u>1</u>
<u>Streetscape, Off-Site</u>	<u>5</u>	<u>10</u>	<u>15.857</u>	<u>1</u>
<u>Exceptional Design</u>	<u>10</u>	<u>20</u>	<u>15.858</u>	<u>1</u>
<u>Environment</u>				
<u>Bio-retention and Stormwater Recharge</u>	<u>5</u>	<u>10</u>	<u>15.861</u>	<u>1</u>
<u>Conveyed Parkland</u>	<u>10</u>	<u>20</u>	<u>15.862</u>	<u>1</u>
<u>Dark Skies</u>	<u>5</u>	<u>10</u>	<u>15.863</u>	<u>1</u>
<u>Energy Efficiency and Generation</u>	<u>10</u>	<u>20</u>	<u>15.864</u>	<u>1</u>
<u>Green Wall</u>	<u>5</u>	<u>10</u>	<u>15.865</u>	<u>1</u>
<u>LEED Rating</u>	<u>10</u>	<u>30</u>	<u>15.866</u>	<u>1</u>
<u>Rainwater Reuse</u>	<u>5</u>	<u>10</u>	<u>15.867</u>	<u>1</u>
<u>Transferable Development Rights</u>	<u>10</u>	<u>30</u>	<u>15.868</u>	
<u>Tree Canopy</u>	<u>10</u>	<u>20</u>	<u>15.869</u>	<u>1</u>
<u>Vegetated Area</u>	<u>5</u>	<u>10</u>	<u>15.8610</u>	<u>1</u>
<u>Vegetated Roof</u>	<u>10</u>	<u>20</u>	<u>15.8611</u>	<u>1</u>

624

59-C-15.82. Transit Proximity Incentives.

625 [[A project on a site near transit encourages greater transit use and reduces
 626 vehicle miles traveled, congestion, and carbon emissions. The additional
 627 percent of incentive density automatically allowed is as follows:

<u>Transit Proximity</u>	<u>Level 1 Transit</u>	<u>Level 2 Transit</u>
<u>Adjacent or confronting</u>	<u>50%</u>	<u>25%</u>
<u>Within ¼ mile</u>	<u>40%</u>	<u>20%</u>
<u>Between ¼ and ½ mile</u>	<u>30%</u>	<u>15%</u>
<u>Between ½ and 1 mile</u>	<u>20%</u>	<u>10%</u>

628]]
 629 In order to encourage greater use of transit, control sprawl, and reduce
 630 vehicle miles traveled, congestion, and carbon emissions, the Planning Board must
 631 approve incentive density for transit proximity under this section. The percentage
 632 of incentive density awarded to a project for transit proximity is calculated
 633 according to Method 1 as follows:

<u>Transit Proximity</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
<u>Adjacent or confronting</u>	<u>50%</u>	<u>25%</u>	<u>15%</u>
<u>Within ¼ mile</u>	<u>40%</u>	<u>20%</u>	<u>10%</u>
<u>Between ¼ and ½ mile</u>	<u>30%</u>	<u>15%</u>	<u>5%</u>
<u>Between ½ and 1 mile</u>	<u>20%</u>	<u>10%</u>	<u>0%</u>

Comment: Executive staff recommends a higher credit for level 2 transit proximity.

Comment: DANAC... why this relationship between these levels... studies show that the characteristics of light rail are closer to heavy rail

634
 635 **59-C-15.83. Connectivity and Mobility Incentives.**
 636 A project that enhances connectivity and mobility encourages pedestrian
 637 and other non-auto travel for short and multi-purpose trips as well as for

638 commuting. Such a project facilitates social interaction, provides
639 opportunities for healthier living, and stimulates local businesses.

640 **59-C-15.831. Community Connectivity.**

641 a) The minimum incentive density increase for a building that enhances
642 community connectivity by locating near existing retail uses or
643 provides retail uses, requires that:

Comment: B. Kominers... are BLTs required for space deemed a public benefit?
...how is this uniform?

644 1) at least 10 different existing or proposed retail uses with direct
645 pedestrian access are within 1/2 mile; and

Comment: Planning Board... add the phrase "at the time of sketch plan application" before the word "and"

646 2) at least 35 percent of those uses have a maximum floor area of
647 5,000 square feet and that any newly provided retail uses
648 remain at or below that area for a period of at least 4 years after
649 the initial use-and-occupancy permit is issued for that use.

Comment: Planning Board... revise to read "maximum gross floor area"

Comment: Planning Board... delete uses... revise to read... "retail bay square footage remain at or below that maximum gross floor area for..."

650 b) The maximum increase requires additional benefits, such as a large
651 diversity of retail uses, a greater number of retail shops, provision of
652 services associated with live-work units, or that the required number
653 of retail uses are within 1/4 mile.

N. Goldberg... why should a 4 year promise result in a permanent density increase?

Comment: B. Kominers... revise to read "maximum incentive density"

654 **59-C-15.832 Community Garden.**

Comment: N Goldberg... this incentive is already covered by "vegetated area"

655 A community garden allows any resident to grow their own produce, reduce
656 reliance on automobiles, increase water and air quality, and interact with
657 other residents.

658 a) The minimum incentive density increase requires that the garden:

659 1) is located on the subject site or within 500 feet of the subject
660 site;

Comment: N. Goldberg... this would be a poor garden; more soil is required

661 2) provides all garden spaces with at least 12 inches of soil depth
662 and access to water; and

Comment: B. Kominers... does rain count? Do you need a water source for each garden?

663 3) provides community garden space at a rate equivalent to 1
664 space per 20 dwelling units. Each space must be at least 16
665 square feet. At least 1 out of each 10 spaces must be accessible
666 under ADA standards.

Comment: Executive...standards cover by code.

667 b) The maximum increase requires additional features such as a
668 composting facility, additional garden space, seating areas, doubling
669 as a green roof, or additional accessible garden plots.

670 **59-C-15.833. Parking at the Minimum.**

Comment: N. Goldberg...why should parking on site create a reason for an increase in density?

671 a) The minimum incentive density increase requires that sites of 1 acre
672 or more provide on-site only the minimum required number of
673 parking spaces.

Planning Board... delete and replace with "The incentive density increase is calculated on a sliding scale from no increase for providing the maximum allowable number of spaces on-site to a maximum 20 percent for providing fewer spaces on site."

674 b) The maximum increase requires that sites of less than 1 acre provide
675 on-site only the minimum required number of parking spaces.

Comment: Planning Board... delete and replace with "The incentive density increase is calculated as follows:
1) Numerator= maximum # of spaces allowed - actual # of spaces provided;
2) Denominator= maximum # of space allowed - minimum # of spaces required; and
3) The resulting ratio multiplied by 0.2 is equal to the bonus density.

676 **59-C-15.834. Pedestrian Through-Block Connections.**

677 A through-block connection enhances pedestrian mobility and helps to
678 create a variety of open spaces, particularly on larger blocks.

Example: If a development has a minimum of 50 required spaces and a maximum of 100 allowed spaces and provides 60 spaces: $((100-60)/(100-50)) \times 0.2 = .16$ or 16 percent incentive density increase."

679 a) The minimum incentive density increase for a pedestrian through-
680 block connection requires that:

Comment: Policy... Council rejected through block connectors in Silver Spring

681 1) the pedestrian connection must provide direct access between
682 streets;

N. Goldberg...is there a minimum parcel size requirement?

683 2) the pedestrian connection must be at least 15 feet in width;

684 3) at least 35 percent of the walls facing the interior pedestrian
685 connection below a height of 8 feet must have clear,
686 unobstructed windows, unless the Planning Board finds that an
687 alternative design is at least equally safe;

Comment: Planning Board... add at the end "and may be provided through the first floor of a building if the property owner grants a public access easement for the walkway;"

Comment: Planning Board... add "unless less is found adequate by the Planning Board due to exceptional circumstances;"

Comments: Executive... delegation with loose standards... N Goldberg is concerned about this waiver

- 688 4) the pedestrian connection must be open to the public between
- 689 sunrise and sunset and, where it leads to a transit facility or
- 690 publicly-accessible parking facility within 1/2 mile, for the hours
- 691 of operation of the transit and/or parking facility; and
- 692 5) retail uses fronting both a pedestrian connection and a street
- 693 must maintain operable doors from both unless not required by
- 694 the Planning Board during site plan review due to exceptional
- 695 site circumstances.

Comment: Planning Board... add "level 1 or level 2" before transit facility
B. Kominers... does this include bus?

Comment: B. Kominers... doors are a security issue and loses space for merchant.

Comment: Executive... delegation under loose standards.

696 b) The maximum increase requires additional benefits such as:

- 697 1) direct connection to parks;
- 698 2) transit facilities;
- 699 3) public buildings;
- 700 4) pedestrian connection with accessible retail uses along a
- 701 majority of its length;
- 702 5) connections increased in width; or
- 703 6) public artworks integrated into the walk.

Comment: Planning Board... add after parks *, transit facilities, or public buildings

Comment: Planning Board... delete contents of 2) and 3)... recommend including them in 1).

Comment: Planning Board... delete "integrated into the walk"

Comment: J. Davis ... there should not be an incentive to provide more parking.

704 **59-C-15.835. Public Parking.**

- 705 a) The minimum increase requires providing on-site the difference
- 706 between the minimum number of required parking spaces and the
- 707 maximum number of allowed parking spaces as publicly accessible
- 708 spaces for free or at a market rate.
- 709 b) The maximum increase requires providing public parking spaces, as
- 710 required above, in combination with additional improvements, such
- 711 as constructing those spaces underground or in a structure.

Comment: N. Goldberg... questions this in general as a reason for increased density particularly if it is free.

Comment: Planning Board... delete a) and b)...add the following:
"Applicants are encouraged to provide publicly accessible parking space for free or at a market rate. The incentive density increase is calculated based on the ratio of publicly accessible parking to private parking provided on site using a sliding scale from zero percent for no publicly accessible parking spaces to a maximum of 20 percent."
"Example: For a project with 100 total parking spaces, 40 of which are publicly accessible, the incentive density equals 13 percent ((40/60) x 0.2 = .13 or 13 percent.

712 **59-C-15.836. Transit Access Improvement.**

Comment: N. Goldberg...this overlaps the through block connector at least in part

713 a) The minimum incentive density increase for transit access
714 improvements requires that the improvements:
715 1) are located within 1/2 mile of the proposed development site
716 or, in the case of mobile transit improvements such as a bus
717 shuttle, provide regular access for passengers within 1/2 mile;
718 and

719 2) are built to ADA accessibility standards as amended.

Comment: Executive...already covered by code.

720 b) The maximum increase requires additional benefits such as closer
721 access, new access easements, connecting walkways, mezzanines,
722 seating areas, structures for wind/rain protection, or concourse areas.

Comment: B. Kominers... there are no standards here on how much increased density would be allowed for anything. B. Sears... would add a new paragraph... "Any increase under the Section may be achieved by the provision of improvements funded by a special taxing district, or other area-wide funding."

723 **59-C-15.84. Diversity Incentives.**

724 **59-C-15.841. Adaptive Buildings.**

725 An adaptive building can adjust to a diversity of uses over time, which
726 makes the building more accommodating of mixed uses, more sustainable,
727 and more embedded in the pattern of a community.

728 a) The minimum incentive density increase for an adaptive building
729 requires that:

730 1) the floor to floor dimension must be at least 15 feet for all
731 floors; and

732 2) the internal floor plan is based on a structural system allowing
733 flexibility of volumes divisible from 1 open floor plate to any
734 number of parceled volumes.

Comment: B. Kominers... this is too tall for upper floors Planning Board... revise to read "...at least 15 feet for any floor(s) with access at grade and at least 12 feet for all other floors..."

735 b) The maximum increase requires additional benefits such as that:

736 1) the structural system has additive capacity for any available
737 density and height that is not used by the building without
738 demolition of the structure; or

739 2) the internal layout is built to allow changes between residential,
740 retail, and office uses by minor modifications.

741 **59-C-15.842. Affordable Housing.**

742 a) All residential development must comply with the requirements of
743 [[Chapters]]Chapter 25A [[and 25B]] for the provision of Moderately
744 Priced Dwelling Units (MPDUs) and may satisfy Chapter 25B for the
745 provision of Workforce Housing Units (WFHUs).

746 b) Provision of MPDUs above the minimum required grants an incentive
747 density increase, providing the following standards are met:

748 1) the increase in density is calculated on the incentive density as
749 required by Chapter 25A;

750 2) the MPDUs must be reasonably distributed throughout the
751 project; and

752 3) any dwelling units built under this section must be controlled
753 under the MDPU or WFHU provisions for a minimum period
754 of 99 years.

755 Example: Provision of 14.5 percent MPDUs achieves an incentive density increase of 20 percent
756 (25-A-5(c) (3)). In the case of a CR4.5, that would equal 0.20 x 4.0 (the incentive density),
757 which is 0.8 FAR.

758 c) Provision of WFHUs grants an incentive density increase at the
759 following rate: 2 times the percentage of units provided as WFHUs
760 up to 30 percent.

761 Example: Provision of 5 percent WFHUs achieves an incentive density increase of 10 percent;
762 provision of 12 percent WFHUs achieves an incentive density increase of 24 percent.

763 **59-C-15.843. Care Center.**

764 a) The minimum incentive density increase for a center for daytime
765 adult or child care requires a facility for at least 12 users and the

Comment: Council staff... prior comments are moot with WFHUs as an option but testimony recommended against allowing more density for affordable housing in areas with lots of affordable housing.

Comment: Planning Board... revise to read "the required number of MPDUs is calculated on the total number of dwelling units as required by Chapter 25A and the percent of incentive density increase is based on the proposed incentive density FAR for the entire project; and"

Comment: Planning Board... revise to read "any dwelling units built under this section must be controlled under the MPDU or WFHU provisions for a minimum period of 99 years."

Comment: Planning Board... add "that proposes full density"

Comment: N. Goldberg... this is a current requirement... why give density for it?

B. Sears... add the following as a new paragraph and new subsection d)... "In addition to the FAR incentive density increases allowed for MPDUs and WFHUs, the maximum residential FAR may be increased up to a maximum of 1 FAR above the total permitted FAR under the applicable CR zone by the FAR of MPDUs and WFHUs provided on-site. d) The total incentive density for the diversity category may exceed 30 percent if the incentive density for Affordable Housing is allowed."

Comment: N. Goldberg... how do you make sure this is selected when it is recommended by a sector plan? Commission on Child Care... supports this as an incentive

Policy Option... relate this to the amount of the floor area increase with this minimum

B. Kominers... are these resident users? ... there are no standards for the additional benefits

766 general public must have the opportunity to comprise at least 25
767 percent of the users.

768 b) The maximum increase requires additional benefits such as providing
769 for additional users, a safe drop-off area, and an increase in users
770 from the general public, and recreation facilities provided above those
771 required by law.

Comment: N. Goldberg... a drop-off should be required, it should not add more density

Planning Board ...delete "safe"

772 **59-C-15.844. Community Facility.**

773 a) The minimum incentive density increase for a community facility that
774 helps meet the needs of residents and workers requires that the
775 community facility:

Comment: Executive... changes over time... difficult to enforce.

Clarification... does this include a place of worship?

776 1) is recommended in the applicable master plan or sector plan;

Comment: Executive staff recommends allowing the incentive for replacement facilities.

777 [[and]]

778 2) is accepted for operation and use by an appropriate public
779 agency, community association, or nonprofit organization; and

780 3) is large enough for at least 50 users.

Comment: Council staff idea for minimum size.

781 b) The maximum increase requires space large enough for 200 users and
782 further benefits, such as an entrance to the facility directly on the
783 street, location of the building within 10 feet of a public sidewalk,
784 associated outdoor open space, or integration into an area with a
785 residential FAR of at least 2.0 (or at least 30 dwelling units per acre).

Comment: The size of a public facility was not proposed by Planning Board staff.

786 **59-C-15.845. [[Local Retail Preservation.**

787 Preservation of locally-owned small businesses on site is eligible for
788 incentive density as follows:

789 a) preservation of up to 2 small businesses: 10 percent; and

790 b) preservation of 3 or more small businesses: 20 percent.

791 Exact terms of lease requirements and rental agreements must be established
792 by the site plan enforcement agreement.]] **Small Business Retention**

Comment: This repeats text from the Wheaton Overlay Zone

793 a) The minimum incentive density increase for providing small retail
794 space is eligible for incentive density requires at least 30 percent of
795 the street level floor space must be made available, for at least 6 years
796 from the completion of the project, for use by businesses that each use
797 less than 3,000 square feet of gross floor space and restaurants that
798 each use less than 5,000 square feet of gross floor space.

799 b) The maximum incentive density requires that at least 50 percent of
800 the street level floor space satisfies section a) and at least 50 percent
801 of the street level exterior wall area, fronting on sidewalks, plazas, or
802 other public open spaces, must contain windows and apertures.

803 **59-C-15.846. Unit Mix and Size.**

804 a) The minimum incentive density increase for creating residential
805 buildings with a minimum mix of dwelling unit types (calculated by
806 rounding to the next higher whole number) requires provision of at
807 least:

- 808 1) 7.5 percent as efficiency dwelling units;
809 2) 8 percent as one-bedroom dwelling units;
810 3) 8 percent as two-bedroom dwelling units; and
811 4) 5 percent as three-bedroom dwelling units.

Comment: Planning Board...add after 3-bedroom "or larger"

812 b) The maximum increase requires provision of at least (calculated by
813 rounding to the next higher whole number):

- 814 1) 10 percent as efficiency dwelling units;
815 2) 10 percent as one-bedroom units;
816 3) 10 percent as two-bedroom units; and

817 4) 7.5 percent as three-bedroom units.

Comment: Planning Board...add after 3-bedroom "or larger"

818 **59-C-15.847. Public Facility Site.**

Comment: The Committee suggested this incentive.

819 a) The minimum incentive density increase for a public facility site
820 requires:

- 821 1) a recommendation in the applicable master plan or sector plan;
- 822 2) the site is accepted for operation and use by an appropriate
823 public agency; and
- 824 3) the dedication of at least 5 acres of land within the sketch plan
825 area to the appropriate public agency excluding public rights-
826 of-ways.

827 b) The maximum incentive density increase requires the dedication of at
828 least 20 acres.

829 **59-C-15.85. Design Incentives.**

830 **59-C-15.851. Floor Plate Size.**

Comment: N. Goldberg...is this a duplication of. "Podium/Tower Setback" under §15.854?

831 a) The minimum incentive density increase for the provision of floor
832 plate restrictions requires that:

- 833 1) the floor area of any floor above a height of 120 feet does not
834 exceed 10,000 square feet for residential uses or 19,000 square
835 feet for non-residential uses, or 12,000 square feet for mixed-
836 uses (if not more than 60 percent of a mixed-use floor is used
837 for any single use); and
- 838 2) the exterior of the building facing any street or public open
839 space has at least 60 percent glass on the floors with the
840 reduced floor plate.

Comment: B. Kominers...inflexible

841 b) The maximum increase requires additional benefits, such as providing
842 the reduced floor plates in conjunction with the Exceptional Design

843 factor, providing smaller floor plates, combining this incentive with
844 the tower setback, providing a larger percentage of glass, or
845 integrating sustainable technologies into the architecture.

846 **59-C-15.852. Historic Resource Protection.**

847 a) The minimum incentive density increase for the preservation of a
848 historic resource designated in the Master Plan for Historic
849 Preservation requires that a preservation strategy for the resource is
850 approved by the Planning Board as part of the site plan enforcement
851 agreement and that a historic area work permit is issued by the
852 Historic Preservation Commission.

853 b) The maximum increase requires that other benefits are provided, such
854 as interpretive signs/exhibits, integration and construction of context-
855 appropriate landscapes and settings, or protection of important
856 viewsheds.

857 **59-C-15.853. Parking Below Grade.**

858 a) The minimum incentive density increase requires that sites of 1 acre
859 or more provide all on-site parking spaces below the average grade of
860 the primary street frontage.

861 b) The maximum increase requires that sites of less than 1 acre provide
862 all on-site parking spaces below the average grade of the primary
863 street frontage.

864 **59-C-15.854. Podium/Tower Setback.**

865 a) The minimum incentive density increase for the provision of a tower
866 setback requires that the tower must be set back from the first floor
867 building frontage at or below 72 feet and the setback must be at least
868 6 feet.

Comment: J. Davis... why give density for doing what is required by law?

Policy... resources are protected by code, increasing density makes it more difficult to preserve.

Comment: B. Kominers... add after historic resource "that has been..."

There are no standards for a "preservation strategy"

Comment: Planning Board... revise to read "Parking in Structure"

N. Goldberg... this incentive is okay but the total amount of density that can be taken for all the parking incentives should be limited.

Comment: Planning Board... revise to read "The minimum incentive density increase requires that all on-site parking spaces are provided in structured parking with active uses fronting on all priority retail street frontages, when applicable."

Comment: Council staff... Is it intended that only sites less than 1 acre get maximum increases?

Comment: Planning Board... after spaces add "are provided"

Add a new subsection c)... "A proportion incentive density between the minimum and the maximum increase may be granted based on the number of total spaces provided in structured parking above grade to the total number of spaces provided below the average grade of the primary street frontage."

869 b) The maximum increase requires that the tower setback be at or below
870 50 feet and that the setback be at least 12 feet.

871 **59-C-15.855. Public Art.**

872 Public art is considered a public benefit because it enhances the quality of
873 place and creates a sense of identity in a community.

874 a) The minimum incentive density increase for public art requires that it:

875 1) enhances the general or specific cultural objectives of the
876 applicable master or sector plan; and

877 2) is approved by the Public Arts Trust Steering Committee.

878 b) The maximum increase requires that, in addition to the above
879 requirements, the artwork fulfill at least 5 of the following goals as
880 determined by the Public Arts Trust Steering Committee:

881 1) achieve aesthetic excellence;

882 2) ensure an appropriate interaction between the art and the
883 architectural setting in terms of scale, materials, and context;

884 3) ensure public access and invite public participation;

885 4) encourage collaboration between the artist(s) and other project
886 designers early in the design phases;

887 5) ensure long-term durability of permanent works through
888 material selection or a documented maintenance program;

889 6) encourage a rich variety of arts including permanent, temporary
890 (revolving), and event programming;

891 7) increase public understanding and enjoyment of art through
892 interpretive information and/or programmed events; and

893 8) achieve a collection of commissioned art that is unique and
894 contributes in a positive way to the identity of the community.

Comment: N. Goldberg... to the extent that credit is given for Floor Plate Size, it should not be given for this.
J. Davis... vague and subjective standards.
N. Goldberg... what art objectives in a master plan would let anyone know what art is good or bad?

Comment: Council staff... this should be recommended not approved.
Executive, B. Kominers... illegal delegation
Planning Board... delete approve and add "reviewed for comment"

Comment: Planning Board... delete "as determined by the Public Arts Trust Steering Committee"

895 c) A fee instead of public art may be accepted for incentive density as
896 follows:

- 897 1) the minimum fee is calculated on 1 percent of the
- 898 development's projected cost;
- 899 2) the fee is paid to the Public Arts Trust Steering Committee;
- 900 3) the fee is used for installation, management, and maintenance
- 901 of public art at the discretion of the Public Arts Trust Steering
- 902 Committee, with preference given to the policy area where the
- 903 proposed development is located; and
- 904 4) the incentive density is equal to a 5 percent increase for every 1
- 905 percent of projected development cost paid to the Public Arts
- 906 Trust, up to 20 percent.

Comment: Executive staff...only the Art and Humanity Council handles money. This reference should change.

907 **59-C-15.856. Public Plaza/Open Space.**

908 Plazas are important public amenities and create interesting spaces and
909 active gathering areas.

Comment: Planning Board... delete "Plaza/" and delete "the plaza" everywhere in this subsection and replace with "public use space"

910 a) The minimum incentive density increase for any plaza requires that:

Comment: Planning Board...replace with "Public open space is an important public amenity and create interesting spaces and active gathering areas."

- 911 1) the plaza is directly accessible to a street;
- 912 2) the plaza must be open to the public at least between sunrise
- 913 and sunset;
- 914 3) no proposed loading or parking facilities should be visible
- 915 below a height of the fourth floor; and
- 916 4) the plaza must be in addition to any public use space required
- 917 by the development standards or other minimum open space
- 918 requirement of this Division.

Comment: Planning Board...add "and visible"

Comment: Planning Board... add after should be "directly adjoining to or"; after visible add "from the public open space"; delete the remainder.

Clarification... from where is this measured?

Comment: Planning Board...delete "open" add "public use"

919 b) The maximum increase requires that the above requirements are met,
920 in addition to the following:

- 921 1) the plaza's width must be at least 50 feet;
- 922 2) where the plaza is provided as part of a redevelopment,
- 923 buildings facing the plaza must be designed so that:
- 924 A) the walls of any non-residential floor area facing the
- 925 plaza must have windows on at least 60 percent of the
- 926 façade below a height of 40 feet; and
- 927 B) the main entry to any dwelling units is from a wall facing
- 928 the plaza; and
- 929 3) the plaza should contain seating, trash receptacles, landscaping,
- 930 and other amenities such as water features, kiosks, and passive
- 931 recreation areas.

Comment: Planning Board... after feet add "for the majority of its length or depth"

Comment: B. Kominers ... after units add fronting on the public open space"

59-C-15.857. Streetscape, Off-Site.

Streetscape improvements enhance the pedestrian experience and better connect buildings to the public spaces.

- 935 a) The minimum incentive density increase for streetscape
- 936 improvements requires that the following criteria are met:
- 937 1) the improvements must be located within 1/2 mile of the
- 938 subject site; and
- 939 2) the improvements are equal to 18 percent of the net lot.
- 940 b) The maximum increase requires that the improvements be equal to at
- 941 least 36 percent of the net lot area.

Comment: B, Kominers ... why 18 percent?

Comment: B. Sears... add a new section "Construction of Master Plan On-Site Roads. The incentive density increase for the construction of master plan on-site roads shall be equal to the area of the road up to a maximum of 25 percent of the incentive density increase."

59-C-15.858. Exceptional Design.

The minimum incentive density increase for high-quality site and architectural design requires that at least 3 of the following criteria are met; the maximum density increase requires that at least 5 of the following criteria are met:

Comment: Executive ... no authority for this in zoning.

J. Davis... vague and subjective standards.

B. Kominers... examples should be provided for each criteria and combinations of criteria,

- 947 a) provides innovative solutions in response to the architectural context
948 and surrounding landscape, for example, by rotating floor plates for
949 views or reconciling offset street-walls;
- 950 b) creates a sense of place that will serve as a landmark in the
951 community, for example, by creating a distinguishing element that is
952 visible from an important view or at a gateway to an area;
- 953 c) enhances the public realm in a distinct and original manner, for
954 example, by using existing materials and forms in new ways to
955 provide continuity and contrast;
- 956 d) adds to the diversity of the built realm within the community, for
957 example, by introducing new materials, building methods, or design
958 styles;
- 959 e) uses design solutions to make compact/infill living, working, and
960 shopping environments pleasurable and desirable, for example, by
961 retrofitting surface parking lots and single-use retail malls or creating
962 multi-use, pedestrian-dominated realms in previous auto-oriented
963 areas; and
- 964 f) integrates environmentally sustainable solutions, for example, by
965 using stormwater management facilities that incorporate best
966 management practices in an apparent and observable way or
967 integrating passive solar features into the visible structure of a
968 building or site.

Comment: Clarification... what does "reconciling offset street walls mean?"

969 **59-C-15.86. Environment Incentives.**

970 **59-C-15.861. Bio-retention and Stormwater Recharge.**

- 971 a) The minimum incentive density increase for the use of bio-retention
972 and recharge facilities requires that at least 25 percent of projected

Comment: Executive... covered or soon to be covered by code

N. Goldberg... to the extent this a duplication of "rainwater reuse", it should not be allowed.

Policy option delete rainwater reuse but make it a reason to go to maximum density for this criteria.

973 stormwater outfall for a 10-year event be contained and recharged on
974 site or within ¼ mile of the site.

975 b) The maximum increase requires that at least 50 percent of projected
976 stormwater for a 10-year event be contained and recharged.

977 **59-C-15.862. Conveyed Parkland.**

978 a) The minimum incentive density increase for land conveyed to the M-
979 NCPPC for inclusion in or provision of parkland, trail area, or other
980 master-planned Parks' use requires conveyance of at least of 15
981 percent of the gross lot area.

Comment: B. Kominers... after of add
"an amount equal to"

982 b) The maximum increase requires conveyance of at least 30 percent of
983 the gross lot area.

Comment: B. Kominers... after of add
"an amount equal to"
... should this be from the gross TRACT
area?

984 **59-C-15.863. Dark Skies.**

985 a) The minimum incentive density increase for dark skies-compliant
986 projects requires that they be built and maintained in conformance
987 with the standards established by the International Dark-Sky
988 Association as amended.

Comment: Council staff... delete this
provision. Dark skies for single
buildings is not a significant benefit.

989 b) The maximum increase requires that the exterior lighting plan be
990 integrated into an energy efficiency plan for the entire project
991 submitted and approved by the Planning Board with a site plan
992 application.

Comment: Executive, B.
Kominers... illegal delegation

993 **59-C-15.864. Energy Efficiency and Generation.**

994 a) The minimum density incentive increase for the use of on-site
995 renewable energy generation requires that buildings must meet the
996 minimum energy efficiency standards of 17.5 percent for new
997 buildings, 10.5 percent for existing buildings, or generate at least 1.5
998 percent of their energy on-site.

Comment: Planning Board... add "or
from a renewable energy generation
facility located on another property
within the same master or sector plan
area"

Executive, B. Kominers... energy use
changes over time... difficult to enforce

999 b) The maximum increase requires additional benefits such as greater
1000 energy efficiency and the generation of at least 2.5 percent of energy
1001 on-site.

Comment: Planning Board...add "or from a renewable energy generation facility located on another property within the same master or sector plan area"

1002 **59-C-15.865. Green Walls**

1003 a) The minimum incentive density increase for a green wall requires that
1004 it:

Comment: Executive... should be covered by code.

Takoma Park... green walls needs a definition

1005 1) must be designed, installed, and maintained to cover at least 30
1006 percent of the area of a blank wall or parking garage facing a
1007 street or plaza; and

Comment: B. Kominers... after of add "an above grade"...after garage add "wall"

1008 2) must be found to add to the aesthetic quality and environmental
1009 sustainability of the project.

Comment: B. Kominers... subjective... aesthetic zoning

1010 b) The maximum increase requires additional benefits such as a greater
1011 percent of coverage, southern or western exposure, the use of plants
1012 with varying flowering seasons, or integration into an overall energy
1013 or environmental site design program.

1014 **59-C-15.866. LEED Rating**

Comment: M. Piety... this is in the developer's interest and should not add density.

1015 A LEED-rated building or equivalent rating system approved under Chapter
1016 8 Article VII is eligible for an incentive density increase if it meets any
1017 continuing requirements necessary to maintain that status.

N. Goldberg... does not provide more tree canopy or less impervious surface

1018 (<http://www.usgbc.org/Default.aspx>) The amount of incentive density
1019 increase is equal to the following:

- 1020 a) LEED Silver: 10 percent
- 1021 b) LEED Gold: 20 percent
- 1022 c) LEED Platinum: 30 percent

1023 **59-C-15.867. Rainwater Reuse**

Comment: N. Goldberg... this is in part a duplication of §15.861

- 1024 a) The minimum incentive density increase for the collection of
- 1025 rainwater for on-site irrigation, grey-water use, or filtration for re-use
- 1026 requires that a minimum of 25 percent of projected rainwater for a 10-
- 1027 year event be collected and used on-site or within ¼ mile of the site.
- 1028 b) The maximum increase requires that at least 50 percent of projected
- 1029 rainwater for a 10-year event be collected and used.

59-C-15.868. Transferable Development Rights.

The incentive density increase for the purchase of transferable development rights (TDRs) must meet the following:

- 1033 a) the purchase must be executed and recorded before approval of a
- 1034 record plat;
- 1035 b) the use of this incentive must be for development on land
- 1036 recommended as a TDR receiving area in the appropriate master or
- 1037 sector plan;
- 1038 c) TDRs must be purchased in increments of 10; and
- 1039 d) the incentive density increase is equal to 10 percent for every 10
- 1040 TDRs purchased, up to 30 percent.

59-C-15. 869. Tree Canopy.

- 1042 a) The minimum incentive density increase for the provision of tree
- 1043 canopy requires coverage of at least 25 percent of the on-site open
- 1044 space at 15 years growth.
- 1045 b) The maximum increase requires coverage of at least 50 percent of the
- 1046 on-site open space at 15 years growth.

59-C-15.8610. Vegetated Area.

- 1048 a) The minimum incentive density increase for a vegetated area requires
- 1049 that the following criteria are met:

Comment: N. Goldberg ...this does not meet the needs of the residents in the sector plan

B. Kominers... how should the zone or the development be designated as a TDR receiving area?

Comment: B. Kominers...is this a realistic urban standard?

Comment: N. Goldberg...this is a duplication of community gardens and green roofs

- 1050 1) the area must be in addition to any required on-site open space
- 1051 or any vegetated roof incentive;
- 1052 2) the area must replace at least 5,000 square feet of impervious
- 1053 area;
- 1054 3) the area provides at least 12 inches of soil depth; and
- 1055 4) the area is planted with well-maintained vegetation.
- 1056 b) The maximum increase requires additional benefits, such as larger
- 1057 area or greater soil depth.

59-C-15.8611. Vegetated Roof.

- 1059 a) The minimum incentive density increase for a vegetated roof requires
- 1060 that the:
- 1061 1) vegetated roof must cover at least 33 percent of the roof of the
- 1062 building, excluding any space occupied by mechanical
- 1063 equipment; and
- 1064 2) soil or media depth must be at least 4 inches.
- 1065 b) The maximum increase requires coverage of at least 60 percent of the
- 1066 roof area.

59-C-15.87. Special Regulations for Purchase of Building Lot

Termination (BLT) Development Rights.

- 1069 a) A development under the Optional Method must purchase building
- 1070 lot termination (BLT) easements under Chapter 2B, or a contribution
- 1071 must be made to the Agricultural Land Preservation Fund under
- 1072 Chapter 2B equal to 12.5 percent of the incentive density floor area
- 1073 using the following formula:
- 1074 1) one BLT easement is required for each 9,000 square feet of
- 1075 residential floor area;

Comment: B. Kominers...how much more than 60 percent?

Comment: B. Kominers...needs a nexus to development and should be an incentive
White Flint Partnership, JBG, Montouri Family Trust...make this an incentive

Policy...make this an incentive BUT the first incentive that MUST be used.

Comment: The Planning Board staff recommends the following: The incentive density for the purchase of BLTs is equal to 2 times the square footage of each BLT easement purchased up to 20% of the total incentive density for sites greater than 1/2 acre and up to 50% for sites on 1/2 acre or less.
1)For sites on 1/2 acre or less, if the Applicant cannot purchase an easement or the amount of density to be attributed to a BLT easement as a fraction of the applicable floor area equivalent, the Planning Board must require the applicant to pay the Agricultural Land Preservation Fund an amount set annually by Executive Regulation.
2)For sites greater than 1/2 acre, BLT easements must be purchased in units of two and must be bought in full.
3)For all sites, BLT easements must be purchased at a rate of one per 9,000 gross square feet of proposed residential development and 7,500 gross square feet of proposed non-residential development.

See ATTACHMENT C, starting on line 1364, for Planning Board's prior recommended changes

1076 2) one BLT easement is required for every 7,500 square feet of
1077 non-residential floor area.

1078 b) When a BLT easement cannot be purchased or the amount of floor
1079 area attributed to a building lot termination easement is a fraction of
1080 the floor area equivalent, payment must be made to the Agricultural
1081 Land Preservation Fund according to the rate set annually by
1082 executive regulation.

1083 **59-C-15.9. Existing Approvals.**

Comment: See ATTACHMENT D.
starting on line 1390, for Planning Board
staff's recommended re draft

1084 a) A lawfully existing building or structure and the uses therein, which
1085 predates the applicable sectional map amendment, is a conforming structure
1086 or use, and may be continued, renovated, reconstructed to the same size and
1087 configuration, or enlarged up to 10 percent above the existing floor areas or
1088 30,000 square feet, whichever is less, and does not require a site plan. A
1089 larger addition requires compliance with the full provisions of this Division.
1090 b) A project that received an approved development plan under Division 59-D-
1091 1 or schematic development plan under Division 59-H-2 before the
1092 enactment of the CR zones may proceed under the binding elements of the
1093 development plan and will thereafter be treated as a lawfully existing
1094 building and may be renovated or reconstructed under Subsection (a) above.
1095 Such projects may be amended as allowed under Division 59-D-1 or 59-H-
1096 2, under the provisions of the previous zone; however, any increase in the
1097 total floor area or building height beyond that allowed by Subsection (a)
1098 above requires full compliance with the full provisions of this Division. If a
1099 site plan is required for a modification and the entire project has an
1100 approved site plan, only the area of disturbance due to the modification is
1101 subject to a new site plan.

1102 c) A project which has had a preliminary or site plan approved before the
 1103 applicable sectional map amendment may be built or altered at any time,
 1104 subject to either the full provisions of the previous zone or this division, at
 1105 the option of the owner. If built under the previous approval, it will be
 1106 treated as a lawfully existing building and may be renovated or
 1107 reconstructed under Subsection (a) above. If built with an incremental
 1108 increase over the previous approval, only that incremental increase must
 1109 comply with the provisions of this Division.

Comment: Wheaton Plaza representatives want a grandfathering provision for properties with LATR approval.

Comment: This is a very broad grandfathering provision.

1110
 1111 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the date of
 1112 Council adoption.

1113
 1114 This is a correct copy of Council action.

1115

1116

1117 _____
 Linda M. Lauer, Clerk of the Council

1118 ATTACHMENT A

Minimum Required Public Use Space (% of net tract area)				
Acres (Gross)	Number of Existing and Planned Right-of-Way Frontages			
	1	2	3	4+
< ½	0	0	0%	5%
½ - 1.00	0	0%	5%	10%
1.01 - 3.00	0%	5%	10%	10%
3.01 - 6.00	5%	10%	10%	10%
6.01 +	10%	10%	10%	10%

1119

1120

1121 ATTACHMENT B

1122

1123 **59-C-15.8. Special Regulations for the Optional Method of Development**

1124 **59-C-15.81. Incentive Density Provisions.**

1125 This section establishes incentives for optional method projects to provide
1126 public benefits in return for increases in density and height above the
1127 standard method maximums, consistent with the applicable master or sector
1128 plan, up to the maximum permitted by the zone.

1129 a) Public benefits must be provided that enhance or contribute to the
1130 environmental, economic, and social sustainability of a project and its
1131 environs in the following categories:

- 1132 1) transit proximity for residents, workers, and patrons;
- 1133 2) connectivity between uses and activities and mobility options;
- 1134 3) diversity of uses and activities;
- 1135 4) quality of building and site design; and
- 1136 5) protection and enhancement of the natural environment.

1137 Sections 59-C-15.82 through 59-C-15.86 elaborate the types of public
1138 benefits that may be accepted in each of these categories.

1139 b) Incentive density is calculated in one of two ways:

1140 1) Method 1. The incentive density for public benefits that are
1141 primarily related to buildings or sites, such as LEED rating,
1142 floor-plate size, through-block connection, or rainwater
1143 recharge, may be distributed among one or more buildings or
1144 sites within the tract included in a sketch plan application and
1145 is based on the difference between the maximum standard
1146 method density on the entire tract and the approved density of
1147 the entire project.

Example: If a project composed of three buildings in a CR 4.0 zone (regardless of use mix or height) proposes an FAR of 3.5 among the various buildings, the incentive density approved for additional public open space is based on the difference between 3.5 FAR and 0.5 FAR (the assumed standard method maximum), or 3.0 FAR. Further, if the public open space is awarded a 20% incentive, the resulting allowed incentive density applied to the project would be 0.6 FAR.

1156 2) Method 2. The incentive density for a public facility, such as a
1157 community center or land conveyed for a school or park, that is

1158 conveyed and/or built as part of a project may be distributed
1159 among one or more buildings and lots within the tract area
1160 included in a sketch plan application and is based on the
1161 difference between the maximum standard method density on
1162 the entire tract and the maximum allowed density of the zone.

Example: If a project in a CR 6.0 zone (regardless of use mix or height) proposes any FAR at or below 6.0 among various buildings and/or sites, the incentive density approved for the construction of a community recreation facility is based on the difference between 6.0 FAR and 0.5 FAR (the standard method maximum), or 5.5 FAR. Further, if the community recreation facility is awarded a 30% incentive, the resulting incentive density applied to the project would be 1.65 FAR.

- 1171 3) The height of any individual building must not exceed the
1172 maximum height of the zone and must be consistent with the
1173 recommendations of the applicable master or sector plan.
- 1174 c) In approving any incentive density based on the provision of public
1175 benefits, the Planning Board must consider:
 - 1176 1) The policy objectives and priorities of the applicable master or
1177 sector plan;
 - 1178 2) Any applicable design guidelines and any adopted public
1179 benefit standards and guidelines;
 - 1180 3) The size and configuration of the tract;
 - 1181 4) The relationship of the site to adjacent properties;
 - 1182 5) The presence or lack of similar public benefits nearby; and
 - 1183 6) Enhancements that increase public access to or enjoyment of
1184 the benefit.

1185 The Planning Board must adopt, publish, and maintain guidelines that
1186 detail the standards and requirements for public benefits that may be
1187 provided for incentive density. These guidelines are in addition to
1188 and do not supercede any standards, requirements, or rules of
1189 incentive density calculation included in this division.

1190 **59-C-15.82. Incentives for Transit Proximity.**

1191 In order to encourage greater use of transit, control sprawl, and reduce vehicle
1192 miles traveled, congestion, and carbon emissions, the Planning Board may approve
1193 incentive density for transit proximity under this section. The percentage of
1194 incentive density awarded to a project for transit proximity is calculated according
1195 to Method 1 as follows:

Transit Proximity	Level 1	Level 2	Level 3
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Adjacent or confronting	50%	25%	15%
Within ¼ mile	40%	20%	10%
Between ¼ and ½ mile	30%	15%	5%
Between ½ and 1 mile	20%	10%	0%

1196 **59-C-18.83. Incentives for Connectivity and Mobility.**

1197 In order to enhance connectivity between uses and amenities and increases
 1198 mobility options, encourage non-automotive travel for short and multi-purpose
 1199 trips as well as for commuting, facilitate social and commercial interaction,
 1200 provide opportunities for healthier living, and stimulate local businesses, the
 1201 Planning Board may approve incentive density of up to 30% to a project that
 1202 provides at least two of the following public benefits:

- 1203 a) Neighborhood Services: Safe and direct pedestrian access to 10 different
 1204 retail services on site or within ¼ mile, of which at least 4 have a maximum
 1205 retail bay floor area of 5,000 square feet. Method 1.
- 1206 b) Community Gardens: Safe and accessible garden space of 500 square feet or
 1207 one 16 square-foot plot per 20 dwelling units, whichever is greater, on site
 1208 or within 500 feet of the site. Method 1.
- 1209 c) Minimum Parking: Provision of the minimum required parking for projects
 1210 of one acre of gross tract area or more. Method 1.
- 1211 d) Through-Block Connections: Safe and attractive pedestrian connections
 1212 between streets. Method 1.
- 1213 e) Public Parking: Provision of up to the maximum number of parking spaces
 1214 allowed in the zone as public parking free or at a market rate. Method 2.

1215 **59-C-15.84. Incentives for Diversity of Uses and Activities.**

1216 In order to increase the variety and mixture of land uses, types of housing,
 1217 economic diversity, and community activities; contribute to development of a
 1218 more efficient and sustainable community; reduce the necessity for automobile
 1219 use; and facilitate healthier lifestyles and social interaction, the Planning Board
 1220 may approve incentive density of up to 30% to a project that provides affordable
 1221 housing or a public facility, as described below, or at least two of the other
 1222 following public benefits:

- 1223 a) Affordable Housing:
 1224 All residential development must comply with the requirements of Chapters
 1225 25A and 25B for the provision of Moderately Priced Dwelling Units
 1226 (MPDUs) and Workforce Housing Units (WFHUs).

1227 1) MPDU Incentive Density: Provision of MPDUs above the minimum
1228 required is calculated by Method 1 and the required number of
1229 MPDUs is calculated on the total number of dwelling units as
1230 required by Chapter 25A and the percent of incentive density increase
1231 is based on the proposed FAR for the entire project.

Example: Provision of 14.5% MPDUs is awarded an incentive density of 20% (see 25-A-5(c)(3)). In the case of a CR 4.5 zone that proposes 4.5 FAR, that equals 0.20 x 4.0 (the incentive density), which is 0.8 FAR.

1236 2) WFHU Incentive Density: Provision of required or additional
1237 WFHUs is calculated by method 1 at the following rate: 2 times the
1238 percentage of units provided as WFHUs.

Example: Provision of 5% WFHUs is awarded incentive density of 10%, provision of 12% WFHUs is awarded incentive density of 24%.

- 1241 b) Adaptive Buildings: Provision of buildings with minimum floor-to-floor
1242 heights of at least 15 feet on any floor that meets grade and 12 feet on all
1243 other floors. Internal structural systems must be able to accommodate
1244 various types of use with only minor modifications. Method 1.
- 1245 c) Care Centers: Child or adult day care facilities. Method 2.
- 1246 d) Public Facilities: Conveyance of land or dedication of space for and/or
1247 construction of a public facility as recommended by a master or sector plan.
1248 Method 2.
- 1249 e) Small Business Retention: Provision of on-site space for small,
1250 neighborhood-oriented businesses. Method 1.
- 1251 f) Dwelling Unit Mix: Provision of at least 7.5% efficiency units, 8% 1-
1252 bedroom units, 8% 2-bedroom units, and 5% 3-bedroom units. Method 1.

59-C-15.85. Incentives for Quality Building and Site Design.

1254 High quality design is especially important in urban, integrated-use settings to
1255 ensure that buildings and uses are compatible with each other and adjacent
1256 communities and to provide a harmonious pattern of development. Due to the
1257 increased density of these settings, buildings tend to have high visibility. High
1258 quality design may help to attract residents and businesses to locate in these
1259 settings. Location, height, massing, façade treatments, and ornamentation of
1260 buildings affect sense of place, orientation, and the perception of comfort and
1261 convenience. The quality of the built environment affects light, shadow, wind,
1262 and noise, as well as the functional and economic value of property. In order to
1263 promote high quality design, the Planning Board may approve incentive density of
1264 up to 30% to a project that provides at least two of the following public benefits:

- 1265 a) Reduced Floor Plate: Provision of buildings in which floor areas above 120
 1266 feet that do not exceed 10,000 square feet for residential uses or 19,000
 1267 square feet for non-residential uses. The reduced floor plate must contain a
 1268 minimum of 60% glass on all exterior walls facing a street or public open
 1269 space. Method 1.
- 1270 b) Historic Resource Protection: Preservation and/or enhancement of an
 1271 historic resource indicated on the Master Plan for Historic Preservation in
 1272 conformance with a plan approved by the Historic Preservation
 1273 Commission. A fee-in-lieu for a specific preservation project may be paid
 1274 to the Historic Preservation Division as specified in the Guidelines for
 1275 Public Benefits. Method 1.
- 1276 c) Structured Parking: Parking provided within a structure or below-grade.
 1277 Method 1.
- 1278 d) Tower Setback: Setback of building by a minimum of 6 feet beyond the
 1279 first floor façade at a maximum height of 72 feet. Method 1.
- 1280 e) Public Art: Provision of public art must be reviewed for comment by the
 1281 Public Arts Trust Steering Committee. A fee-in-lieu may be paid to the
 1282 Trust as specified in the Guidelines for Public Benefits. Method 1.
- 1283 f) Public Open Space: Provision of open space in addition the the minimum
 1284 required by the zone. Public open space must be easily accessible to the
 1285 public during business hours and/or at least from sunrise to sunset and must
 1286 contain amenities such as seating, plantings, trash receptacles, kiosks, and
 1287 water features. Method 1.
- 1288 g) Streetscape: Construction of off-site streetscape in addition the requirements
 1289 of this division. Method 1.
- 1290 h) Exceptional Design: Building design that provides innovative solutions in
 1291 response to the immediate context; creates a sense of place and serves as a
 1292 landmark; enhances the public realm in a distinct and original manner;
 1293 introduces new materials, forms, or building methods; uses design solutions
 1294 to make compact infill development living, working, and shopping
 1295 environments more pleasurable and desirable; and integrates low-impact
 1296 development methods into the overall design of the site and building.
 1297 Method 1.

1298 **59-C-15.86. Incentives for Protection and Enhancement of the Natural**
 1299 **Environment.**

1300 In order to combat sprawl and mitigate or reverse environmental problems such as
 1301 lack of groundwater recharge, inadequate carbon-sequestration, and pollution
 1302 caused by reliance on the automobile, the Planning Board may approve incentive
 1303 density of up to 50% for certain projects that purchase building lot terminations, as

- 1304 described below, or up to 30% to a project that provides a LEED Platinum, or
1305 County-approved equivalent, building, as described below, or at least two of the
1306 other following public benefits:
- 1307 a) Building Lot Termination (BLT): The Planning Board must approve
1308 incentive density for the purchase of easements to terminate building lots in
1309 the Agricultural Reserve under Chapter 2B by method 1 in accordance with
1310 the following:
 - 1311 1) The incentive density for the purchase of BLTs is equal to 2 times the
1312 square footage of each BLT easement purchased up to 20% of the
1313 total incentive density for sites greater than ½ acre and up to 50% for
1314 sites on ½ acre or less.
 - 1315 2) For sites on ½ acre or less, if the Applicant cannot purchase an
1316 easement or the amount of density to be attributed to a BLT easement
1317 as a fraction of the applicable floor area equivalent, the Planning
1318 Board must require the applicant to pay the Agricultural land
1319 Preservation Fund an amount set annually by Executive Regulation.
 - 1320 3) For sites greater than ½ acre, BLT easements must be purchased in
1321 units of two and must be bought in full.
 - 1322 4) For all sites, BLT easements must be purchased at a rate of one per
1323 9,000 gross square feet of proposed residential development and
1324 7,500 gross square feet of proposed non-residential development.
 - 1325 b) LEED, or County-Approved Equivalent: The incentive density for a
1326 building or project that achieves a LEED rating, or an equivalent rating
1327 approved under Chapter 8, Article VII, is calculated by method 1 for LEED
1328 for new construction and LEED ND and method 2 for LEED for existing
1329 buildings according to the following:
 - 1330 1) 10% for LEED Silver;
 - 1331 2) 20% for LEED Gold; and
 - 1332 3) 30% for LEED Platinum.
 - 1333 c) Groundwater Recharge: Bio-retention and stormwater recharge facilities
1334 beyond existing County requirements on-site or within ¼ mile of the site
1335 must provide a minimum of 25% recharge of projected stormwater outfall
1336 for a 10-year event. Method 1.
 - 1337 d) Parkland Conveyance: Conveyance of land to the M-NCPPC for inclusion
1338 in or provision of parkland, trails, or other master-planned park use in or
1339 adjacent to the applicable planning area of one acre or an area equal to a
1340 minimum of 15% of the gross tract area covered in a sketch plan. Method 2.

- 1341 e) Lighting: Provision of lighting that complies with the standards established
- 1342 by the International Dark Sky Association, or county-approved equivalent.
- 1343 Method 1.
- 1344 f) Energy Conservation and Generation: Provision of energy-efficient that
- 1345 exceed standards for the building type by 17.5% for new buildings or 10%
- 1346 for existing buildings. Method 1. Provision of renewable energy generation
- 1347 facilities on-site or within ½ mile of the site for a minimum of 2.5% of the
- 1348 projected energy requirement. Method 1.
- 1349 g) Green Wall: Installation and maintenance of a vegetated wall that covers at
- 1350 least 30% of any blank wall or parking garage façade visible from a public
- 1351 street or open space. Method 1.
- 1352 h) Rainwater Reuse: Collection and reuse of at least 25% of rainwater from a
- 1353 10-year event on site. Method 1.
- 1354 i) Tree Canopy: Coverage at 15 years of growth of at least 25% of the on-site
- 1355 open space. Method 1.
- 1356 j) Vegetated Area: Installation of plantings in a minimum of 12 inches of soil
- 1357 covering at least 5,000 square feet of previously impervious surfaces. This
- 1358 does not include vegetated roofs. Method 1.
- 1359 k) Vegetated Roof: Provision of a vegetated roof with a soil depth of at least 4
- 1360 inches covering at least 33% of a building's roof, excluding space for
- 1361 mechanical equipment. Method 1.

1362

1363 ATTACHMENT C

1364

59-C-15.87. Special Regulations for Purchase of Building Lot Termination (BLT) Development Rights.

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Except for residential development subject to the requirement of workforce housing under Section 59-A-6.18, the approval of an application for any gross floor area in an optional method of development project must be subject to the following requirements:

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- a) 12.5 percent of any floor area above the maximum allowed under the standard method of development must be supported through the purchase by the applicant of a BLT easement through a contribution to the Agricultural Land Preservation Fund under Chapter 2B for purchase of a BLT easement on real property to preserve agricultural land in the County according to the following formulas:

- 1) one buildable RDT lot must be extinguished for each 9,000 square feet of gross residential floor area;

- 1378 2) one buildable RDT lot must be extinguished for each 7,500
1379 square feet of gross non-residential floor area; and
1380 3) the BLT requirement does not apply to residential development
1381 in areas subject to the workforce housing program under
1382 Section 59-A-6.18 and Chapter 25B.
- 1383 b) If the applicant for optional method of development under the CR
1384 zones cannot purchase an easement or the amount of density to be
1385 attributed to a BLT easement is a fraction of the applicable floor area
1386 equivalent, the Planning Board must require the applicant to pay the
1387 Agricultural Land Preservation Fund an amount set annually by
1388 Executive Regulation.

1389
1390 ATTACHMENT D

1391 **59-C-15.9. Existing Approvals.**

- 1392 a) One or more lawfully existing buildings or structures on a site and the uses
1393 therein, which predate the applicable sectional map amendment, are
1394 conforming-structures or uses, and may individually or collectively be
1395 continued, renovated, repaired, or reconstructed to the same size and
1396 configuration or enlarged up to a total of 10 percent above the total existing
1397 floor areas of all buildings and structures on a site or 30,000 square feet,
1398 whichever is less, and does not require a site plan. Enlargements in excess
1399 of the limitations in this subsection will require compliance with the full
1400 provisions of this Division.
- 1401 b) A project that received an approved development plan under Division 59-D-
1402 1 or schematic development plan under Division 59-H-2 before the
1403 enactment of the CR zones may proceed under the binding elements of the
1404 development plan and will thereafter be treated as a lawfully existing
1405 building and may be renovated or reconstructed under Subsection (a) above.
1406 Such development plans or schematic development plans may be amended
1407 as allowed under Division 59-D-1 or 59-H-2 under the provisions of the
1408 previous zones; however, any incremental increase in the total floor area
1409 beyond that allowed by Subsection (a) above or any incremental increase in
1410 the building height beyond 15 feet requires, with respect to the incremental
1411 increase only, full compliance with the provisions of this Division.
- 1412 c) At the option of the owner, any portion of a project subject to an approved
1413 development plan or schematic development plan described in Subsection
1414 (b) above may be developed pursuant to the provisions of this Division.
1415 The remainder of that project continues to be subject to the approved

1416 development plan or the schematic development plan, pursuant to
1417 Subsections (a) and (b) above.
1418 d) A project which has had a preliminary or site plan approved before the
1419 applicable sectional map amendment may be built or altered at any time,
1420 subject to either the full provisions of the previous zone or this division, at
1421 the option of the owner. If built under the previous approval, it will be
1422 treated as a lawfully existing building and may be renovated or
1423 reconstructed under Subsection (a) above.
1424
1425

1 **Sec. 1. Division 59-C-15 is added as follows:**

2 * * *

3 **DIVISION 59-C-15. COMMERCIAL/RESIDENTIAL (CR) ZONES**

4
5 **59-C-15.1. Zones Established.**

6 **59-C-15.11.** The Commercial/Residential (CR) zones are established as combinations of
7 a sequence of 4 factors: maximum total floor area ratio (FAR), maximum non-residential
8 FAR, maximum residential FAR, and maximum building height. These zones are
9 identified by a sequence of symbols: CR, C, R, and H, each followed by a number where:

- 10 a) the number following the symbol "CR-" is the maximum total FAR;
- 11 b) the number following the symbol "C" is the maximum non-residential FAR;
- 12 c) the number following the symbol "R" is the maximum residential FAR; and
- 13 d) the number following the symbol "H" is the maximum building height in feet.

14 The examples in this Division do not add, delete, or modify any provision of this
15 Division. Examples are provided only to demonstrate particular applications of the
16 provisions in the Division. Examples are not intended to limit the provisions.

17 **59-C-15.12.** Each unique sequence of CR, C, R, and H is established as a zone under the
18 following limits:

- 19 a) the maximum total FAR must be established as an increment of 0.25 from 0.5 up
20 to 8.0;
- 21 b) the maximum non-residential and residential FAR must be established as an
22 increment of 0.25 from 0.25 up to 7.5; and
- 23 c) the maximum height must be established as an increment of 5 feet up to 100 feet
24 and an increment of 10 feet from 100 feet up to 300 feet[; and]].

25 **59-C-15.121.** Permitted density may be averaged over 2 or more directly abutting or
26 confronting lots in one or more CR zones, provided that:

- 27 1) the lots are subject to the same sketch plan;
- 28 2) the lots are created by the same preliminary subdivision plan;
- 29 3) the maximum total density and non-residential and residential density
30 limits apply to the entire development not to individual lots;
- 31 4) no building may exceed the maximum height set by the zone;
- 32 5) public benefits must be provided under the phasing element of an
33 approved sketch plan; and
- 34 6) the resulting development must conform to the design and land use
35 objectives of the applicable master or sector plan and design guidelines.
- 36 7) the total maximum density on the area zoned with a lower maximum total
37 FAR may not be exceeded.

38 **59-C-15.13.** The CR zones can only be applied when specifically recommended by an
39 approved and adopted master or sector plan and only by the sectional map amendment
40 process.

41 *Examples:*
42 • An area zoned CR-2.0, C1.0, R1.0, H80 allows a total FAR of 2.0, with maximum non-
43 residential and residential FARs of 1.0, thereby requiring an equal mix of uses to obtain
44 the total FAR allowed. The height for any building in this zone is limited to 80 feet.

- An area zoned CR-6.0, C3.0, R5.0, H200 allows a residential FAR of up to 5.0, a non-residential FAR of up to 3.0, and a mix of the two uses could yield a total FAR of 6.0. This combination allows for flexibility in the market and shifts in the surrounding context. The height for any building in this zone is limited to 200 feet.
- An area zoned CR-4.0, C4.0, R4.0, H160 allows complete flexibility in the mix of uses, including buildings with no mix, because the maximum allowed non-residential and residential FARs are both equivalent to the total maximum FAR allowed. The height for any building in this zone is limited to 160 feet.

59-C-15.2. Description and Objectives of the CR Zones.

The CR zones permit a mix of residential and non-residential uses at varying densities and heights. The zones promote economically, environmentally, and socially sustainable development patterns where people can live, work, and have access to services and amenities while minimizing the need for automobile use. The application of the CR zones is appropriate where ecological impacts can be moderated by co-locating housing, jobs, and services. The objectives of the CR zones are to:

- a) implement the policy recommendations of applicable master and sector plans;
- b) target opportunities for redevelopment of single-use areas and surface parking lots with a mix of uses;
- c) reduce dependence on the automobile by encouraging development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities;
- d) encourage an appropriate balance of employment and housing opportunities and compatible relationships with adjoining neighborhoods;
- e) establish the maximum density and building height for each zone, while retaining appropriate development flexibility within those limits; and
- f) standardize optional method development by establishing minimum requirements for the provision of the public benefits that will support and accommodate density above the standard method limit.

59-C-15.3. Definitions Specific to the CR Zones.

The following words and phrases, as used in this Division, have the meaning indicated. The definitions in Division 59-A-2 otherwise apply.

Car share space: a parking space that serves as the location of an in-service vehicle used by a vehicle-sharing service.

Cultural institutions: public or private institutions or businesses including: art, music, and photographic studios; auditoriums or convention halls; libraries and museums; recreational or entertainment establishments, commercial; theater, indoor; theater, legitimate.

Day care facilities and centers: facilities and centers that provide daytime care for children and/or adults, including: child daycare facility (family day care, group day care, child day care center); daycare facility for not more than 4 senior adults and persons with disabilities; and day care facility for senior adults and persons with disabilities.

Frontage: a property line shared with an existing or master-planned public or private road, street, highway, or alley right-of-way or easement boundary.

LEED: the series of Leadership in Energy and Environmental Design (LEED) rating systems developed by the Green Building Council as amended.



90 **Live/Work unit:** Buildings or spaces within buildings that are used jointly for non-residential
91 and residential purposes where the residential use of the space is secondary or accessory to
92 the primary use as a place of work.

93 **Manufacturing and production, artisan:** The manufacture and production of commercial
94 goods by a skilled manual worker or craftsman, such as jewelry, metalwork, cabinetry,
95 stained glass, textiles, ceramics, or hand-made food products.

96 **Public Arts Trust Steering Committee:** A committee of the Arts and Humanities Council that
97 allocates funds from the Public Arts Trust.

98 **Public owned or operated uses:** Activities that are located on land owned by or leased and
99 developed or operated by a local, county, state, or federal body or agency.

100 **Recreational facilities, participatory :** Facilities used for sports or recreation.

101 **Reconstruction:** Building the same or less floor area on or within footprint of a demolished or
102 partially demolished building.

103 **Renovation:** An interior or exterior alteration that does not affect a building's footprint.

104 **Seasonal Outdoor Sales:** A lot or parcel where a use or product is offered annually for a limited
105 period of time during the same calendar period each year. The availability or demand for the
106 use or product is related to the calendar period, such as Christmas trees, pumpkin patches, or
107 corn mazes.

108 **Transit proximity:** Transit proximity is determined at the time of a sketch plan application and
109 is categorized in three levels: 1. Proximity to an existing or planned Metrorail Station; 2.
110 Proximity to a station or stop along a rail or bus line with a dedicated, fixed path; and 3.
111 Proximity to a station or stop along a bus line that does not have a dedicated, fixed path but
112 has service intervals that are no longer than 15 minutes during peak commute hours. A
113 project adjacent to or confronting a transit station or stop shares a property line, easement
114 line, or is only separated by a right-of-way from a transit station or stop. In addition to a
115 project that is adjacent or confronting, a project is considered to have access to a transit
116 facility if the project's gross tract area in a single sketch plan has no more than 25 percent of
117 land area farther than the applicable distance from the transit station or stop and if not more
118 than 10 percent of the residential units in the project are farther than the applicable distance
119 from the station or stop. A planned transit station or stop must be funded for construction
120 within the first 4 years of the Consolidated Transportation Program or the Capital
121 Improvement Program. If a project qualifies for more than one transit proximity level, the
122 project may only take incentive density for one of the qualifying benefits.

123 **59-C-15.4. Methods of Development and Approval Procedures.**

124 Two methods of development are available under the CR zones.

125 **59-C-15.41. Standard Method.**

126 Standard method development must comply with the general requirements and
127 development standards of the CR zones. A site plan approval under Division 59-D-3 is
128 required for a standard method development project only if:

- 129 a) the gross floor area exceeds 10,000 square feet; or
- 130 b) any building or group of buildings contains 10 or more dwelling units.

131 **59-C-15.42. Optional Method.**

132 Optional method development must comply with the general requirements and
133 development standards of the CR zones and must provide public benefits under Section
134 59-C-15.8 to obtain greater density and height than allowed under the standard method of

135 development. A sketch plan and site plan are required for any development using the
 136 optional method. A sketch plan must be filed under the provisions below; a site plan
 137 must be filed under Division 59-D-3. Any required preliminary subdivision plan must be
 138 submitted concurrently with the site plan.

- 139 a) A sketch plan application must contain:
- 140 1) A justification statement that addresses how the project meets the
 - 141 requirements and standards of this Division for optional method
 - 142 development and describes how the development will further the
 - 143 objectives of the applicable master or sector plan;
 - 144 2) An illustrative plan or model that shows the maximum densities for
 - 145 residential and non-residential uses, massing, and heights of buildings;
 - 146 locations of public use and other open spaces; and the relationships
 - 147 between existing or proposed buildings on adjoining tracts;
 - 148 3) An illustrative diagram of proposed vehicular, pedestrian, and bicycle
 - 149 access, circulation, parking, and loading areas;
 - 150 4) A table of proposed public benefits and the incentive density requested for
 - 151 each; and
 - 152 5) The general phasing of structures, uses, public benefits, and site plan
 - 153 applications.

- 154 b) Procedure for a sketch plan:
- 155 1) Before filing a sketch plan application, an applicant must comply with the
 - 156 provisions of the Manual for Development Review Procedures, as
 - 157 amended, that concern the following:
 - 158 1. Notice;
 - 159 2. Posting the site of the application submittal; and
 - 160 3. Holding a pre-submittal meeting.
 - 161 2) A public hearing must be held by the Planning Board on each sketch plan
 - 162 application no later than 90 days after the filing of an optional method
 - 163 development application unless a request to extend this period is requested
 - 164 by the applicant, Planning Board staff, or other interested parties. A
 - 165 request for an extension must be granted if the Planning Board finds it not
 - 166 to constitute prejudice or undue hardship on any interested party. A
 - 167 recommendation regarding any request for extension must be acted upon
 - 168 as a consent agenda item by the Planning Board on or before the 90-day
 - 169 hearing period expires. Notice of the extension request and
 - 170 recommendation by Staff must be posted no fewer than 10 days before the
 - 171 item's agenda date.
 - 172 3) No fewer than 10 days before the public hearing on a sketch plan, Planning
 - 173 Board staff must submit its analysis of the application including its
 - 174 findings, comments, and recommendations with respect to the
 - 175 requirements and standards of this division and any other matters that may
 - 176 assist the Planning Board in reaching its decision on the application. This
 - 177 staff report must be included in the record of the public hearing.
 - 178 4) The Planning Board must act within 30 days after the close of the record
 - 179 of the public hearing, by majority vote of those present and voting based

- 180 upon the hearing record, to approve, approve subject to modifications,
181 conditions, or binding elements, or disapprove.
- 182 c) In approving a sketch plan, the Planning Board must find that the following
183 elements are appropriate in concept and appropriate for further detailed review at
184 site plan:
- 185 1) The plan meets the requirements and standards of this division, the
186 development will further the objectives of the applicable master or sector
187 plan, and will provide more efficient and effective development of the site
188 than the standard method of development;
 - 189 2) The proposed building massing and height and public use and other open
190 spaces are located and scaled to achieve compatible relationships with
191 each other and with existing and proposed buildings and open space
192 adjacent to the site and with adjacent communities;
 - 193 3) The general vehicular, pedestrian, and bicyclist access, circulation,
194 parking, and loading areas are adequate, safe, and efficient;
 - 195 4) The proposed public benefits and associated requested incentive density
196 will further the objectives of the applicable master or sector plan; and
 - 197 5) The general phasing of structures, uses, public benefits, and site plans is
198 feasible and appropriate to the scale and characteristics of the project.
- 199 d) At applicant's request, the Planning Board may approve changes or modification
200 of its findings regarding a sketch plan at the time of site plan review. The
201 applicant must identify any inconsistency between the approved sketch plan and
202 the proposed site plan in the notice of application for the site plan.
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204 **59-C-15.5. Land Uses.**

205 No use is allowed in the CR zones except as indicated below:

- 206 - *Permitted Uses* are designated by the letter "P" and are permitted subject to all
207 applicable regulations.
- 208 - *Special Exception Uses* are designated by the letters "SE" and may be authorized
209 as special exceptions under Article 59-G.

a) Agricultural	
Farm and country markets	P
Farm, limited to crops, vegetables, herbs, and ornamental plants	P
Nursery, horticultural – retail or wholesale	P
Seasonal outdoor sales	P
b) Residential	
Dwellings	P
Group homes, small or large	P
Hospice care facilities	P
Housing and related facilities for senior adults or persons with disabilities	P
Life care facilities	P
Live/Work units	P
Personal living quarters	P
c) Commercial Sales and Service	
Advanced technology and biotechnology	P
Ambulance or rescue squads	P
Animal boarding places	SE
Automobile filling stations	SE
Automobile rental services, excluding storage of vehicles and supplies	P
Automobile repair and services	P
Automobile sales, indoors and outdoors	P
Clinic	P
Conference centers	P
Eating and drinking establishments	P
Health clubs and gyms	P
Home occupations, major	SE
Home occupations, registered and no-impact	P
Hotels and motels	P
Laboratories	P
Dry cleaning and laundry pick-up stations	P
Offices, general	P
Recreational facilities, participatory	P
Research, development, and related activities	P
Retail trades, businesses, and services of a general commercial nature	P
Self-storage facilities	SE
Veterinary hospitals and offices without boarding facilities	P
Warehousing, not including self-storage, less than 10,000 square feet	P
d) Institutional & Civic	

Charitable and philanthropic institutions	P
Cultural institutions	P
Day care facilities and centers	P
Educational institutions, private	P
Hospitals	P
Parks and playgrounds, private	P
Private clubs and service organizations	P
Publicly owned or publicly operated uses	P
Religious institutions	P
e) Industrial	
Manufacturing and production, artisan	P
Manufacturing, compounding, processing, or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries, synthetic molecules, and projects resulting from biotechnical and biogenetic research and development	P
Manufacturing and assembly of medical, scientific, or technical instruments, devices, and equipment	P
f) Other	
Accessory buildings and uses	P
Bus terminals, no-public	P
Parking garages, automobile	P
Public utility buildings, structures, and underground facilities	P
Radio and television broadcast studios	P
Rooftop mounted antennas and related unmanned equipment buildings, cabinets, or rooms	P

211 **59-C-15.6. General Requirements.**

212 Development in the CR zone must comply with the following requirements.

213 **59-C-15.61. Master Plan and Design Guidelines Conformance.**

214 Development that requires a site plan must be consistent with the applicable master or
 215 sector plan and must address any design guidelines approved by the Planning Board to
 216 implement the applicable plan.

217 **59-C-15.62. Priority Retail Street Frontages.**

218 Development that requires a site plan and is located on a street identified as a priority
 219 retail street frontage in the applicable master or sector plan must be developed in a
 220 manner that is consistent with the recommendations and objectives of the applicable plan
 221 and address any applicable design guidelines approved by the Planning Board to
 222 implement the applicable plan.

223 **59-C-15.63. Streetscape.**

224 Streetscape improvements must be consistent with the recommendations of the applicable
 225 master or sector plan and must address any Planning Board approved design guidelines
 226 that implement the applicable plan.

227 **59-C-15.64. Bicycle Parking Spaces and Commuter Shower/Change Facility.**

- 228 a) Bicycle parking facilities must be secure and accessible to all residents or
 229 employees of the proposed development.

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- b) The number of bicycle parking spaces and shower/change facilities required is shown in the following table (calculations must be rounded to the higher whole number):

Bicycle and Shower/Change Facilities Required	
Use	Requirement
Residential	
In a building containing less than 20 dwelling units.	At least 4 bicycle parking spaces.
In a building containing 20 or more dwelling units.	At least 0.5 bicycle parking spaces per dwelling unit, not to be fewer than 4 spaces and up to a maximum of 100 required spaces.
In any group living arrangement expressly for senior citizens.	At least 0.1 bicycle parking spaces per unit, not to be fewer than 2 spaces up to a maximum of 100 required spaces.
Non-Residential	
In a building with a total non-residential floor area of 1,000 to 9,999 square feet.	At least 2 bicycle parking spaces.
In a building with a total non-residential floor area of 10,000 to 99,999 square feet.	Two bicycle spaces for the first 10,000 square feet plus one additional space for every additional 10,000 square feet, up to a maximum of 100 spaces.
In a building with a total non-residential floor area of 100,000 square feet or greater.	Two bicycle spaces for the first 10,000 square feet plus one additional space for every additional 10,000 square feet, up to a maximum of 100 spaces. One shower/change facility for each gender available only to employees when the building is accessible.

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59-C-15.65. Parking.

- a) (1) For projects that satisfy the requirements for transit proximity levels 1 or 2, the number of parking spaces provided on site must not exceed the minimum number established under Article 59-E, except that the maximum number of parking spaces for general retail and restaurant uses is 4 spaces for every 1,000 square feet of gross leasable area and no parking spaces are required for restaurant outdoor patron areas.
- (2) All projects that do not satisfy the requirements for transit proximity levels 1 or 2, must meet the parking requirements established under Article 59-E, except that the number of parking spaces for general retail and restaurant uses established in subsection (a)(1) may be provided without a waiver.
- b) Except for retail and restaurant uses that satisfy subsection (a) and projects that satisfy transit proximity level 3, the minimum number of parking spaces required is based on transit proximity as follows:

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Minimum Parking Requirements				
	Transit Proximity (Level 1 or 2)			
	¼ mile from transit	¼ to ½ mile from transit	½ mile to 1 mile from transit	>1 mile from transit
Non-residential: the minimum number of required spaces under Article 59-E multiplied by the following factor:	0.20	0.40	0.60	0.80
Residential: the minimum number of required spaces under Article 59-E multiplied by the following factor:	0.60	0.70	0.80	0.90

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c) Parking requirements must be met by any of the following:

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1) providing the spaces on site;

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2) constructing publicly available on-street parking, including on-street parking in the public right-of-way; or

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3) entering into an agreement for shared parking spaces in a public or private facility within 1,000 feet of the subject lot, if the off-site parking facility is not in an agricultural (Division 59-C-9), planned unit development (Division 59-C-7), or residential (Division 59-C-1) zone.

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d) Every "car-share" space provided reduces the total minimum number of required spaces by 6 spaces for non-residential use or 3 spaces for residential use.

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Example: A non-residential site requiring at least 100 spaces under Article 59-E would be required to provide a maximum of 100 spaces on site. If that site was within ¼ to ½ mile of a transit station, the minimum requirement for parking would be 40 spaces ($100 \times 0.40 = 40$). If 2 car-share spaces were provided, that requirement would be 28 for non-residential use or 34 for residential use.

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e) The design of surface parking facilities must comply with the following:

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1) a parking facility at or above grade must not be located between the street and the main front wall of the building or the side wall of a building on a corner lot unless the Planning Board finds that safe and efficient circulation would be better served by a different arrangement;

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2) if a site is adjacent to an alley, the primary vehicular access to the parking facility must be from that alley; and

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3) curb cuts must be kept to a minimum and shared by common ingress/egress easements whenever possible.

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f) The design of parking facilities with drive-through services must comply with the following; however, the Planning Board may approve a design if it finds that the alternative design would provide safer and more efficient circulation:

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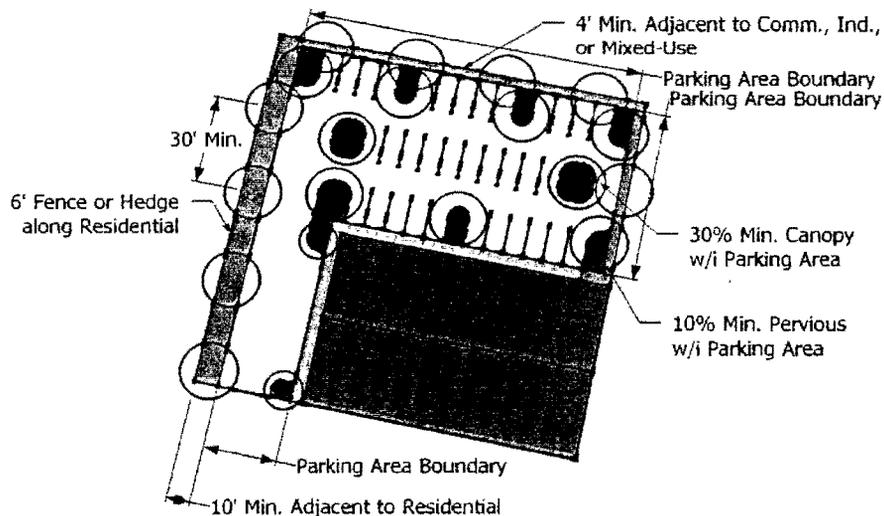
1) the driveway must not be located between the street and the main front wall of a building or the side wall of a building on a corner lot;

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- 281 2) the drive-through service window must be located on the rear or side wall
 282 of the building provided that, in unusual circumstances such as an atypical
 283 lot configuration or steep site, if located on the side wall of the building,
 284 the drive-through service window must be permanently screened from any
 285 public street; and
 286 3) curb cuts to a street must be minimized to one drive aisle of no more than
 287 20 feet in width for two-way traffic or two drive aisles each of no more
 288 than 10 feet in width for one-way traffic.
 289 g) Except for an area along a driveway that is adjacent to non-residential uses,
 290 landscaping for surface parking facilities must satisfy the following requirements:

Minimum Landscape Standards for Surface Parking	
Subject	Requirement
Right-of-Way Screening	6-foot width of continuous soil panel or stormwater management recharge facility (not including any PUE or PIE) with groundcover, planting bed, or lawn; a minimum 3-foot high continuous evergreen hedge or fence; and one deciduous tree per 30 feet of street frontage or per the applicable streetscape standards.
Adjacent to a lot or parcel in any Commercial, Industrial, or Mixed-Use Zone	4-foot width continuous soil panel or stormwater management recharge facility with groundcover, planting bed, or lawn; one deciduous tree per 30 feet of frontage.
Adjacent to a lot or parcel in an Agricultural or Residential District	10-foot width continuous soil panel or stormwater management recharge facility with groundcover, planting bed, or lawn; 6-foot high continuous evergreen hedge or fence; and one deciduous tree per 30 feet of frontage.
Internal Pervious Area	10 percent of the parking facility area comprised of individual areas of at least 100 square feet each.
Tree Canopy Coverage	30 percent of the parking facility area (at 15 years growth).

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Surface Parking Landscape Requirements Illustrative

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59-C-15.7. Development Standards.

Development in any CR zone must comply with the following standards.

59-C-15.71. Density.

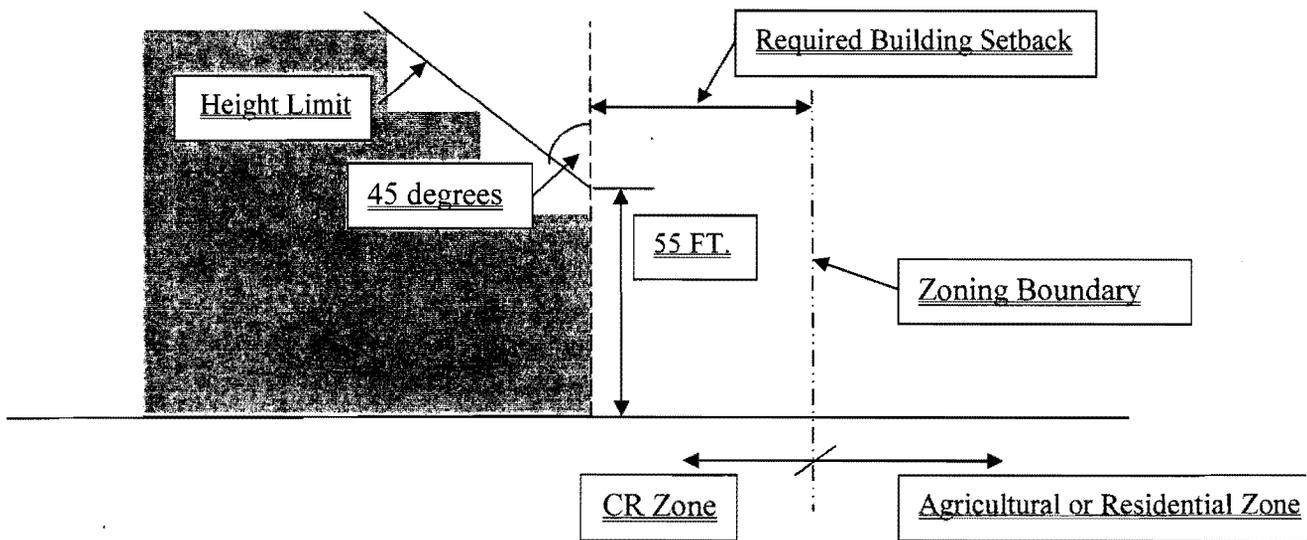
- a) The maximum density for any standard method project is the greater of 0.5 FAR or 10,000 square feet of gross floor area. Any single land use or any combination of land uses allowed in the zone may achieve the maximum density.
- b) The maximum total density and mix of maximum non-residential and residential density for any project using the optional method of development is specified by the zone.

59-C-15.72. Height.

- a) The maximum height for any building or structure in a standard method project is 40 feet.
- b) The maximum height for any building or structure in an optional method project is determined by the zone.

59-C-15.73. Setbacks.

- a) Any building not under construction or completed before the CR zone is applied must not be any closer to a lot line shared with a lot or parcel in an agricultural (Division 59-C-9) or residential (Division 59-C-1) zone than:
 - 1) 25 feet or the setback required by the adjacent lot, whichever is greater; and
 - 2) the building must not project beyond a 45 degree angular plane projecting over the lot measured from a height of 55 feet at the setback determined above, with the exception of those features exempt from height and setback restrictions under Section 59-B-1.
- b) A building existing when the CR zone is applied may retain its pre-existing setback if the height of the building is not increased.



Angular Plan Setback Illustration

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59-C-15.74. Public Use Space.

- a) Public use space is not required for any standard method project.
- b) Projects using the optional method of development must provide public use space as follows:

Acres (Gross Tract Area)	Minimum Required Public Use Space (% of net tract area)
Equal to or less than 3.0	0
Greater than 3.0 but equal to or less than 6.0	5 %
Greater than 6.0	10%

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- c) Public use space must:
 - 1) be calculated on the net tract area that was included in the sketch plan application;
 - 2) be rounded to the next highest 100 square feet;
 - 3) be easily and readily accessible to the public; and
 - 4) contain amenities such as seating options, shade, landscaping, or other similar public benefits.
- d) Instead of providing on-site public use space, for any site of 3 acres or less, a development may propose the following alternatives, subject to Planning Board approval:
 - 1) public use space improvements of an equal or greater size within ¼ mile of the subject site; or
 - 2) a payment in part or in full to the Public Amenity Fund under Section 59-D-2.31.
 - e) A development on a site larger than 3 acres may only provide off-site public use space in order to provide master-planned open space improvements, or a payment under subsection d) (2), for an area of equal or greater size required on site that is located within the master plan area.

59-C-15.75. Residential Amenity Space.

- a) Any building containing 20 or more dwelling units must provide amenity space for its residents as follows:

Required Residential Amenity Space	
Type of Amenity Space	Area of Amenity Space
Indoor space in a multi-purpose room, fitness room, or other common community room(s), at least one of which must contain a kitchen and bathroom.	20 square feet per dwelling unit up to 5,000 square feet.
Passive or active outdoor recreational space.	20 square feet per dwelling unit, of which at least 400 square feet must adjoin or be directly accessible from the indoor amenity space.

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- 356 b) The amenity space is not required for Moderately Priced Dwelling Units
- 357 (MPDUs) on a site within a metro station policy area or where the Planning Board
- 358 finds that there is adequate recreation and open space within a ½ mile radius of
- 359 the subject site.
- 360 c) The amenity space requirement may be reduced by ½ for Workforce Housing
- 361 Units (WFHUs) located within a metro station policy area or if the minimum
- 362 public open space requirement is satisfied on site.
- 363 d) The provision of residential amenity space may be counted towards meeting the
- 364 required recreation calculations under the M-NCPPC Recreation Guidelines, as
- 365 amended.

59-C-15.8. Special Regulations for the Optional Method of Development

59-C-15.81. Incentive Density Provisions.

This section establishes incentives for optional method projects to provide public benefits in return for increases in density and height above the standard method maximums, consistent with the applicable master or sector plan, up to the maximum permitted by the zone.

- 372 a) The incentive density approved for each proposed public benefit is calculated as a
- 373 percentage of the total incentive density, which is the incremental difference
- 374 between the standard method maximum FAR (0.5) and the proposed project FAR
- 375 up to the maximum FAR allowed by the zone.
- 376 b) Public benefits must be provided that enhance or contribute to the environmental,
- 377 economic, and social sustainability of a project and its environs in at least 2 of the
- 378 following major categories:
- 379 1) transit proximity for residents, workers, and patrons;
- 380 2) connectivity between uses and activities and mobility options
- 381 3) diversity of uses and activities;
- 382 4) quality of building and site design; and
- 383 5) protection and enhancement of the natural environment.
- 384 Sections 59-C-15.82 through 59-C-15.86 elaborate the types of public benefits
- 385 that may be accepted in each of these categories.
- 386 c) The number of major categories listed in subsection b) within which public
- 387 benefits must be selected varies as follows :
- 388

Transit Proximity	Level 1 Transit	Level 2 Transit	Level 3 Transit
	(Number of Major Categories)		
Adjacent or confronting	2	3	4
Within ¼ mile	3	4	4
¼ mile or further	4	4	4

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- 390 d) The minimum and maximum incentive density percentage increases for each
- 391 public benefit are established in Section 59-C-15.81(f).
- 392 e) The Planning Board may accept, reject, or modify a proposed incentive density or
- 393 modify the requested percentage above the minimum of incentive density

394 established up to the maximum established. Except for those benefits with
395 specific maximum standards, in approving incentive densities above the
396 minimum, the Planning Board must consider:

- 397 1) the size and configuration of the parcel;
- 398 2) the policy objectives and priorities of the applicable master or sector plan;
- 399 3) the applicable design guidelines;
- 400 4) the relationship of the site to adjacent properties;
- 401 5) the presence or lack of similar benefits nearby; and
- 402 6) quantitative and qualitative enhancements provided exceeding the
403 delineated minimum incentive density standards.

404 f) Incentive density is calculated in one of two ways:

- 405 1) Method 1. The incentive density for public benefits that are primarily
406 related to buildings or building sites, such as LEED rating, floor-plate size,
407 through-block connection, or rainwater recharge, may be distributed
408 among one or more buildings or sites within the tract included in a sketch
409 plan application and is based on the difference between the maximum
410 standard method density on the entire tract and the approved density of the
411 entire project as included in the sketch plan.

Example: If a project composed of three buildings in a CR 4.0 zone (regardless of use mix or height) proposes an FAR of 3.5 among the various buildings, the incentive density approved for additional public open space is based on the difference between 3.5 FAR and 0.5 FAR (the assumed standard method maximum), or 3.0 FAR. Further, if the public open space is awarded a 20% incentive, the resulting allowed incentive density applied to the project would be 0.6 FAR.

- 419 2) Method 2. The incentive density for a public facility, such as a community
420 center or land conveyed for a school or park, that is conveyed and/or built
421 as part of a project may be distributed among one or more buildings or
422 building sites within the tract area included in a sketch plan application
423 and is based on the difference between the maximum standard method
424 density on the entire tract and the maximum allowed density of the zone.

Example: If a project in a CR 6.0 zone (regardless of use mix or height) proposes any FAR at or below 6.0 among various buildings and/or sites, the incentive density approved for the construction of a community recreation facility is based on the difference between 6.0 FAR and 0.5 FAR (the standard method maximum), or 5.5 FAR. Further, if the community recreation facility is awarded a 30% incentive, the resulting incentive density applied to the project would be 1.65 FAR.

- 432 3) The height of any individual building must not exceed the maximum
433 height of the zone and must be consistent with the recommendations of the
434 applicable master or sector plan.

435 g) If the Planning Board finds that a public benefit was not included in this
436 subsection and that the public benefit would make a project more efficient and
437 desirable than could be accomplished by the use of the standard method of
438 development, then the Planning Board may adopt guidelines to allow a maximum

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of 30 percent incentive density for any single new public benefit. Any such guidelines would be in addition to any standards, requirements, or rules of incentive density calculation included in this subsection.

Example: A development in a CR zone with a maximum FAR of 5.5 would base all public benefit calculations on the incentive density of 5.0 FAR (5.5-0.5). Thus, being on a site adjacent to a metro station would yield an automatic incentive density of 2.5 FAR (5.0 x 0.50), and full density would be allowed by providing public benefits equal to an additional 50 percent.

h) Table of density incentives: **Incentive Zoning Table**

Public Benefit	Percent of Incentive Density		Section Reference	Density Calculation method
	Minimum	Maximum		
<i>Transit Proximity</i>	See section reference		15.82	1
<i>Connectivity & Mobility</i>				
Community Connectivity	10	20	15.831	1
Community Garden	5	10	15.832	1
Parking at the Minimum	10	20	15.833	1
Pedestrian Through-Block Connection	5	10	15.834	1
Public Parking	20	30	15.835	2
Transit Access Improvement	10	20	15.836	1
<i>Diversity</i>				
Adaptive Buildings	15	30	15.841	1
Affordable Housing: MPDUs	See section reference		15.842	1
Affordable Housing: WFHUs	See section reference			1
Care Center	10	20	15.843	2
Community Facility	20	80	15.844	2
Small Business retention	10	20	15.845	1
Unit Mix and Size	5	10	15.846	1
Public Facility Site	20	80	15.847	2
<i>Design</i>				
Floor Plate Size	10	20	15.851	1
Historic Resource Protection	10	20	15.852	1
Parking Below Grade	10	20	15.853	1
Podium/Tower Setback	5	10	15.854	1

Public Art	10	20	15.855	1
Public Plaza/Open Space	5	10	15.856	1
Streetscape, Off-Site	5	10	15.857	1
Exceptional Design	10	20	15.858	1
Environment				
Bio-retention and Stormwater Recharge	5	10	15.861	1
Conveyed Parkland	10	20	15.862	1
Dark Skies	5	10	15.863	1
Energy Efficiency and Generation	10	20	15.864	1
Green Wall	5	10	15.865	1
LEED Rating	10	30	15.866	1
Rainwater Reuse	5	10	15.867	1
Transferable Development Rights	10	30	15.868	
Tree Canopy	10	20	15.869	1
Vegetated Area	5	10	15.8610	1
Vegetated Roof	10	20	15.8611	1

447 **59-C-15.82. Transit Proximity Incentives.**

448 In order to encourage greater use of transit, control sprawl, and reduce vehicle miles
 449 traveled, congestion, and carbon emissions, the Planning Board must approve incentive density
 450 for transit proximity under this section. The percentage of incentive density awarded to a project
 451 for transit proximity is calculated according to Method 1 as follows:

Transit Proximity	Level 1	Level 2	Level 3
Adjacent or confronting	50%	25%	15%
Within ¼ mile	40%	20%	10%
Between ¼ and ½ mile	30%	15%	5%
Between ½ and 1 mile	20%	10%	0%

452 **59-C-15.83. Connectivity and Mobility Incentives.**

453 A project that enhances connectivity and mobility encourages pedestrian and other non-
 454 auto travel for short and multi-purpose trips as well as for commuting. Such a project
 455 facilitates social interaction, provides opportunities for healthier living, and stimulates
 456 local businesses.
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458 **59-C-15.831. Community Connectivity.**

- 459 a) The minimum incentive density increase for a building that enhances community
 460 connectivity by locating near existing retail uses or provides retail uses, requires
 461 that:
- 462 1) at least 10 different existing or proposed retail uses with direct pedestrian
 463 access are within 1/2 mile; and
 - 464 2) at least 35 percent of those uses have a maximum floor area of 5,000
 465 square feet and that any newly provided retail uses remain at or below that

466 area for a period of at least 4 years after the initial use-and-occupancy
467 permit is issued for that use.

- 468 b) The maximum increase requires additional benefits, such as a large diversity of
469 retail uses, a greater number of retail shops, provision of services associated with
470 live-work units, or that the required number of retail uses are within ¼ mile.

471 **59-C-15.832 Community Garden.**

472 A community garden allows any resident to grow their own produce, reduce reliance on
473 automobiles, increase water and air quality, and interact with other residents.

- 474 a) The minimum incentive density increase requires that the garden:
475 1) is located on the subject site or within 500 feet of the subject site;
476 2) provides all garden spaces with at least 12 inches of soil depth and access
477 to water; and
478 3) provides community garden space at a rate equivalent to 1 space per 20
479 dwelling units. Each space must be at least 16 square feet. At least 1 out of
480 each 10 spaces must be accessible under ADA standards.
481 b) The maximum increase requires additional features such as a composting facility,
482 additional garden space, seating areas, doubling as a green roof, or additional
483 accessible garden plots.

484 **59-C-15.833. Parking at the Minimum.**

- 485 a) The minimum incentive density increase requires that sites of 1 acre or more
486 provide on-site only the minimum required number of parking spaces.
487 b) The maximum increase requires that sites of less than 1 acre provide on-site only
488 the minimum required number of parking spaces.

489 **59-C-15.834. Pedestrian Through-Block Connections.**

490 A through-block connection enhances pedestrian mobility and helps to create a variety of
491 open spaces, particularly on larger blocks.

- 492 a) The minimum incentive density increase for a pedestrian through-block
493 connection requires that:
494 1) the pedestrian connection must provide direct access between streets;
495 2) the pedestrian connection must be at least 15 feet in width;
496 3) at least 35 percent of the walls facing the interior pedestrian connection
497 below a height of 8 feet must have clear, unobstructed windows, unless the
498 Planning Board finds that an alternative design is at least equally safe;
499 4) the pedestrian connection must be open to the public between sunrise and
500 sunset and, where it leads to a transit facility or publicly-accessible parking
501 facility within ½ mile, for the hours of operation of the transit and/or
502 parking facility; and
503 5) retail uses fronting both a pedestrian connection and a street must maintain
504 operable doors from both unless not required by the Planning Board during
505 site plan review due to exceptional site circumstances.
506 b) The maximum increase requires additional benefits such as:
507 1) direct connection to parks;
508 2) transit facilities;
509 3) public buildings;

- 510 4) pedestrian connection with accessible retail uses along a majority of its
- 511 length;
- 512 5) connections increased in width; or
- 513 6) public artworks integrated into the walk.

514 **59-C-15.835. Public Parking.**

- 515 a) The minimum increase requires providing on-site the difference between the
- 516 minimum number of required parking spaces and the maximum number of
- 517 allowed parking spaces as publicly accessible spaces for free or at a market rate.
- 518 b) The maximum increase requires providing public parking spaces, as required
- 519 above, in combination with additional improvements, such as constructing those
- 520 spaces underground or in a structure.

521 **59-C-15.836. Transit Access Improvement.**

- 522 a) The minimum incentive density increase for transit access improvements requires
- 523 that the improvements:
- 524 1) are located within 1/2 mile of the proposed development site or, in the
- 525 case of mobile transit improvements such as a bus shuttle, provide regular
- 526 access for passengers within 1/2 mile; and
- 527 2) are built to ADA accessibility standards as amended.
- 528 b) The maximum increase requires additional benefits such as closer access, new
- 529 access easements, connecting walkways, mezzanines, seating areas, structures for
- 530 wind/rain protection, or concourse areas.

531 **59-C-15.84. Diversity Incentives.**

532 **59-C-15.841. Adaptive Buildings.**

533 An adaptive building can adjust to a diversity of uses over time, which makes the

534 building more accommodating of mixed uses, more sustainable, and more embedded in

535 the pattern of a community.

- 536 a) The minimum incentive density increase for an adaptive building requires that:
- 537 1) the floor to floor dimension must be at least 15 feet for all floors; and
- 538 2) the internal floor plan is based on a structural system allowing flexibility
- 539 of volumes divisible from 1 open floor plate to any number of parceled
- 540 volumes.
- 541 b) The maximum increase requires additional benefits such as that:
- 542 1) the structural system has additive capacity for any available density and
- 543 height that is not used by the building without demolition of the structure;
- 544 or
- 545 2) the internal layout is built to allow changes between residential, retail, and
- 546 office uses by minor modifications.

547 **59-C-15.842. Affordable Housing.**

- 548 a) All residential development must comply with the requirements of Chapter 25A
- 549 for the provision of Moderately Priced Dwelling Units (MPDUs) and may satisfy
- 550 Chapter 25B for the provision of Workforce Housing Units (WFHUs).
- 551 b) Provision of MPDUs above the minimum required grants an incentive density
- 552 increase, providing the following standards are met:
- 553 1) the increase in density is calculated on the incentive density as required by
- 554 Chapter 25A;

- 555 2) the MPDUs must be reasonably distributed throughout the project; and
- 556 3) any dwelling units built under this section must be controlled under the
- 557 MDPU or WFHU provisions for a minimum period of 99 years.

558 *Example:* Provision of 14.5 percent MPDUs achieves an incentive density increase of 20 percent
 559 (25-A-5(c)(3)). In the case of a CR4.5, that would equal 0.20 x 4.0 (the incentive density), which
 560 is 0.8 FAR.

- 561 c) Provision of WFHUs grants an incentive density increase at the following rate: 2
- 562 times the percentage of units provided as WFHUs up to 30 percent.

563 *Example:* Provision of 5 percent WFHUs achieves an incentive density increase of 10 percent;
 564 provision of 12 percent WFHUs achieves an incentive density increase of 24 percent.

59-C-15.843. Care Center.

- 566 a) The minimum incentive density increase for a center for daytime adult or child
- 567 care requires a facility for at least 12 users and the general public must have the
- 568 opportunity to comprise at least 25 percent of the users.
- 569 b) The maximum increase requires additional benefits such as providing for
- 570 additional users, a safe drop-off area, an increase in users from the general public,
- 571 and recreation facilities provided above those required by law.

59-C-15.844. Community Facility.

- 573 a) The minimum incentive density increase for a community facility that helps meet
- 574 the needs of residents and workers requires that the community facility:
- 575 1) is recommended in the applicable master plan or sector plan;
- 576 2) is accepted for operation and use by an appropriate public agency,
- 577 community association, or nonprofit organization; and
- 578 3) is large enough for at least 50 users.
- 579 b) The maximum increase requires space large enough for 200 users and further
- 580 benefits, such as an entrance to the facility directly on the street, location of the
- 581 building within 10 feet of a public sidewalk, associated outdoor open space, or
- 582 integration into an area with a residential FAR of at least 2.0 (or at least 30
- 583 dwelling units per acre).

59-C-15.845. Small Business Retention

- 585 a) The minimum incentive density increase for providing small retail space is
- 586 eligible for incentive density requires at least 30 percent of the street level floor
- 587 space must be made available, for at least 6 years from the completion of the
- 588 project, for use by businesses that each use less than 3,000 square feet of gross
- 589 floor space and restaurants that each use less than 5,000 square feet of gross floor
- 590 space.
- 591 b) The maximum incentive density requires that at least 50 percent of the street level
- 592 floor space satisfies section a) and at least 50 percent of the street level exterior
- 593 wall area, fronting on sidewalks, plazas, or other public open spaces, must contain
- 594 windows and apertures.

59-C-15.846. Unit Mix and Size.

- 596 a) The minimum incentive density increase for creating residential buildings with a
- 597 minimum mix of dwelling unit types (calculated by rounding to the next higher
- 598 whole number) requires provision of at least:
- 599 1) 7.5 percent as efficiency dwelling units;

- 600 2) 8 percent as one-bedroom dwelling units;
- 601 3) 8 percent as two-bedroom dwelling units; and
- 602 4) 5 percent as three-bedroom dwelling units.
- 603 b) The maximum increase requires provision of at least (calculated by rounding to
- 604 the next higher whole number):
- 605 1) 10 percent as efficiency dwelling units;
- 606 2) 10 percent as one-bedroom units;
- 607 3) 10 percent as two-bedroom units; and
- 608 4) 7.5 percent as three-bedroom units.

609 **59-C-15.847. Public Facility Site.**

- 610 a) The minimum incentive density increase for a public facility site requires:
- 611 1) a recommendation in the applicable master plan or sector plan;
- 612 2) the site is accepted for operation and use by an appropriate public agency;
- 613 and
- 614 3) the dedication of at least 5 acres of land within the sketch plan area to the
- 615 appropriate public agency excluding public rights-of-ways.
- 616 b) The maximum incentive density increase requires the dedication of at least 20
- 617 acres.

618 **59-C-15.85. Design Incentives.**

619 **59-C-15.851. Floor Plate Size.**

- 620 a) The minimum incentive density increase for the provision of floor plate
- 621 restrictions requires that:
- 622 1) the floor area of any floor above a height of 120 feet does not exceed
- 623 10,000 square feet for residential uses or 19,000 square feet for non-
- 624 residential uses, or 12,000 square feet for mixed-uses (if not more than 60
- 625 percent of a mixed-use floor is used for any single use); and
- 626 2) the exterior of the building facing any street or public open space has at
- 627 least 60 percent glass on the floors with the reduced floor plate.
- 628 b) The maximum increase requires additional benefits, such as providing the reduced
- 629 floor plates in conjunction with the Exceptional Design factor, providing smaller
- 630 floor plates, combining this incentive with the tower setback, providing a larger
- 631 percentage of glass, or integrating sustainable technologies into the architecture.

632 **59-C-15.852. Historic Resource Protection.**

- 633 a) The minimum incentive density increase for the preservation of a historic resource
- 634 designated in the Master Plan for Historic Preservation requires that a
- 635 preservation strategy for the resource is approved by the Planning Board as part of
- 636 the site plan enforcement agreement and that a historic area work permit is issued
- 637 by the Historic Preservation Commission.
- 638 b) The maximum increase requires that other benefits are provided, such as
- 639 interpretive signs/exhibits, integration and construction of context-appropriate
- 640 landscapes and settings, or protection of important viewsheds.

641 **59-C-15.853. Parking Below Grade.**

- 642 a) The minimum incentive density increase requires that sites of 1 acre or more
- 643 provide all on-site parking spaces below the average grade of the primary street
- 644 frontage.

645 b) The maximum increase requires that sites of less than 1 acre provide all on-site
646 parking spaces below the average grade of the primary street frontage.

647 **59-C-15.854. Podium/Tower Setback.**

648 a) The minimum incentive density increase for the provision of a tower setback
649 requires that the tower must be set back from the first floor building frontage at or
650 below 72 feet and the setback must be at least 6 feet.

651 b) The maximum increase requires that the tower setback be at or below 50 feet and
652 that the setback be at least 12 feet.

653 **59-C-15.855. Public Art.**

654 Public art is considered a public benefit because it enhances the quality of place and
655 creates a sense of identity in a community.

656 a) The minimum incentive density increase for public art requires that it:
657 1) enhances the general or specific cultural objectives of the applicable
658 master or sector plan; and
659 2) is approved by the Public Arts Trust Steering Committee.

660 b) The maximum increase requires that, in addition to the above requirements, the
661 artwork fulfill at least 5 of the following goals as determined by the Public Arts
662 Trust Steering Committee:

- 663 1) achieve aesthetic excellence;
- 664 2) ensure an appropriate interaction between the art and the architectural
665 setting in terms of scale, materials, and context;
- 666 3) ensure public access and invite public participation;
- 667 4) encourage collaboration between the artist(s) and other project designers
668 early in the design phases;
- 669 5) ensure long-term durability of permanent works through material selection
670 or a documented maintenance program;
- 671 6) encourage a rich variety of arts including permanent, temporary
672 (revolving), and event programming;
- 673 7) increase public understanding and enjoyment of art through interpretive
674 information and/or programmed events; and
- 675 8) achieve a collection of commissioned art that is unique and contributes in
676 a positive way to the identity of the community.

677 c) A fee instead of public art may be accepted for incentive density as follows:

- 678 1) the minimum fee is calculated on 1 percent of the development's projected
679 cost;
- 680 2) the fee is paid to the Public Arts Trust Steering Committee;
- 681 3) the fee is used for installation, management, and maintenance of public art
682 at the discretion of the Public Arts Trust Steering Committee, with
683 preference given to the policy area where the proposed development is
684 located; and
- 685 4) the incentive density is equal to a 5 percent increase for every 1 percent of
686 projected development cost paid to the Public Arts Trust, up to 20 percent.

687 **59-C-15.856. Public Plaza/Open Space.**

688 Plazas are important public amenities and create interesting spaces and active gathering
689 areas.

- 690 a) The minimum incentive density increase for any plaza requires that:
- 691 1) the plaza is directly accessible to a street;
- 692 2) the plaza must be open to the public at least between sunrise and sunset;
- 693 3) no proposed loading or parking facilities should be visible below a height
- 694 of the fourth floor; and
- 695 4) the plaza must be in addition to any public use space required by the
- 696 development standards or other minimum open space requirement of this
- 697 Division.
- 698 b) The maximum increase requires that the above requirements are met, in addition
- 699 to the following:
- 700 1) the plaza's width must be at least 50 feet;
- 701 2) where the plaza is provided as part of a redevelopment, buildings facing
- 702 the plaza must be designed so that:
- 703 A) the walls of any non-residential floor area facing the plaza must
- 704 have windows on at least 60 percent of the façade below a height
- 705 of 40 feet; and
- 706 B) the main entry to any dwelling units is from a wall facing the plaza;
- 707 and
- 708 3) the plaza should contain seating, trash receptacles, landscaping, and other
- 709 amenities such as water features, kiosks, and passive recreation areas.

710 **59-C-15.857. Streetscape, Off-Site.**

711 Streetscape improvements enhance the pedestrian experience and better connect buildings

712 to the public spaces.

- 713 a) The minimum incentive density increase for streetscape improvements requires
- 714 that the following criteria are met:
- 715 1) the improvements must be located within 1/2 mile of the subject site; and
- 716 2) the improvements are equal to 18 percent of the net lot.
- 717 b) The maximum increase requires that the improvements be equal to at least 36
- 718 percent of the net lot area.

719 **59-C-15.858. Exceptional Design.**

720 The minimum incentive density increase for high-quality site and architectural design

721 requires that at least 3 of the following criteria are met; the maximum density increase

722 requires that at least 5 of the following criteria are met:

- 723 a) provides innovative solutions in response to the architectural context and
- 724 surrounding landscape, for example, by rotating floor plates for views or
- 725 reconciling offset street-walls;
- 726 b) creates a sense of place that will serve as a landmark in the community, for
- 727 example, by creating a distinguishing element that is visible from an important
- 728 view or at a gateway to an area;
- 729 c) enhances the public realm in a distinct and original manner, for example, by using
- 730 existing materials and forms in new ways to provide continuity and contrast;
- 731 d) adds to the diversity of the built realm within the community, for example, by
- 732 introducing new materials, building methods, or design styles;
- 733 e) uses design solutions to make compact/infill living, working, and shopping
- 734 environments pleasurable and desirable, for example, by retrofitting surface

- 735 parking lots and single-use retail malls or creating multi-use, pedestrian-
736 dominated realms in previous auto-oriented areas; and
737 f) integrates environmentally sustainable solutions, for example, by using
738 stormwater management facilities that incorporate best management practices in
739 an apparent and observable way or integrating passive solar features into the
740 visible structure of a building or site.

741 **59-C-15.86. Environment Incentives.**

742 **59-C-15.861. Bio-retention and Stormwater Recharge.**

- 743 a) The minimum incentive density increase for the use of bio-retention and recharge
744 facilities requires that at least 25 percent of projected stormwater outfall for a 10-
745 year event be contained and recharged on site or within ¼ mile of the site.
746 b) The maximum increase requires that at least 50 percent of projected stormwater
747 for a 10-year event be contained and recharged.

748 **59-C-15.862. Conveyed Parkland.**

- 749 a) The minimum incentive density increase for land conveyed to the M-NCPPC for
750 inclusion in or provision of parkland, trail area, or other master-planned Parks'
751 use requires conveyance of at least of 15 percent of the gross lot area.
752 b) The maximum increase requires conveyance of at least 30 percent of the gross lot
753 area.

754 **59-C-15.863. Dark Skies.**

- 755 a) The minimum incentive density increase for dark skies-compliant projects
756 requires that they be built and maintained in conformance with the standards
757 established by the International Dark-Sky Association as amended.
758 b) The maximum increase requires that the exterior lighting plan be integrated into
759 an energy efficiency plan for the entire project submitted and approved by the
760 Planning Board with a site plan application.

761 **59-C-15.864. Energy Efficiency and Generation.**

- 762 a) The minimum density incentive increase for the use of on-site renewable energy
763 generation requires that buildings must meet the minimum energy efficiency
764 standards of 17.5 percent for new buildings, 10.5 percent for existing buildings, or
765 generate at least 1.5 percent of their energy on-site.
766 b) The maximum increase requires additional benefits such as greater energy
767 efficiency and the generation of at least 2.5 percent of energy on-site.

768 **59-C-15.865. Green Walls**

- 769 a) The minimum incentive density increase for a green wall requires that it:
770 1) must be designed, installed, and maintained to cover at least 30 percent of
771 the area of a blank wall or parking garage facing a street or plaza; and
772 2) must be found to add to the aesthetic quality and environmental
773 sustainability of the project.
774 b) The maximum increase requires additional benefits such as a greater percent of
775 coverage, southern or western exposure, the use of plants with varying flowering
776 seasons, or integration into an overall energy or environmental site design
777 program.

778 **59-C-15.866. LEED Rating.**

779 A LEED-rated building or equivalent rating system approved under Chapter 8 Article VII
780 is eligible for an incentive density increase if it meets any continuing requirements
781 necessary to maintain that status. (<http://www.usgbc.org/Default.aspx>) The amount of
782 incentive density increase is equal to the following:

- 783 a) LEED Silver: 10 percent
- 784 b) LEED Gold: 20 percent
- 785 c) LEED Platinum: 30 percent

786 **59-C-15.867. Rainwater Reuse.**

- 787 a) The minimum incentive density increase for the collection of rainwater for on-site
788 irrigation, grey-water use, or filtration for re-use requires that a minimum of 25
789 percent of projected rainwater for a 10-year event be collected and used on-site or
790 within ¼ mile of the site.
- 791 b) The maximum increase requires that at least 50 percent of projected rainwater for
792 a 10-year event be collected and used.

793 **59-C-15.868. Transferable Development Rights.**

794 The incentive density increase for the purchase of transferable development rights
795 (TDRs) must meet the following:

- 796 a) the purchase must be executed and recorded before approval of a record plat;
- 797 b) the use of this incentive must be for development on land recommended as a TDR
798 receiving area in the appropriate master or sector plan;
- 799 c) TDRs must be purchased in increments of 10; and
- 800 d) the incentive density increase is equal to 10 percent for every 10 TDRs purchased,
801 up to 30 percent.

802 **59-C-15. 869. Tree Canopy.**

- 803 a) The minimum incentive density increase for the provision of tree canopy requires
804 coverage of at least 25 percent of the on-site open space at 15 years growth.
- 805 b) The maximum increase requires coverage of at least 50 percent of the on-site open
806 space at 15 years growth.

807 **59-C-15.8610. Vegetated Area.**

- 808 a) The minimum incentive density increase for a vegetated area requires that the
809 following criteria are met:
 - 810 1) the area must be in addition to any required on-site open space or any
811 vegetated roof incentive;
 - 812 2) the area must replace at least 5,000 square feet of impervious area;
 - 813 3) the area provides at least 12 inches of soil depth; and
 - 814 4) the area is planted with well-maintained vegetation.
- 815 b) The maximum increase requires additional benefits, such as larger area or greater
816 soil depth.

817 **59-C-15.8611. Vegetated Roof.**

- 818 a) The minimum incentive density increase for a vegetated roof requires that the:
 - 819 1) vegetated roof must cover at least 33 percent of the roof of the building,
820 excluding any space occupied by mechanical equipment; and
 - 821 2) soil or media depth must be at least 4 inches.
- 822 b) The maximum increase requires coverage of at least 60 percent of the roof area.

823 **59-C-15.87. Special Regulations for Purchase of Building Lot Termination (BLT)**
 824 **Development Rights.**

- 825 a) A development under the Optional Method must purchase building lot termination
 826 (BLT) easements under Chapter 2B, or a contribution must be made to the
 827 Agricultural Land Preservation Fund under Chapter 2B equal to 12.5 percent of
 828 the incentive density floor area using the following formula:
- 829 1) one BLT easement is required for each 9,000 square feet of residential
 830 floor area;
 - 831 2) one BLT easement is required for every 7,500 square feet of non-
 832 residential floor area.
- 833 b) When a BLT easement cannot be purchased or the amount of floor area attributed
 834 to a building lot termination easement is a fraction of the floor area equivalent,
 835 payment must be made to the Agricultural Land Preservation Fund according to
 836 the rate set annually by executive regulation.

837 **59-C-15.9. Existing Approvals.**

- 838 a) A lawfully existing building or structure and the uses therein, which predates the
 839 applicable sectional map amendment, is a conforming structure or use, and may be
 840 continued, renovated, reconstructed to the same size and configuration, or enlarged up to
 841 10 percent above the existing floor areas or 30,000 square feet, whichever is less, and
 842 does not require a site plan. A larger addition requires compliance with the full
 843 provisions of this Division.
- 844 b) A project that received an approved development plan under Division 59-D-1 or
 845 schematic development plan under Division 59-H-2 before the enactment of the CR zones
 846 may proceed under the binding elements of the development plan and will thereafter be
 847 treated as a lawfully existing building and may be renovated or reconstructed under
 848 Subsection (a) above. Such projects may be amended as allowed under Division 59-D-1
 849 or 59-H-2, under the provisions of the previous zone; however, any increase in the total
 850 floor area or building height beyond that allowed by Subsection (a) above requires full
 851 compliance with the full provisions of this Division. If a site plan is required for a
 852 modification and the entire project has an approved site plan, only the area of disturbance
 853 due to the modification is subject to a new site plan.
- 854 c) A project which has had a preliminary or site plan approved before the applicable
 855 sectional map amendment may be built or altered at any time, subject to either the full
 856 provisions of the previous zone or this division, at the option of the owner. If built under
 857 the previous approval, it will be treated as a lawfully existing building and may be
 858 renovated or reconstructed under Subsection (a) above. If built with an incremental
 859 increase over the previous approval, only that incremental increase must comply with the
 860 provisions of this Division.
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