

**PLEASE BRING THE JUNE 13 STAFF MEMORANDUM TO THIS MEETING**

**MEMORANDUM**

July 7, 2011

TO: Planning, Housing, and Economic Development Committee  
FROM: Jeff Zyontz,  Legislative Attorney  
SUBJECT: Zoning Text Amendment 11-01,  
Commercial/Residential Zones – Neighborhood and Town Zones

On July 11, 2011, the Committee will go through a discussion of public benefits in the Commercial/Residential zones. The memorandum details incentive density math, transit proximity, and affordable housing incentives. Planning Staff provided details of all public benefits (© 1-19). The Planning Staff material includes options for the Council. This memorandum also includes a summary of Committee decisions to date.

**Public Benefits**

There is no dispute that public benefits in the CR zones are a complex subject. The math is unique. There are currently 35 possible benefits. As proposed in ZTA 11-01, some public benefits “earn” a minimum number of points with no maximum; some public benefits have a maximum number of points but do not have a minimum number of points. There is a requirement to have a diversity of public benefits in every project.

Nothing is more important than determining how many public benefits an applicant must provide to get incentive density. This is the core of public benefit mathematics. The Council should get comfortable with the math before getting into the details of specific public benefits.

**Public Benefit Mathematics**

**Current Provision**

Currently, the amount of density allowed for each public benefit is described as a percentage of incentive density. What is incentive density? It is the density proposed by the project zone minus the density allowed for standard method development. The amount of public benefits remains the same for any size project, but the floor area allowed for a benefit varies with the FAR and the size of the parcel. Calculating incentive

density in this manner is an inducement for developers to try to achieve the maximum density allowed by zoning for their projects.<sup>1</sup>

### Proposed Changes

ZTA 11-01 proposes 2 changes in order to allow development to proceed with fewer obligations in the CRT zones: 1) the amount of density allowed for standard method development projects would increase to 1.0 FAR; and 2) the current provisions for each benefit to be a percentage of incentive density would change to a point system. Fewer points (50) would be required for optional method development in the CRT zone.<sup>2</sup> CR zones would be required to get 100 points for approval (Lines 602-608). In terms of CR zone math, what is currently a percentage would become a point under ZTA 11-01.

The maximum allowed points for some benefits would be lower for CRT zones than the for CR zones. In a manner identical to the current CR math, incentive density points have no relationship to the FAR of the project or the absolute floor area in the applicant's project. The proposed point system retains an incentive for a developer to seek the maximum density allowed by the zone.

The CRN zones would not allow optional method density.

The Executive recommended a direct tie between the quantity of a public benefit and the amount of density allowed. This would change the point system process proposed by the Planning Board.<sup>3</sup> Under this concept, a stated quantity of a public benefit would "earn" the project a specific amount of floor area.<sup>4</sup>

### Public Benefit Categories

The amount of density varies with each project. The percentage of incentive density is determined by the text of the zone. The CR zone has 6 public benefit categories (Lines 591 -596):

- Master-Planned Major Public Facilities
- Transit Proximity
- Connectivity and Mobility
- Diversity of Uses and Activities
- Design Quality
- Natural Environment Protection & Enhancement

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<sup>1</sup> Example:

In the CR-4,C-4,R-2,H200 zoned project, an applicant proposes a density of 3.5 FAR. The incentive density is 3.0 FAR (the maximum allowed FAR - 3.5 minus the density allowed under the standard method of development -.5). Each public benefit earns the applicant an established percentage of incentive density for the benefit.

In the same zone, if the applicant proposed a 2.5 FAR, the incentive density would be 2.0 FAR. The percentage of incentive density for each public benefit is the same as it would be for a 3.5 FAR project.

<sup>2</sup> ZTA 11-01 would delete a provision requiring that the public benefits be consistent with master or sector plan recommendations. This is an editorial change. Master plan conformance is required for sketch plan approval. The outline for public benefits is determined at sketch plan.

<sup>3</sup> Staff did not receive material from the Executive to put this concept into precise revisions to ZTA 11-01.

<sup>4</sup> If the Council did not want to create an incentive for maximum density, the incentive density could be established as the maximum floor area allowed by the zone minus standard method density. Under this type of provision, an applicant who proposed using only 30 percent of the incentive density would be required to satisfy fewer public benefits (or smaller public benefits). Under this new math, a project using 30 percent of its maximum density would have to "earn" only 30 percent of the points that a full density project would have to earn.

Connectivity, Diversity, Design, and Environment have lists of individual public benefits and amenities that an applicant may provide to obtain incentive density. These are categories and individual public benefits from which an applicant may choose. An applicant would be required to get points from 4 of the 6 categories (Lines 602-603). As introduced, some public benefit categories do not have a maximum number of points that may be gained from the benefit. The new material from Planning Staff includes recommendations for point maximums.

Transit proximity

Current Provision

Transit proximity in CR zones reduces parking requirements and results in a project earning a percentage of its incentive density. What is transit proximity? The current definition of transit proximity is as follows (Lines 168 -170):

**Transit proximity:** Transit proximity is categorized in two levels: 1. proximity to an existing or planned Metrorail Station; 2. proximity to an existing or planned station or stop along a rail or bus line with a dedicated, fixed path. All distances for transit proximity are measured from the nearest transit station entrance or bus stop.

The current percentage of incentive density allowed for transit proximity in the CR zones is as follows (Lines 682-683):

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

A project near a major transit facility receives a specified percentage of its incentive density, depending upon the type of transit service and the project’s distance from the transit facility.

Proposed changes

The Planning Board recommends amending the definition of transit proximity. As introduced, the definition would require some assurance of project funding to count the transit facility. The May 13 letter from the Planning Board recommended against that idea but would define a “planned” facility as a “master-planned” facility. Testimony questioned counting MARC service as a transit facility.

The incentive density point system recommended by the Planning Board and the possibility of optional method development on CRT zoned property required changes to the current provision. The Planning Board proposes the following incentive density points for transit proximity (Lines 683-684; see also © 1):

<b>Proximity</b>	<b>Adjacent or confronting</b>		<b>Within ¼ mile</b>		<b>Between ¼ and ½ mile</b>		<b>Between ½ and 1 mile</b>	
	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>
<b>CRT</b>	<u>25</u>	<u>15</u>	<u>20</u>	<u>12.5</u>	<u>15</u>	<u>10</u>	<u>10</u>	<u>7.5</u>
<b>CR</b>	<u>50</u>	<u>30</u>	<u>40</u>	<u>25</u>	<u>30</u>	<u>20</u>	<u>20</u>	<u>15</u>

## Why allow any incentive density points for transit proximity?

Behind all of the calculations and the numbers is a philosophy that development should be easier to do near transit stations. The maximum density allowed by the zoning is likely to be higher for a site near transit than for a site further away. It is the most socially desirable place for development. If smart growth is development near some form of transit, brilliant growth is development within walking distance of fixed rail or fixed right-of-way bus routes. If it is brilliant growth, shouldn't the County make it easier to develop as close to Metrorail as possible?

Standard method densities are low in CR zones. Any density above standard method limits (.5 in the CR zones and 1.0 in the CRT zones) requires approval of a project with public benefits. If the density allowed by standard method development were higher, as it is in CBD zones, then the amount of incentive density would be reduced and the number of optional method projects would be reduced. The provision for transit proximity eases the burden of the optional method process density without increasing the amount of density allowed by the standard method. At some point, the burden of public benefits required by optional method development will be a disincentive to any optional method development in Takoma/Langley or Wheaton.

## Why allow greater density with master planned transit?

This was a subject of considerable Planning Board discussion. Master Plans encourage development near master planned transit lines in part because it will help justify construction of the transit. On the other hand, the time between transit recommended in a master plan and having the transit on the ground can be considerable. The Planning Board ultimately recommended allowing a project near a master planned transit facility to qualify for reduced parking and incentive density.

The Council considered the issue of including MARC rail for the purpose of transit proximity when it established the CR zones. It decided that MARC stations should count as transit. The establishment of the CRT and CRN zones and their application near MARC stations can reduce the negative effects of counting MARC as transit because the projects would be required to provide more parking spaces than CR zoned property. Staff agrees with the Planning Board that phasing of a project with multiple buildings may solve some potential problems of allowing density before a master planned transit facility is funded. *Staff agrees with the changes recommended by the Planning Board.*

## Affordable housing

### Current Provision

All residential development must comply with the requirements of Chapter 25A for the provision of Moderately Priced Dwelling Units (MPDUs) and may provide Workforce Housing Units (WFHUs) under Chapter 25B (Lines 747- 769).

The percent of incentive density for the provision of MPDUs above the 12.5% minimum required is equal to the MPDU density bonus as allowed by Chapter 24A. This can yield a maximum of 22% of incentive density. The percentage of incentive density allowed for the provision of WFHUs is calculated at 2% for each percent of units provided as WFHUs.<sup>5</sup> The maximum percent of incentive density that could be achieved by WFHUs is 30 percent.

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<sup>5</sup> Example:

Total units proposed:	100 units
MPDUs percent provided:	14.5 of units
MPDUs required:	15 MPDUs
MPDU Density (from 25A):	20 % MPDU density

## Proposed Changes (© 8)

The Housing Opportunities Commission (HOC) proposed alternatives to the affordable housing incentive (© 64-66). Federal Realty opposed one of HOC's alternatives which would have required additional MPDUs in order to approve the last 20% of density (© 67). After a discussion of the affordable housing alternatives, an HOC representative and Department of Housing and Community Affairs (DHCA) suggested the following alternative:

- 1) for the first 2.5% of MPDUs above the minimum 12.5% of MPDUs, allow 30 benefit points (12 benefit points for every 1% increase);
- 2) for every additional 1% of MPDU's thereafter, allow an additional 2 benefit points up to a maximum total public benefit for affordable housing of 40 points;
- 3) for the MPDUs above 12.5%, allow a developer to make a payment to a fund<sup>6</sup> instead of providing MPDUs on site; the amount of the payment would be determined by Council approved Executive regulations;<sup>7</sup>
- 4) delete workforce housing as a public benefit category.

Under this alternative, the first 2.5 % of optional MPDUs (above 12.5%) would increase public benefit points from 22 points to 30 points. The proposal would increase the maximum public benefit points for MPDUs from 22 points to 40 points. This alternative may be even more attractive to developers because it would provide more public benefit points and allows for a cash payment instead of providing additional MPDUs on site. Planning Staff may wish to express an opinion on this alternative at the Committee's worksession.

This alternative would eliminate public benefit points possible from providing workforce housing. As proposed, ZTA 11-01 would allow 52 public benefit points for both MPDUs and workforce housing. This alternative would allow a maximum of 40 points for MPDUs.

### Other Public Benefits

Testimony recommended retaining the current text for small business retention; ZTA 11-01 would change the title to small business opportunities (Lines 777-778). The Executive's testimony recommended deleting the recycling benefit, as recycling is required (Lines 929 - 932). He also recommends increasing the incentive for affordable housing (Lines 755 - 769). Testimony requested a clear legislative history that the historic preservation public benefit is intended to be applied to contributing resources in a historic district

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WFHUs percent provided	5.0 of units
WFHUs :	5 WFHUs
Calculated Market Rate Units Allowed:	80 Market Rate Units
Calculation:	10% WFHU density
Calculation:	30% incentive density

<sup>6</sup> The Council could determine if the Housing Initiative Fund is adequate for this purpose or if it should require a more targeted fund towards providing affordable housing in the same area as the development.

<sup>7</sup> While the proposal to enhance the density points for providing additional MPDUs would allow a developer to make an alternative payment for MPDUs above 12.5% rather than having to build additional MPDUs on site, the PHED Committee has discussed amending Bill 38/38-07 to allow developers to make an alternative payment in place of providing any or all MPDUs on site in high-rise construction. This Bill is still being considered by the PHED Committee; there has been no decision on what the payment will be and whether an alternative payment would be allowed for both rental and for-sale units. The Director of DHCA would note that the suggested alternative would not allow at buyout of of the minimum MPDU requirement (the first 12.5% of MPDUs). As such, in the Director's opinion the Council's action on Bill 38/38-07 is a separable issue from this public benefit alternative.

(Line 805).<sup>8</sup> Some testimony suggested the list of benefits is too long and would not result in benefits most desired by neighbors. The White Flint Partnership provided comments on each public benefit in their letter of June 24, 2011 (© 72-74). Some testimony offered different numeric provisions for public benefits (e.g., vegetative area points should be earned based on a percentage (5%) of the developable area devoted to that purpose, not an absolute number (5,000 square feet); the dwelling unit mix should not require 3 bedroom units).

Planning Staff will explain the reasons for the public benefits in ZTA 11-01 at the Committee’s worksession.

**Table of all other public benefits**

<b>Public Benefit</b>	<b>Number of Benefit Points (minimum or calculation)</b>	<b>© Page</b>	<b>Line #</b>
Major Public Facility	Up to 40 in CRT – Up to 70 in CR	© 1	669-708
Neighborhood retail services	At least 10 (10 small retailers within ¼ mile)	© 2	709
Minimize Parking	Up to 10 (less than maximum parking)	© 3	713-714
Through-Block Connections	Up to 20 (no minimum)	© 4	717
Public Parking	Up to 25 (no minimum amount)	© 5	719
Transit Access Improvements	Up to 20 (no minimum)	© 5	721
Trip Mitigation Agreement	At least 15 (non-auto mode share at least 50%)	© 6	724
Off-site Streetscape	Up to 20 (no minimum)	© 5	729
Advance Dedication of Master Plan ROW	Up to 30 (no minimum)	© 6	731
<b>Way-Finding</b> (new benefit)	At least 5 (no minimum)	© 7	734-736
Adaptive Building	At least 10 (15 ft. floor height at grade – 12 ft. floor height above grade)	© 8	770
Child or Adult Care Centers	Up to 20 (space for at least 15 users)	© 9	775
Small Business Opportunities	Up to 20 (possible duplicate points with neighborhood retail services)	© 9	777
Dwelling Unit Mix (# of bedrooms)	At least 5 (min. % by # of bedrooms)	© 9	779
Enhanced Accessibility for the Disabled	Up to 20	© 10	782
<b>Live/Work Units</b> (new benefit)	At least 10 (3 units or 10% of density-up to 2 FAR)	© 10	786-788
Historic Protection	Up to 20 (no minimum)	© 11	803-804
Structured parking	Up to 20 (no minimum)	© 11	811
Tower Step-Back	At least 5 (at least 6 feet)	© 12	814
Public Art	Up to 15 (Arts Council review but no minimum)	© 12	818
Public Open Space (new payment option)	Up to 20 (above the minimum required – 0 to 10%)	© 13	822
Exceptional Design	Up to 10 (must enhance the character of a setting)	© 14	836-837
<b>Architectural Elevations</b> (new benefit)	Up to 20 (windows, doors, awnings, signs, lighting)	© 14	840
BLT Purchase	Up to 30 (min. 5% in the CR zones – Line 607; specific calculations for BLTs)	© 15	854
Energy Conservation	At least 10 (exceed current efficiency by 17.5%)	© 15	906

<sup>8</sup> Historic Resource Protection: Up to 20 points for the preservation and/or enhancement of or payment towards preservation and/or enhancement of a historic resource or a contributing element within a historic district designated in the Master Plan for Historic Preservation.

Public Benefit	Number of Benefit Points (minimum or calculation)	© Page	Line #
Energy Generation	At least 15 (at least 2.5% of energy needs)	© 15	909-911
Vegetated Wall (formerly "Green Wall")	At least 5 (cover at least 100 square feet or 30%)	© 16	913
Tree Canopy	At least 10 (25% of open space covered in 15 years)	© 16	917
Vegetated Area	At least 5 (at least 5,000 square feet)	© 17	919
Vegetated Roof	At least 10 (at least 1/3 with 4 inches of soil)	© 17	922
Cool Roof (new benefit)	At least 5 (minimum SRI – slope dependent)	© 18	925-928
Recycling Facility Plan	At least 5 (compliance with executive regulations)	© 18	929-932
Habitat Preservation / Restoration (new benefit)	Up to 20 (in addition to forest conservation)	© 19	933-936

### Summary of the Committees' decisions to date

The Committee requested staff to provide additional text to the objectives provision of the ZTA (lines 109-125). The purpose of the addition would be to offer greater protection to single family detached lots adjoining any of the CR zones from undue building height and bulk.

The Committee agreed to recommend the following changes to ZTA 11-01:

- 1) Density averaging – change so that averaging must be indicated on optional method sketch plans in the CR and CRT zones and may be indicated in site plans for standard method development;
- 2) Sketch plan amendment - agreed with the Planning Board's proposed changes (in its May 13 letter to the Council) to the sketch plan amendment process (3-0)<sup>9</sup>;
- 3) Timing between sketch plans and preliminary plans - change to allow a preliminary plan to be submitted at the same time or after a sketch plan application is submitted but not yet approved (3-0);

<sup>9</sup> (d) During site plan review, the Planning Board may approve [[modifications to the binding elements or conditions of an approved sketch plan.

- (1) If changes to a sketch plan are requested by the applicant, notice of the site plan application must identify those changes requested. The applicant has the burden of persuading the Planning Board that such changes should be approved.
- (2) If changes are recommended after the application is made, notice of the site plan hearing must identify changes requested.
- (3) In acting to approve a sketch plan modification as part of site plan review, the Planning Board must make the findings required in Section 59-C-15.42 (c) in addition to those required by Section 59-D-3.]] amendments to the binding elements of an approved sketch plan.
  - (1) Amendments to the binding elements may be approved if such amendments are:
    - (A) requested by the applicant;
    - (B) recommended by the Planning Board staff and agreed to by the applicant; or
    - (C) made by the Planning Board, based on a staff recommendation or on its own initiative, if the Board finds that a change in the relevant facts and circumstances since sketch plan approval demonstrates that the binding element either is not consistent with the applicable master or sector plan or does not meet the requirements of the zone.
  - (2) Notice of proposed amendments to the binding elements must be identified in the site plan application if requested by the applicant or in the final notice of the site plan hearing if recommended by Planning Board staff and agreed to by the applicant.
  - (3) For any amendments to the binding elements, the Planning Board must make the applicable findings under Section 59-D-43(c) in addition to the findings necessary to approve a site plan under Section 59-D-3.

- 4) Site Plan Trigger - clarify that the 10,000 square feet of development trigger for site plan is a cumulative number from the date that a CR zone is applied (3-0);
- 5) Site Plan conformance to Master Plans – change lines 340 to 344 of ZTA 11-01 to read as follows:  
Development that requires a site plan must be substantially consistent with the applicable master plan or sector plan and any design guidelines approved by the Planning Board that implement the applicable plan (3-0);
- 6) Automobile Parking Requirements - revise the parking requirements table as recommended by the Planning Board in its May 13 letter to the Council (3-0)<sup>10</sup>;
- 7) Bicycle Parking - reduce the bicycle parking requirement to .35 spaces per dwelling unit for multifamily dwelling units;
- 8) Land Use Table Major Categories - Amend the land use table to have major residential and non-residential categories (3-0).

The Committee discussed and made recommendations on the following land uses in the CRN zones. The following table lists land uses in the order that the use appears in ZTA 11-01. Land uses that are underlined and in bold text indicate a change from ZTA 11-01 as introduced:

<u>Land use</u>	<u>Limited / Permitted / Special Exception</u>	<u>Committee vote</u>
Farm and Country Market	Limited	3-0
Group Homes, large	Limited	2-1 Councilmember Elrich would make the use a special exception
Hospice care	Limited	2-1 Councilmember Elrich would make the use a special exception
Housing for Seniors and Disabled	Permitted	2-1 Councilmember Elrich would make the use a special exception
<b><u>Ambulance or Rescue Squads, Private</u></b>	PROHIBIT	2-1 Councilmember Floreen would make the use limited as recommended by the Planning Board

<sup>10</sup>

Use	CRN		CRT		CR			
Distance from a level 1 or 2 transit station or stop	Up to ½ mile	Greater than ½ mile	Up to ½ mile	Greater than ½ mile	Up to ¼ mile	¼ to ½ mile	½ to 1 mile	Greater than 1 mile
<b>(a) Residential</b>								
Maximum:	None	None	59-E	None	59-E	59-E	59-E	None
Minimum:	0.8	1.0	0.7	0.8	0.6	0.7	0.8	0.9
<b>(b) Retail and restaurant non-residential uses (gross leasable indoor area; no parking spaces are required for outdoor patron area)</b>								
Maximum:	<del>[[59-E]]</del> None	None	<del>[[59-E]]</del> None	None	59-E	59-E	59-E	None
Minimum:	<del>[[0.6</del>	0.8	0.4	0.6	4 per 1,000 square feet	4 per 1,000 square feet	4 per 1,000 square feet	0.8]]
<u>4 per 1,000 square feet</u>								
<b>(c) All other non-residential uses</b>								
Maximum:	59-E	None	59-E	None	59-E	59-E	59-E	None
Minimum:	<del>[[0.6]]</del> 0.8	<del>[[0.8]]</del> 1.0	<del>[[0.4]]</del> 0.6	<del>[[0.6]]</del> 0.8	0.2	0.4	0.6	0.8

<u>Land use</u>	<u>Limited / Permitted / Special Exception</u>	<u>Committee vote</u>
Auto rental services (no storage)	Permitted	3-0 but prohibit overnight parking
<b><u>Auto sales, indoor</u></b>	PROHIBIT	2-1 Councilmember Floreen would allow the use as a Limited use
<b><u>Clinics</u></b>	Permitted	2-1 Councilmember Elrich would make the use a special exception
Eating and Drinking establishments	Limited	2-1 Councilmember Elrich would make the use a special exception
Health Clubs / gyms	Limited	2-1 Councilmember Elrich would make the use a special exception
<b><u>Hotels / motels</u></b>	PROHIBIT	3-0
Dry Cleaner / Laundry pick-up	Permitted	3-0
<b><u>Dry Cleaner / Laundry Under 3,000 square feet GFA</u></b>	<b><u>Permitted in the CRT and CR zones; not permitted in the CRN zones</u></b>	3-0
<b><u>Recreation Facilities, Participatory</u></b>	Special Exception	2-1 Councilmember Floreen would make the use limited as recommended by the Planning Board
Retail Trades / Personal Services < 5,000 ft	Permitted	3-0
<b><u>Vet Hospital (no boarding)</u></b>	Special Exception	2-1 Councilmember Floreen would make the use permitted as recommended by the Planning Board
<b><u>Charitable / philanthropic</u></b>	Permitted	2-1 Councilmember Elrich would make the use a limited
<b><u>Cultural Institutions</u></b>	Split by size; permit small uses; PROHIBIT large uses	3-0
Day Care > 30+ users	Limited	2-0-1 Councilmember Leventhal abstaining
Day Care < 30 user	Permitted	2-0-1 Councilmember Leventhal abstaining
Educational institutions, private	Limited	3-0
Manufacturing, artisan	Permitted	3-0 add in the definition that the sight, sound, or odor must be undetectable by any neighboring dwelling unit

The Committee discussed but did NOT recommend changes to the following provision from ZTA 11-01 as introduced:

- 1) adding a development standard to limit dwelling units per acre;
- 2) adding a new CRHistoric zoning series;
- 3) requiring a mix of land uses for a developer to be able to build anything;
- 4) changes to the triggers for site plan approval other than making sure that the 10,000 square foot trigger is cumulative (3-0);
- 5) a requirement for sketch plan in the CRN zone (2-1 Councilmember Elrich opposed);
- 6) including "vehicle inventory storage" as a permitted use (3-0);
- 7) including "dry cleaning, pick-up" within the definition of general retail (3-0);
- 8) limiting the definition of "seasonal outdoor sales" (3-0);
- 9) prohibiting counting on-street parking toward meeting parking requirements (3-0);

- 10) deleting the provision to allow the Planning Board to waive parking requirements (3-0);
- 11) requiring specific setback from residential zones and drive-throughs (3-0);
- 12) requiring more public use space (2-1 Councilmember Elrich opposed).

Staff was asked to work with Councilmember Elrich to draft text to limit the applicability of CR zones when the zones are not recommended by master or sector plans.

Staff was directed to ask DPS how it would treat an existing project that changes uses from a permitted use to a limited use and how it would treat uses allowed in 2 different categories.

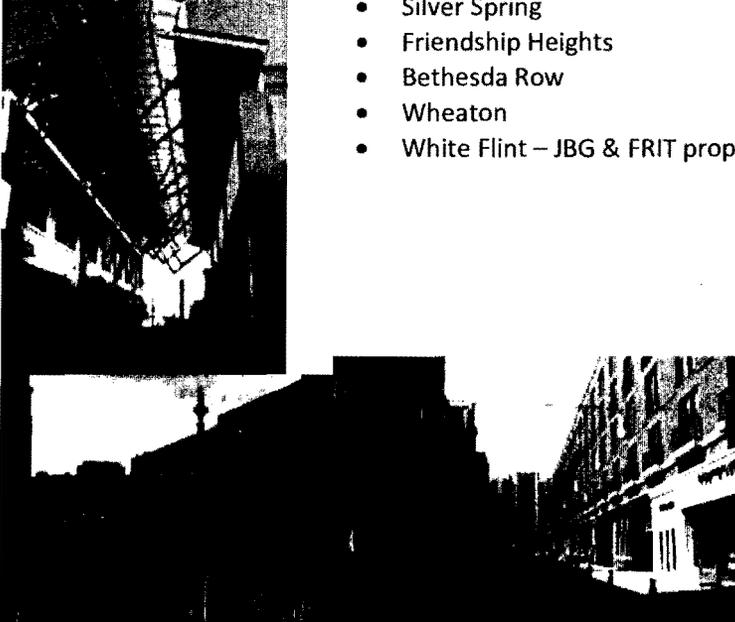
The response to Councilmember Leventhal’s objection to the use of the terms “standard method of development” and “optional method of development”; the Planning Director agreed to review those terms in the Zoning Ordinance Rewrite process. No changes were recommended for ZTA 11-01.

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Public Benefit	Point Range	Description	Citation
Major Public Facility	Up to 40 in CRT; up to 70 in CR	Land, floor area, and/or construction of facilities that serve public needs	59-C-15.851 ZTA 11-01 ©35, line 651
Goals	<ul style="list-style-type: none"> <li>Conveyance of land and/or construction of public facilities where public land and/or funds are not available.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>CBD text amendments for Fillmore, police station, etc.</li> <li>Park upgrades &amp; conveyance; recreation centers, etc. through master plan guidance.</li> <li>ZTA for Bethesda police station.</li> </ul>		
Example		<ul style="list-style-type: none"> <li>Wisconsin Place Community Recreation Center could be awarded up to 34%.</li> <li>(20,000sf out of 1,000,000sf total on 8 acres).</li> </ul>	
Notes	<ul style="list-style-type: none"> <li>Flexibility needed for changing needs and unforeseen opportunities.</li> <li>Master-planned public facilities remain priorities per conformance finding.</li> <li>Only granted for improvements beyond applicable APF requirements.</li> </ul>		
Transit Proximity	20 to 50 points in CR for metro; 7.5 to 25 points in CRT	Development near existing or master-planned transit facilities	59-C-15.852 ZTA 11-01 ©36, line 675
Goals	<ul style="list-style-type: none"> <li>Encourage development near transit.</li> <li>Reduce VMTs &amp; encourage maximum use of existing infrastructure.</li> <li>Encourage revitalization in areas that have lagged behind without need for financial incentives.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>LEED for Neighborhood Development Smart Location &amp; Linkage Prerequisite 1: Smart Location.</li> <li>HUD/EPA/DOT Sustainable Communities Program Strategy.</li> <li>Synchs with PlanMaryland targeted growth and revitalization areas.</li> <li>32 states provide an incentive for proximity to transit in their tax credit programs.</li> </ul>		
Example	<ul style="list-style-type: none"> <li>White Flint sketch plans were awarded 30, 33 and 40 points in an area where no significant development occurred during the "boom" years in the early 2000s.</li> </ul>		
Notes	<ul style="list-style-type: none"> <li>Very few projects qualify for 50 points in CR or 15 points in CRT.</li> <li>Maximum for level 2 transit is 15 points in the CRT zones and only if adjacent to station; most sites qualify for 7.5 to 12.5 points.</li> <li>Council approved maximum points.</li> </ul>		

Primary Benefit	Point Range	Description	Citation
<b>Connectivity &amp; Mobility</b>			
<b>Neighborhood Services</b>	<b>10 points</b>	<b>Location near at least 10 different services within ¼ mile</b>	<b>59-C-15.853(a) ZTA 11-01 ©37, line 709</b>
Goals	<ul style="list-style-type: none"> <li>• Encourage development where vehicle trips are not necessary to obtain daily services.</li> <li>• Promote walking and environmental protection.</li> <li>• Support local businesses.</li> <li>• Support “park-once” model.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• GSSC and other area properties will not necessarily qualify without provision of some services by new development.</li> <li>• CA SB375 provides incentives for locating new development near transit &amp; 10 basic services to minimize VMTs and maximize return for transit infrastructure investment.</li> <li>• EPA’s Essential Smart Growth Fix #1: Encourage or require mixed uses.</li> <li>• HUD/EPA/DOT Sustainable Communities Program Strategy: Enhance economic competitiveness. Improve economic competitiveness through reliable and timely access to employment centers, educational opportunities, services and other basic needs by workers as well as expanded business access to markets.</li> <li>• LEED for Neighborhood Development Neighborhood Pattern &amp; Design Credit 2: Diversity of Uses.</li> </ul>		
Example		<ul style="list-style-type: none"> <li>• Used by White Flint sketch plans for up to 10% incentive density.</li> <li>• <i>Different retail services</i> include banks, cafes, care centers, community/civic centers, convenience stores, dry cleaners, hair care services, hardware stores, health clubs, laundromats, libraries, medical and dental offices, parks, pharmacies, police and fire stations, post offices, religious institutions, restaurants, schools, supermarkets, theaters.</li> </ul>	
Notes	<ul style="list-style-type: none"> <li>• Maximum could be established at 10 points.</li> <li>• Recent recommendation for GSA to review HHS: Prince George’s sites were not given credit for locating near basic services.</li> </ul>		

Possible Points	Point Range	Description	Citation
<b>Connectivity &amp; Mobility</b>			
<b>Minimum Parking</b>	<b>1-10 Points</b>	<b>Provision of less than maximum allowed parking spaces</b>	<b>59-C-15.853(b) ZTA 11-01 @38, line 713</b>
Goals	<ul style="list-style-type: none"> <li>• Decrease reliance on single-occupancy car trips.</li> <li>• Encourage transit use, walking, biking, and car share.</li> <li>• Decrease environmental impacts (resources, pollution, etc) of parking facilities.</li> <li>• Maintain range to respond to specific market location and changes over time as shared-use environment develops.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• LEED for Neighborhood Development Neighborhood Pattern &amp; Design Credit 6: Reduced Parking Footprint.</li> <li>• Numerous communities have removed minimum parking requirements (Ann Arbor, Boulder, Arlington's Columbia Pike Code for sites under 20,000sf).</li> <li>• EPA's Essential Smart Growth Fix #4: Fix Parking Requirements (lower minimums, promote shared parking, provide on-street parking, etc). See also, EPA's <i>Parking Spaces / Community Places: Finding the Balance Through Smart Growth Solutions</i>. February 2006</li> <li>• ULI's <i>Shared Parking, 2<sup>nd</sup> ed.</i>: Shared use case studies show requirement reductions of up to 43% depending on situation (without consideration of transit, mode-split goals, etc).</li> <li>• ITE's <i>Parking Generation, 4<sup>th</sup> ed.</i>: parking requirements are generally below current 59-E ratios (retail = 2.04-4.07 spaces per 1,000sf versus 5 spaces per 1,000sf in 59-E; office = 0.83-2.84 spaces per 1,000sf versus 1.9-3.0 spaces per 1,000sf in 59-E).</li> </ul>		
Example	<ul style="list-style-type: none"> <li>• Mid Pike Plaza was awarded 9.6% for providing less than maximum allowed parking. <ul style="list-style-type: none"> <li>○ Minimum = 2,401 spaces</li> <li>○ Maximum = 6,559 spaces</li> <li>○ Provided = 4,574 spaces</li> </ul> </li> </ul>		
Notes	<ul style="list-style-type: none"> <li>• Builders have expressed interest in reduced/shared parking from current excessive standards; assistance through regulatory controls, however, is needed to offset expectations by the lending industry.</li> </ul>		

Public Benefit	Point Range	Description	Citation
<b>Connectivity &amp; Mobility</b>			
<b>Through-Block Connections</b>	<b>1-20 Points</b>	<b>Provision of pedestrian connections between streets</b>	<b>59-C-15.853(c) ZTA 11-01 ©38, line 717</b>
Goals	<ul style="list-style-type: none"> <li>• Encourage walking and safe pedestrian environment.</li> <li>• Increase store frontage, small-business opportunities, usable open space within blocks.</li> <li>• Minimize long street walls.</li> <li>• Break-up long blocks where imposition of street grid is impossible.</li> <li>• Encourage diversity of pedestrian spaces.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• Master-planned pedestrian connections in numerous master plans.</li> <li>• LEED for Neighborhood Development Neighborhood Pattern &amp; Design Credit 7: Walkable Streets &amp; Credit 11: Access to Surrounding Vicinity.</li> <li>• Popular in many places in North America and Europe for creating small business opportunities near pedestrian-focused spaces.</li> </ul>		
Examples	<div style="display: flex; align-items: flex-start;">  <ul style="list-style-type: none"> <li>• Silver Spring</li> <li>• Friendship Heights</li> <li>• Bethesda Row</li> <li>• Wheaton</li> <li>• White Flint – JBG &amp; FRIT proposals</li> </ul> </div>		
Notes	<ul style="list-style-type: none"> <li>• 20 point award must be justified by numerous additional amenities, and must be a priority of the master plan.</li> <li>• Internal block connections are important to retail success. The new application by JBG for their north block in White Flint utilizes this to define the design of the block, create public space, and maximize small storefront opportunities.</li> </ul>		

Public Benefit	Point Range	Description	Citation
<b>Connectivity &amp; Mobility</b>			
<b>Public Parking</b>	<b>1-25 Points</b>	<b>Provision of unrestricted parking spaces for the general public</b>	<b>59-C-15.853(d) ZTA 11-01 ©38, line 719</b>
Goals	<ul style="list-style-type: none"> <li>• Replace function of PLD programs where land is unavailable or unaffordable to the County.</li> <li>• Encourage park-once environment &amp; shared parking.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• Arlington’s Columbia Pike shared parking requirement.</li> <li>• Incentives for shared-parking are prevalent throughout North America, from Alexandria to Portland &amp; Minneapolis to Temple City, CA.</li> </ul>		
Examples	<ul style="list-style-type: none"> <li>• Mid Pike Plaza was awarded 9.5% for providing publicly-accessible parking. <ul style="list-style-type: none"> <li>○ Total Provided = 4,574 spaces</li> <li>○ Publicly Accessible = 2,171 spaces</li> </ul> </li> </ul>		
<b>Transit Access Improvement &amp; Streetscape</b>	<b>1-20 points</b>	<b>Creation or renovation of off-site sidewalks/paths for handicapped access to transit services</b>	<b>59-C-15.853(e) &amp; (g) ZTA 11-01 ©38, lines 721 &amp; 729</b>
Goals	<ul style="list-style-type: none"> <li>• Ensure access to transit for citizens with physical disabilities.</li> <li>• Upgrade pedestrian network between development and transit services.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• CBD off-site streetscape improvements.</li> <li>• Proposed benefit replicates programs for increased access to parking by focusing on transit.</li> </ul>		
Examples		<ul style="list-style-type: none"> <li>• Must be off-site and in addition to any upgrades required by regulation (e.g., PAMR improvements).</li> <li>• Could be used along stretches of sidewalk that are not ready for redevelopment.</li> <li>• Contingent on availability of rights-of-way and/or easements.</li> </ul>	
Notes	<ul style="list-style-type: none"> <li>• These two benefits could be combined as an “either/or”.</li> </ul>		

Public Benefit	Point Range	Description	Citation
<b>Connectivity &amp; Mobility</b>			
<b>Trip Mitigation</b>	<b>15 points</b>	<b>Entering into a traffic mitigation agreement (TMAg) for 50% non-auto driver mode share</b>	<b>59-C-15.853(f) ZTA 11-01 ©38, line 724</b>
Goals	<ul style="list-style-type: none"> <li>• Reduce VMTs.</li> <li>• Exceed master plan mode-share goals.</li> <li>• Reduce pollution.</li> <li>• Encourage transit use, cycling, and walking.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• TMAg requirements for commercial development in established Transportation Management Districts (Silver Spring, North Bethesda, GSSC, etc.).</li> <li>• LEED for Neighborhood Development Neighborhood Pattern &amp; Design Credit 10: Transportation Demand Management.</li> </ul>		
Example	<ul style="list-style-type: none"> <li>• The Shady Grove Sector Plan has a transit ridership goal of 35% for residents and 12.5% for employees within the Shady Grove Policy Area.</li> <li>• TMAg goals for the Policy Area are 50% residential trips &amp; 65% non-residential trips.</li> </ul>		
Notes	<ul style="list-style-type: none"> <li>• Language could be clarified that it is trip-reduction, not mode share &amp; could be refined for non-residential vs. residential.</li> <li>• 15 points could be set as maximum.</li> </ul>		
<b>Advance Dedication</b>	<b>1-30 Points</b>	<b>Dedicating or reserving for dedication master-planned right-of-way prior to subdivision</b>	<b>59-C-15.853(h) ZTA 11-01 ©38, line 731</b>
Goals	<ul style="list-style-type: none"> <li>• Allow road, trail, etc. construction prior to redevelopment.</li> <li>• Cost savings to the County for rights-of-way that would otherwise have to be bought.</li> <li>• Ensure staging triggers can be met.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• White Flint staging elements will require road construction along properties prior to their redevelopment.</li> <li>• White Flint sketch plans used Advanced Dedication for incentive density.</li> </ul>		
Example	<ul style="list-style-type: none"> <li>• Mid Pike Plaza was awarded 3.7% for providing advance dedication along Rockville Pike and Old Georgetown Road prior to development of those phases of the Sketch Plan tract.</li> <li>• (39,504sf of dedication from 1,062,011sf of gross tract area).</li> </ul>		

Point Range	Description	Citation
<b>Connectivity &amp; Mobility</b>		
<b>Way-Finding</b>	<b>5 Points</b>	<b>Provision of way-finding system for pedestrians &amp; cyclists</b>
Goals	<ul style="list-style-type: none"> <li>• Encourage walking and cycling.</li> <li>• Support small businesses.</li> <li>• Reduce VMTs.</li> <li>• Promote local business, parks, &amp; cultural institutions.</li> <li>• Provide information on civic facilities and amenities.</li> </ul>	
Precedents	<ul style="list-style-type: none"> <li>• Portland's way-finding sponsorship program.</li> <li>• Tourism projects in Augusta, Scottsdale, Seattle, Nashville, and numerous historic, cultural, or arts districts.</li> </ul>	
Example	<ul style="list-style-type: none"> <li>• Numerous cities are tying "livability" and "walkability" to legibility.</li> <li>• Branding, marketing, local business support, &amp; tourism goals are being addressed by way-finding campaigns.</li> </ul> <div data-bbox="300 695 1094 1045"> <p>Livable cities are legible cities</p>  </div>	
Notes	<ul style="list-style-type: none"> <li>• Maximum could be set at 5 points in CRT &amp; 10 points in CR.</li> <li>• Implementation can be guided by works such as Gibson's <i>The Wayfinding Handbook</i>, Calori's <i>Signage and Wayfinding Design</i>, or Berger's <i>Wayfinding</i>.</li> <li>• New benefit per request of municipalities and urban districts – Silver Spring is an area under consideration for way-finding to assist local businesses.</li> </ul>	

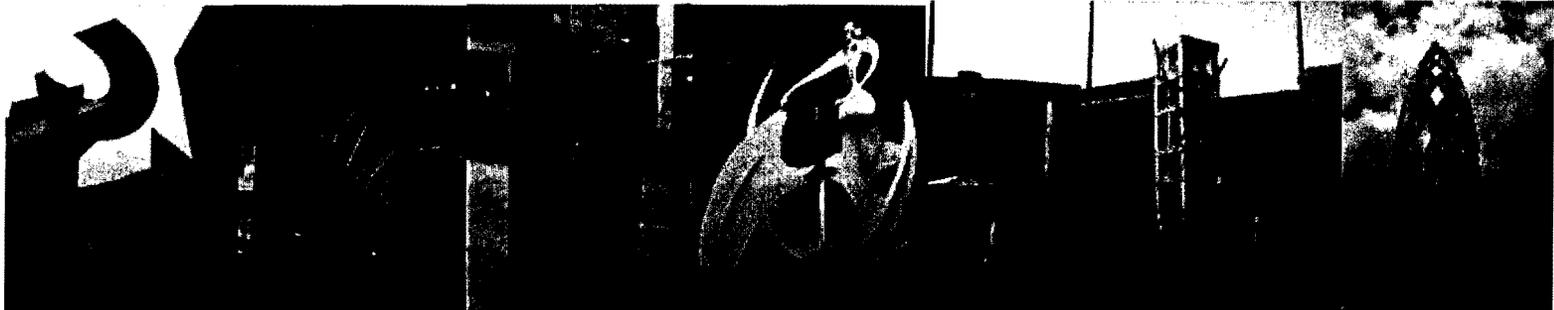
Benefit	Point Range	Description	Citation
<b>Diversity of Uses &amp; Activities</b>			
<b>Affordable Housing</b>	<b>Up to 22 points for MPDUs &amp; 30 points for WFHUs</b>	<b>Provision of affordable housing units</b>	<b>59-C-15.854(a) ZTA 11-01 @39, line 747</b>
Goals	<ul style="list-style-type: none"> <li>• Provide housing for a diverse community.</li> <li>• Ensure density benefit is balanced with economic burden.</li> <li>• Provide points per regulations in existing Chapter 25A.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• MPDU optional method and density bonus provisions in CBDs, cluster development, etc.</li> <li>• Virtually every municipality with density incentive systems encourages affordable housing.</li> <li>• HUD/EPA/DOT Sustainable Communities Program Strategy: promote equitable, affordable housing.</li> <li>• LEED for Neighborhood Development Neighborhood Pattern &amp; Design Credit 4: Affordable Rental Housing &amp; Credit 5: Affordable For-Sale Housing.</li> </ul>		
Example	<ul style="list-style-type: none"> <li>• North Bethesda Market I provided 15% MPDUs for a 22% density bonus.</li> </ul>		
Notes	<ul style="list-style-type: none"> <li>• Density bonus percentage granted under 25A for MPDUs = points granted in the CR zone: e.g., 15% MPDUs is awarded a 22% density bonus, which equals 22 points in the CR zone.</li> <li>• Incentive density for WFHUs = 2 times the percentage of WFHUs provided, e.g., 5% WFHUs is awarded 10 points.</li> <li>• Benefit can be set as a particular master plan area priority.</li> </ul>		
<b>Adaptive Buildings</b>	<b>10 Points</b>	<b>Provision of buildings with floor-to-floor ratios that can accommodate various uses</b>	<b>59-C-15.854(b) ZTA 11-01 @40, line 770</b>
Goals	<ul style="list-style-type: none"> <li>• Create more sustainable buildings.</li> <li>• Allow for shifts of use over time to adapt to market and demographic changes.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• Prefigures density bonuses generally focused on adaptive re-use of buildings.</li> <li>• Largely infill projects in cities; most common on the west coast.</li> <li>• LEED for Neighborhood Development Green Construction &amp; Technology Credit 4: Building Reuse and Adaptive Reuse.</li> </ul>		
Example		<ul style="list-style-type: none"> <li>• Broadstreet, Richmond.</li> <li>• Pre-application meetings have begun for renovations of existing buildings with vacancies in Wheaton.</li> <li>• Typically office or industrial to residential/mixed-use in larger buildings, which is not allowed in most commercial zones currently.</li> <li>• Common conversion for underutilized Class B &amp; C office buildings.</li> </ul>	
Notes	<ul style="list-style-type: none"> <li>• Could be expanded to incorporate reuse of an existing building; could set maximum at 10 in CRT &amp; 15 in CR.</li> </ul>		



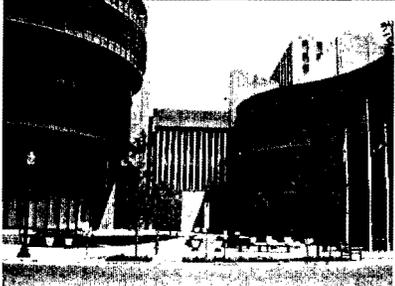
Public Benefit	Point Range	Description	Citation
<b>Diversity of Uses &amp; Activities</b>			
<b>Care Centers</b>	<b>Up to 20 Points</b>	<b>Child or adult day care facilities</b>	<b>59-C-15.854(c) ZTA 11-01 ©40, line 775</b>
Goals	<ul style="list-style-type: none"> <li>• Provide opportunities for care of diverse populations integrated into fabric of community.</li> <li>• Address growing need for day care with increased single-parent households and dual-parent working households.</li> <li>• Address changing demographics – aging population and increased demand for care.</li> <li>• Provide convenient facilities that serve needs of families over time.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• Supports affordable housing &amp; living goals.</li> <li>• Largely infill projects in urban &amp; urbanizing areas.</li> <li>• Density bonus for child care is required to be implemented by jurisdictions under California state law.</li> </ul>		
Example	<ul style="list-style-type: none"> <li>• Mid-Pike Plaza was granted 10% incentive density for provision of a care center for at least 12 users, of which at least 25% of the spaces are open to the general public.</li> </ul>		
<b>Small Business Opportunities</b>	<b>Up to 20 Points</b>	<b>On site space for small, neighborhood-oriented businesses of 5,000sf maximum</b>	<b>59-C-15.854(d) ZTA 11-01 ©40, line 777</b>
Goals	<ul style="list-style-type: none"> <li>• Support small business.</li> <li>• Increase diversity of ownership and services for community.</li> <li>• Maintain and enhance character of urban areas.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• Most programs are financially based (e.g., grants to small businesses, etc.).</li> <li>• Would provide space for businesses to take advantage of financial incentives and programs, which have numerous precedents.</li> </ul>		
Example	<ul style="list-style-type: none"> <li>• Wheaton retail preservation overlay zoning provision.</li> </ul>		
Notes	<ul style="list-style-type: none"> <li>• Could establish minimum time-period in ordinance (e.g., currently 6 years in the overlay zone in Wheaton).</li> </ul>		
<b>Dwelling Unit Mix</b>	<b>5 Points</b>	<b>Efficiency, 1-bdrm, 2-bdrm, &amp; 3+ bdrm units</b>	<b>59-C-15.854(e) ZTA 11-01 ©40, line 779</b>
Goals	<ul style="list-style-type: none"> <li>• Provide the opportunity to allow residents to “age-in-place”.</li> <li>• Enhance diversity of community.</li> <li>• Support stability of neighborhood by providing a range of housing choices as household circumstances change.</li> <li>• Meet an increased need for households looking to downsize.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• LEED for Neighborhood Development Neighborhood Pattern &amp; Design Credit 3: Diversity of Housing Types.</li> </ul>		
Examples	<ul style="list-style-type: none"> <li>• Mid-Pike Plaza was awarded 2.2 points for provision of a mix of dwelling unit types.</li> <li>• NoBe II was awarded 5 points.</li> </ul>		
Notes	<ul style="list-style-type: none"> <li>• Could set maximum of 10.</li> <li>• Range of unit types provides range of housing costs.</li> </ul>		

Public Benefit	Point Range	Description	Citation
<b>Diversity of Uses &amp; Activities</b>			
<b>Enhanced Accessibility for the Disabled</b>	<b>Up to 20 Points</b>	<b>Units that satisfy ANSI A17.1 Residential Type A standards</b>	<b>59-C-15.854(f) ZTA 11-01 ©40, line 782</b>
Goals	<ul style="list-style-type: none"> <li>• Provide housing for a diverse community.</li> <li>• Encourage unit construction beyond basic accessibility requirements.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• Often infill projects in cities.</li> </ul>		
Example	<ul style="list-style-type: none"> <li>• City of Pacifica's Housing Element provided density bonuses for affordable housing and housing units that meet the needs of the elderly or disabled.</li> </ul>		
Notes	<ul style="list-style-type: none"> <li>• Important given the increase in the senior population in Maryland – 85,000 new seniors by 2040.</li> </ul>		
<b>Live/Work</b>	<b>10 Points</b>	<b>Live/work units</b>	<b>59-C-15.854(g) ZTA 11-01 ©40, line 786</b>
Goals	<ul style="list-style-type: none"> <li>• Encourage local, small businesses.</li> <li>• Increase diversity of uses in neighborhoods.</li> <li>• Activate street life, pedestrian oriented communities, and safety.</li> <li>• Reduce VMTs</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• LEED for Neighborhood Development Neighborhood Pattern &amp; Design Credit 3: Diversity of Housing Types.</li> <li>• Austin, Los Angeles, Toronto, Glendale, etc.</li> <li>• APA's Smart Growth Code includes a model Live/Work ordinance.</li> </ul>		
Example	<div style="display: flex; align-items: flex-start;">  <div style="margin-left: 20px;"> <ul style="list-style-type: none"> <li>• Westminster, CO.</li> <li>• <u>Live-Work Studios</u>: provides a developer with the opportunity to create several attached live-work homes for creative professionals.</li> <li>• St. Louis: affordable housing with a large mix of handicapped-accessible units with live/work at grade occupied by an architect, custom paper shop owner, etc.</li> </ul> </div> </div> <p><small>Multi-family residential buildings designed to include art studios or commercial uses could add live &amp; work opportunities</small></p>		
Notes	<ul style="list-style-type: none"> <li>• New benefit especially targeted to Kensington, Takoma, and similarly sized communities.</li> <li>• Maximum could be set at 10 units.</li> </ul>		

Benefit	Point Range	Description	Citation
<b>Quality Building &amp; Site Design</b>			
<b>Historic Resource Protection</b>	<b>Up to 20 Points</b>	<b>Preservation, enhancement, or payment towards a historic resource or contributing element</b>	<b>59-C-15.855(a) ZTA 11-01 ©41, line 803</b>
Goals	<ul style="list-style-type: none"> <li>Protect &amp; enhance historic resources &amp; contributing elements.</li> <li>Encourage redevelopment &amp; preservation of historic sites &amp; districts.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>General density bonus in most jurisdictions from Austin to NY and Missoula to Seattle.</li> <li>EPA Smart Growth objective.</li> <li>National Trust for Historic Preservation strategy for smart growth with a "top 10" list for LEED credits that incorporate historic resources, esp., LEED ND Green Infrastructure &amp; Buildings Credit 6 - Historic Resource Preservation and Adaptive Use.</li> </ul>		
Example		<ul style="list-style-type: none"> <li>National Park Seminary District.</li> <li>ULI Development Case Study Series.</li> <li>Preservation and rehabilitation for diversity of unit types and density.</li> <li>Montgomery County leads the state in commercial tax credit.</li> </ul>	
Notes	<ul style="list-style-type: none"> <li>Each year several thousand new structures in the County become eligible for historic designation.</li> </ul>		
<b>Structured Parking</b>	<b>Up to 20 Points</b>	<b>Parking within a structure above or below grade</b>	<b>59-C-15.855(b) ZTA 11-01 ©41, line 811</b>
Goals	<ul style="list-style-type: none"> <li>Minimize environmental impacts of parking.</li> <li>Create and maintain pedestrian oriented streets.</li> <li>Offset higher costs of structured parking.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>LEED credits can be gained (minimizing site impact, decreasing parking capacity, etc.)</li> <li>Georgia, Utah, California, New York and many other states incentivize structured parking.</li> <li>Objective 3.2.2. of Maryland's <i>Driving Urban Environments: Smart Growth Parking Best Practices</i>.</li> <li>Incentive meets ULI's recognized financial hurdle that structured parking poses.</li> </ul>		
Examples	<ul style="list-style-type: none"> <li>All White Flint sketch plans include structured parking.</li> </ul>		

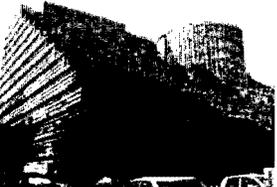
Public Benefit	Point Range	Description	Citation
<b>Quality Building &amp; Site Design</b>			
<b>Tower Step-Back</b>	<b>5 Points</b>	<b>Setback of upper floors of buildings before 72 feet</b>	<b>59-C-15.855(c) ZTA 11-01 ©41, line 814</b>
Goals	<ul style="list-style-type: none"> <li>• Maintain pedestrian-oriented street.</li> <li>• Reduce wind impact at sidewalk grade.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• Los Angeles, Concord, Phoenix, Austin, Wilmington (typically tied to height bonuses, which is similar to how the CR benefit works).</li> <li>• Recognized best practice since the early 1930s.</li> </ul>		
Example		<ul style="list-style-type: none"> <li>• North Bethesda Market.</li> <li>• Pedestrian comfort of sidewalks &amp; public use space.</li> <li>• Decreased shadow impact.</li> </ul>	
Notes	<ul style="list-style-type: none"> <li>• Tower step-back increases building cost as structural supports are required to cut through lower floors.</li> <li>• Maximum could be set at 10 points.</li> </ul>		
<b>Public Art</b>	<b>Up to 15 Points</b>	<b>Provision of or payment for public art</b>	<b>59-C-15.855(d) ZTA 11-01 ©42, line 818</b>
Goals	<ul style="list-style-type: none"> <li>• Enhancement of pedestrian environment.</li> <li>• Establishment of sense of place &amp; community identity.</li> <li>• Tourism, marketing, &amp; branding; interaction, education, &amp; enrichment.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• Many cities have a % for art requirement; most have a built-in density bonus program if not required.</li> <li>• MoCo's previous percent for art and budget for the Public Arts Trust.</li> </ul>		
Examples	<ul style="list-style-type: none"> <li>• MoCo projects with public art requirements have resulted in:</li> </ul> 		

Public Benefit	Point Range	Description	Citation
<b>Quality Building &amp; Site Design</b>			
<b>Public Open Space</b>	<b>Up to 20 Points</b>	<b>Open space in addition to public use space requirement</b>	<b>59-C-15.855(e) ZTA 11-01 ©42, line 822</b>
Goals	<ul style="list-style-type: none"> <li>• Target open space to master planned priority areas.</li> <li>• Rationalize open space system in urban &amp; town centers.</li> <li>• Provide a hierarchy of open spaces and parks.</li> <li>• Minimize public costs for passive and active recreation areas.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• Municipalities in most states have open space density bonuses.</li> <li>• Open space requirement in all mixed use zones; “green” area requirement in most commercial zones.</li> <li>• LEED for Neighborhood Development Neighborhood Pattern &amp; Design Credit 9: Access to Civic and Public Spaces.</li> </ul>		
Example	 <ul style="list-style-type: none"> <li>• Wheaton Safeway made an \$850,000 amenity fund payment because the building was redesigned to meet urban streetscape standards.</li> <li>• The amenity fund cost would have been reduced under CR zoning, increasing the opportunity for other benefits, such as more affordable housing.</li> </ul>		
Notes	<ul style="list-style-type: none"> <li>• Open space could occur on other sites where focused activities and respites could be created in a systematic, rather than ad-hoc, manner.</li> </ul>		

Public Benefit	Point Range	Description	Citation
<b>Quality Building &amp; Site Design</b>			
<b>Exceptional Design</b>	<b>Up to 10 Points</b>	<b>Provision of design exceeding normative standards</b>	<b>59-C-15.855(f) ZTA 11-01 ©42, line 830</b>
Goals	<ul style="list-style-type: none"> <li>Establishment of sense of place &amp; community identity through landmarks and civic pride.</li> <li>Enhancement of public realm and promotion of civic image.</li> <li>Synthesis of environmental, design, and economic objectives.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>Many municipalities use design review boards to maintain, create, or enhance the quality of the built environment.</li> <li>Used as a density bonus in many cities.</li> </ul>		
Examples		<ul style="list-style-type: none"> <li>United Therapeutics.</li> <li>Objectives met: <ul style="list-style-type: none"> <li>Creates sense of place;</li> <li>Serves as a landmark;</li> <li>Introduces new materials &amp; forms;</li> <li>Enhances public realm;</li> <li>Integrates low-impact development methods; and</li> <li>Integrates public art.</li> </ul> </li> </ul>	
Notes	<ul style="list-style-type: none"> <li>The County is widely known for a lack of well-designed buildings. Where design is a priority, it is an economic driver and attracts investment.</li> </ul>		
<b>Architectural Elevations</b>	<b>Up to 20 Points</b>	<b>Binding architectural elevations</b>	<b>59-C-15.855(g) ZTA 11-01 ©42, line 840</b>
Goals	<ul style="list-style-type: none"> <li>Create unique street identity.</li> <li>Preserve &amp; enhance neighborhood character.</li> <li>Ensure pedestrian-oriented street walls.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>Stand-in for Architectural Review Boards used by many communities.</li> </ul>		
Example		<ul style="list-style-type: none"> <li>Seattle's Ballard West.</li> <li>Building with numerous environmental features granted "conditional" approval.</li> <li>Changes to east façade required to address design concerns.</li> </ul>	
Notes	<ul style="list-style-type: none"> <li>Requires that Board-imposed binding elements be followed, such as fenestration, door separation, awning, sign restrictions, etc.</li> <li>Elevations do not have to simply be "provided" but "<u>approved</u>".</li> <li>New benefit – specifically focused on small towns &amp; villages such as Takoma &amp; Kensington.</li> <li>Provides greater certainty early in the process and greater engagement by all parties; can expedite review times.</li> </ul>		

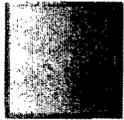
Public Benefit	Point Range	Description	Citation
<b>Protection &amp; Enhancement of the Natural Environment</b>			
<b>BLTs</b>	<b>Up to 30 Points</b>	<b>Purchase or payment towards BLTs</b>	<b>59-C-15.856(a) ZTA 11-01 @43, line 846</b>
Goals	<ul style="list-style-type: none"> <li>• Protect agricultural reserve.</li> <li>• Maintain nexus between density in urban areas and preservation of agricultural land.</li> <li>• Encourage sustainable land use practice and decrease sprawl.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• TDR &amp; conservation programs.</li> <li>• Conservation subdivision limits on density &amp; requirements for open space preservation.</li> <li>• HUD/EPA/DOT Sustainable Communities Program Strategy.</li> </ul>		
Example	<ul style="list-style-type: none"> <li>• All White Flint sketch plans are purchasing BLTs per the requirement.</li> <li>• Early GSSC sketch plans are proposing increased BLT payments (above the minimum requirement) to meet public benefit requirements.</li> </ul>		
<b>Energy Conservation &amp; Generation</b>	<b>Up to 25 Points</b>	<b>Conservation of energy above averages and/or production of renewable energy</b>	<b>59-C-15.856(b) ZTA 11-01 @45, line 906</b>
Goals	<ul style="list-style-type: none"> <li>• Environmental protection.</li> <li>• Energy autonomy &amp; security.</li> <li>• Climate change mitigation.</li> <li>• Economic self-sufficiency.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• Numerous LEED credits in Energy &amp; Atmosphere category (new construction) &amp; Green Infrastructure &amp; Buildings category (neighborhood development).</li> <li>• Austin, Seattle, Asheville, etc.</li> <li>• Most municipalities provide density bonuses for LEED (this is more targeted).</li> </ul>		
Examples		<ul style="list-style-type: none"> <li>• St. Mary's College of MD.</li> <li>• Geothermal in open space behind boathouse.</li> </ul>	
Notes	<ul style="list-style-type: none"> <li>• These benefits are not mandated by County legislation.</li> </ul>		

Public Benefit	Point Range	Description	Citation
<b>Protection &amp; Enhancement of the Natural Environment</b>			
<b>Vegetated Wall</b>	<b>5 Points</b>	<b>Planted wall over particular area</b>	<b>59-C-15.856(c) ZTA 11-01 ©45, line 913</b>
Goals	<ul style="list-style-type: none"> <li>• Enhance pedestrian environment.</li> <li>• Decrease heat-island effect, provide habitat, &amp; encourage ESD micro-bioretenion.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• Various LEED credits.</li> <li>• Sustainable Sites Initiative foci (LEED-like model site design system).</li> <li>• Incentive programs in many cities incorporate green walls.</li> </ul>		
Example		<ul style="list-style-type: none"> <li>• Sihl City Green Wall in Zurich: <ul style="list-style-type: none"> <li>○ Cooler summer temperatures in summer.</li> <li>○ Buffering &amp; insulation during winter.</li> <li>○ Decreased noise from autos.</li> <li>○ Graffiti deterrent.</li> </ul> </li> </ul>	
Notes	<ul style="list-style-type: none"> <li>• Especially important practice to mitigate parking garage walls.</li> </ul>		
<b>Tree Canopy</b>	<b>10 Points</b>	<b>Trees that will cover at least 25% of open space at 15 years</b>	<b>59-C-15.856(d) ZTA 11-01 ©45, line 917</b>
Goals	<ul style="list-style-type: none"> <li>• Sequestration of carbon.</li> <li>• Mitigation of stormwater.</li> <li>• Creation of habitat.</li> <li>• Creation &amp; enhancement of pedestrian comfort.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• Numerous LEED &amp; Sustainable Sites credits, e.g., Leed for Neighborhood Pattern &amp; Design Credit 14: Tree-Lined and Shaded Streets.</li> <li>• Created as a priority benefit in the White Flint Sector Plan approved by Council.</li> <li>• Required in numerous local municipalities for Chesapeake Bay preservation.</li> </ul>		
Examples	<ul style="list-style-type: none"> <li>• Provided by all three White Flint sketch plans.</li> </ul>		

Public Benefit	Point Range	Description	Citation
<b>Protection &amp; Enhancement of the Natural Environment</b>			
<b>Vegetated Area</b>	<b>5 Points (could be capped at 5)</b>	<b>Planted area of minimum size and soil depth</b>	<b>59-C-15.856(e) ZTA 11-01 ©46, line 919</b>
Goals	<ul style="list-style-type: none"> <li>• Provide for carbon sequestration.</li> <li>• Enhance pedestrian environment.</li> <li>• Decrease heat-island effect, provide habitat, &amp; encourage ESD micro-bioretenion.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• Various LEED credits.</li> <li>• Sustainable Sites Initiative foci (LEED-like model site design system).</li> <li>• Works with, but is not required by, ESD standards.</li> </ul>		
Example		<ul style="list-style-type: none"> <li>• Encourages use of ESD when not required or “practicable”.</li> </ul>	
Notes	<ul style="list-style-type: none"> <li>• Targeted at mid-size, medium-density properties in CR &amp; CRT zones.</li> </ul>		
<b>Vegetated Roof</b>	<b>10 Points</b>	<b>Vegetated roof tops with minimum coverage and soil depth</b>	<b>59-C-15.856(f) ZTA 11-01 ©46, line 922</b>
Goals	<ul style="list-style-type: none"> <li>• Sequestration of carbon.</li> <li>• Mitigation of stormwater.</li> <li>• Creation of habitat.</li> <li>• Mitigation of heat-island effect.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• Numerous LEED &amp; Sustainable Sites credits.</li> <li>• Works with, but is not required by, ESD standards.</li> <li>• Cities in Illinois, Hawaii, Texas, Oregon, California, etc. and many Canadian, Australian, &amp; western European Cities.</li> <li>• Recommended by EPA.</li> </ul>		
Examples		<ul style="list-style-type: none"> <li>• Provided by all three White Flint sketch plans for 4.9 to 10 percent incentive density.</li> </ul>	

Benefit	Point Range	Description	Citation
<b>Protection &amp; Enhancement of the Natural Environment</b>			
<b>Cool Roof</b>	<b>5 Points</b>	<b>Solar reflectance to a particular SRI (solar reflectance index)</b>	<b>59-C-15.856(g) ZTA 11-01 @46, line 925</b>
Goals	<ul style="list-style-type: none"> <li>Decrease heat island effect.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>LEED for New Construction Sustainable Sites Credit 7.2: Heat Island Effect - Roof.</li> <li>LEED for Neighborhood Development Green Infrastructure &amp; Buildings Credit 9 – Heat Island Reduction.</li> </ul>		
Example	 <ul style="list-style-type: none"> <li>Cool Roof Rating Council.</li> <li>Benefits of cool roofs include: <ul style="list-style-type: none"> <li>Energy savings and global warming mitigation</li> <li>Reduction in urban heat island effect and smog</li> <li>Improved occupant comfort</li> <li>Comply with codes and green building programs</li> </ul> </li> </ul>		
Notes	<ul style="list-style-type: none"> <li>New benefit targeted to small sites, stick-built construction, and areas where sloped roofs are preferred for compatibility reasons.</li> <li>Suitable for existing building retrofits where a green roof may not be an option due to structural demands.</li> </ul>		
<b>Recycling Facility Plan</b>	<b>5 Points</b>	<b>Recycling facility system for large offices and residential complexes</b>	<b>59-C-15.856(h) ZTA 11-01 @46, line 929</b>
Goals	<ul style="list-style-type: none"> <li>Sustainable site planning &amp; resource use.</li> <li>Integration of recycling facility in site design.</li> <li>Better compliance with executive regulations governing recycling facilities and decrease in site plan amendments that have to retrofit to install recycling facilities.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>Requirements vary, but may require plans before permitting.</li> </ul>		
Examples	 <ul style="list-style-type: none"> <li>Typically required as part of LEED certification.</li> <li>Many municipalities require this during site plan review.</li> </ul>		
Notes	<ul style="list-style-type: none"> <li>New benefit, particularly focused on small sites and medium densities; could be restricted as such.</li> <li>Could be expanded as a benefit for site demolition recycling for up to 15 points.</li> </ul>		

Benefit	Point Range	Description	Citation
<b>Protection &amp; Enhancement of the Natural Environment</b>			
<b>Habitat Preservation &amp; Restoration</b>	<b>Up to 20 Points</b>	<b>Protection, restoration, enhancement of natural habitat on- or off-site</b>	<b>59-C-15.856(i) ZTA 11-01 ©46, line 933</b>
Goals	<ul style="list-style-type: none"> <li>• Protect and expand natural habitat for native flora &amp; fauna.</li> <li>• Sequester carbon &amp; mitigate stormwater runoff.</li> <li>• Maintain and enhance open spaces for public enjoyment.</li> </ul>		
Precedents	<ul style="list-style-type: none"> <li>• Both LEED and Sustainable Sites credits.</li> <li>• Communities across the country.</li> </ul>		
Example		<ul style="list-style-type: none"> <li>• Numerous research projects have shown the social &amp; economic benefits of habitat restoration on tourism.</li> <li>• For extreme cases, see <i>Diamond's Collapse</i>.</li> <li>• Needed for numerous restoration projects unfunded for local streams and forests.</li> </ul>	
Notes	<ul style="list-style-type: none"> <li>• New benefit targeted to sites without ability to provide plantings or habitat on site.</li> <li>• In addition to environmental buffer impact mitigation and tree afforestation requirements.</li> </ul>		



# CR Zone Incentive Density Implementation Guidelines

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## Contents

PURPOSE

CR ZONES OVERVIEW

PROCESS AND CONTENTS OF A SKETCH PLAN

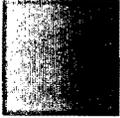
DENSITY CALCULATION

PUBLIC BENEFIT CRITERIA

Approved by the  
Montgomery  
County Planning  
Board December  
2010

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
MONTGOMERY COUNTY PLANNING DEPARTMENT





## Purpose

**Zoning  
Ordinance**

The Planning Board must adopt, publish, and maintain guidelines that detail the standards and requirements for public benefits that may be provided for incentive density. These guidelines must be consistent with the purposes of [the CR] zone and are in addition to and do not supersede any standards, requirements, or rules of incentive density calculation included in this Division.



## Use of Guidelines

The Planning Board and its staff will use these guidelines when determining the adequacy of public benefits and amenities provided by an optional method application for development on a CR-zoned property. The public benefits and amenities are considered within the entire development subject to one sketch plan and may be compelled by a phasing plan on all subsequent site plans.



## Limits of Guidelines

These guidelines are not requirements. Except as required by the zoning ordinance, criteria for the award of incentive density are based on best practices, effective implementation thresholds, and experience and analysis related to built projects. Alternative criteria may be suggested as long as the standards of the ordinance are met, the intent of the public benefit is achieved, and an appropriate amount of incentive density is requested. In any case where criteria established by these guidelines conflict with another county regulation, the regulation must be observed and the intent of the criteria must be addressed by other means.

## Provisions

The CR zones are a family of mixed-use zones that establish density, use mix, and height based on a set of four factors: CR#, C#, R#, and H# representing the maximum total density, non-residential density, residential density, and height, respectively. The maximum densities and height that can be used to create a zone are delineated according to several rules enumerated in the ordinance. Once the numbers associated with each factor are enacted on a zoning map, the zone is set and the maximum density, permitted use-mix, and maximum height are fixed.

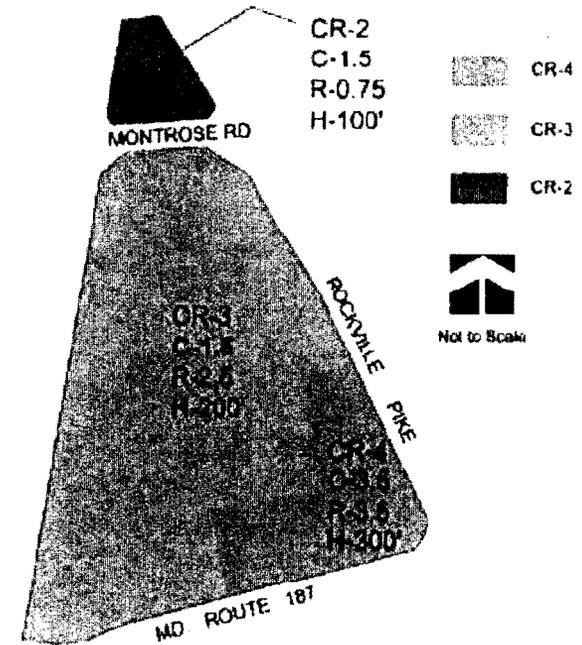
## Methods of Development

Development on CR-zoned land may proceed under the standard or optional method development. Standard method development is limited in density to 0.5 FAR or 10,000 square feet, whichever is greater, and 40 feet in height. Optional method development is limited to the FAR and height established on the zoning map. A conceptual sketch plan is required for all optional method development, which also requires a site plan. Site plans are required for any standard method development with over 10,000 square feet or 10 dwelling units.

## Requirements and Standards

There are requirements and standards that must be met by any project in a CR zone. These include setbacks, public use space, streetscape improvements, residential amenity space, bicycle parking and shower facilities, parking facility design, and consistency with the applicable master plan and design guidelines. All development must satisfy the standards and requirements enumerated in the zoning ordinance regardless of any public benefits provided.

## Illustration



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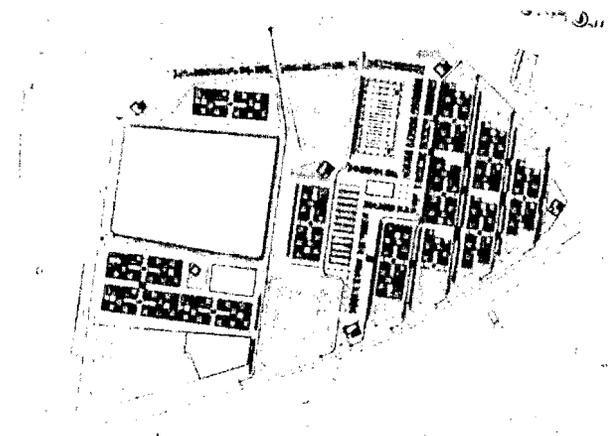
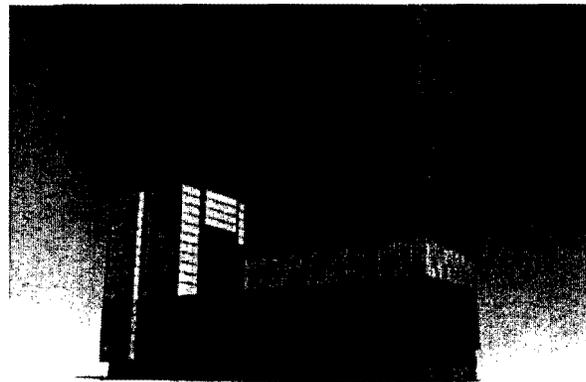
## Provisions

A sketch plan showing the general nature of a development, including all proposed public benefits and amenities, must be presented to the public prior to filing an application for optional method development on a CR-zoned property per section 59-C-15.42. Applicants are encouraged to use this required public meeting to present designs to citizens and staff prior to “hard-line engineering” of development, so that alternatives can be explored and a “best fit” development can be achieved.

Sketch plans should maintain the minimum level of detail necessary to allow citizens, staff, and the Planning Board to evaluate a proposed development and make the required findings of the ordinance in Section 59-C-15.42.(c). Examples of appropriate levels of detail are included in these guidelines; but more or less detail may be needed in many cases, which will become apparent in the early discussions about an application. It should be remembered by all parties that a sketch plan approval only serves to ensure that an application is “appropriate in concept and appropriate for further detailed review at site plan”. Sketch plans may be modified at site plan with proper notice and upon a showing that the required findings can still be made.

The complete submittal requirements, application forms, and fees are established by the Montgomery County Planning Department and may be obtained on line or at the information desk at the Planning Department offices, at 8787 Georgia Avenue; Silver Spring, MD 20910. More information is available at [www.MontgomeryPlanning.org](http://www.MontgomeryPlanning.org) or at 301.495.4595.

## Illustrations



# Density Calculation

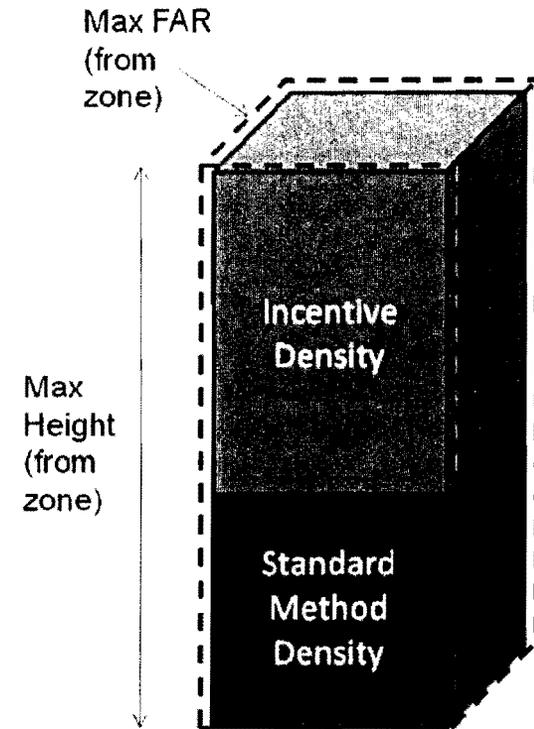
## Density

All CR zones have the same standard method density: 0.5 FAR (floor area ratio) or 10,000 square feet, whichever is greater. The density between the standard method and the density indicated on the zoning map is defined as the “incentive density”. Any applicant that wishes to develop above the standard method density – up to the maximum allowed by the zone – must apply for an optional method of development approval. During this application process, the applicant proposes to provide specific public benefits and amenities in connection with its project. The Planning Board and its staff will determine whether the proposed public benefits support the additional density requested.

## Height

All CR zones have the same standard method height: 40 feet. Height is not a factor used to determine the appropriateness of a public benefit, nor is additional height granted when a public benefit is provided. The height on the zoning map is simply the maximum height allowed (regardless of whether the density can be achieved). In cases where a CR zone is established with a maximum density of 0.5 but a height over 40 feet, a sketch plan must be submitted for expedited review and approval, but no public benefits are required.

## Illustration





### Calculation Method for New Development

All optional method development proposals must provide public benefits equal to 100% of the incentive density requested. Each of the seven public benefit categories has a maximum incentive density limit set by the zoning ordinance. Some individual public benefits explicitly allow the Planning Board to approve incentive density for those benefits up to the category limit; for all others, the amount of incentive density approved for each benefit must be less than the category limit, meaning that more than one benefit will be necessary to achieve the category limit.

These guidelines establish calculations and criteria for each of the public benefits in the following section. Deviations from the formulas or criteria may be made for equal, lesser, or greater density as allowed by the zoning ordinance and at the discretion of the Planning Board, per the general considerations for all public benefits enumerated below. In simple terms, each of the public benefits establishes criteria and a base incentive density percentage. The applicant for each optional method development project must proposed public benefits whose incentive density percentages add to 100% to achieve the total density proposed.

The Public Benefit Criteria Section of these guidelines establishes base incentive density percentages for each category of public benefit. These percentages may change in individual cases to conform with master plan priorities, other applicable guidelines, and the additional suggestions outlined in the individual public benefit sections. A web application calculator will be provided at [www.montgomeryplanning.org](http://www.montgomeryplanning.org) to ensure consistency and maintain simplicity for applications. The calculations may be adjusted during site plan but must maintain the total incentive density percentage committed to at sketch plan. All calculations must be listed in the table of proposed benefits and must be provided for each phase.

## Density Calculation (continued)

### Calculation Method for Redevelopment with Existing Buildings

A project that redevelops a site with existing buildings may take advantage of an alternative method of incentive density calculation if it:

1. Maintains at least 75% of the structural system of the existing building(s);
2. Contracts with an "architectural deconstruction" company or organization to remove recyclable and reusable materials prior to any demolition; and
3. Submits documentation showing compliance with these criteria prior to issuance of a building permit for new development.

If these criteria are met, the renovated existing building may be credited towards the incentive density according to the following formula:

Formula:  $(R/I) * 100$

R = retained gross floor area in square feet

I = incentive density gross floor area in square feet

#### Example

Formula:  $(R/I) * 100$

R	retained gross floor area	150,000 square feet
I	incentive density gross floor area	250,000 square feet

Calculation:	60 % incentive density
Remaining Incentive Density Required:	40 %



### Categories of Public Benefits

The CR Zones establish seven categories of public benefits that may be used to support incentive density.

- *Transit Proximity*
- *Master-Planned Major Public Facilities*
- *Advanced Dedicated Rights-of-Way*
- *Connectivity and Mobility*
- *Diversity of Uses and Activities*
- *Design Quality*
- *Natural Environment Protection & Enhancement*

Transit Proximity, Master-Planned Facilities, and Advanced Dedication are self-contained categories. The other categories, Connectivity, Diversity, Design, and Environment, have lists of individual public benefits and amenities that an applicant may provide to obtain incentive density. These categories and individual public benefits are established by the zoning ordinance and certain basic criteria for implementation must be met. Additional standards and rules are established by these design guidelines.

### Zoning Ordinance

#### 59-C-15.81.(b) In approving any incentive density based on the provision of public benefits, the Planning Board must consider:

- 1) The policy objectives and priorities of the applicable master or sector plan;
- 2) Any applicable design guidelines and any adopted public benefit standards and guidelines;
- 3) The size and configuration of the tract;
- 4) The relationship of the site to adjacent properties;
- 5) The presence or lack of similar public benefits nearby; and
- 6) Enhancements that increase public access to or enjoyment of the benefit.

### General Public Benefit Standards Required by the Ordinance

Three aspects of a public benefit must be analyzed for compliance with the zoning ordinance:

- Does it address the general considerations required by the zone for all public benefits?
- Does it address the standards required for individual public benefits applicable to the specific benefit?
- Does it address the additional criteria required by the guidelines?

The foundation of all optional method development is that “increases in density and height above the standard method maximums [must be] consistent with the applicable master or sector plan, up to the maximum permitted by the zone” (59-C-15.81). Further, the CR zones list general considerations for approving any incentive density and certain “threshold” standards that must be met by any particular benefit.

Fundamentally, these general considerations establish that a public benefit must be consistent with the zoning ordinance, the applicable master plan and design guidelines, and must be appropriate for the particular context. The six elements listed above must be analyzed for all public benefits, and any additional criteria applied must be consistent with them. Individual benefits also have specific criteria that are enumerated in subsequent sections; the Planning Board and its staff must consider both the general and specific criteria.

# Master-Planned Major Public Facility

**Zoning Ordinance**

## 59-C-15.82. Incentives for Master-Planned Major Public Facilities.

Major public facilities such as schools, libraries, recreation centers, urban parks, and county service centers provide public services at convenient locations, centers for community meetings, and civic events. Because of their significance in place-making, the Planning Board may approve incentive density of up to 70 percent for the conveyance of a site and/or construction of a major public facility that is designated on a master plan or sector plan and is accepted for use and operation by the appropriate public agency, community association, or nonprofit organization.

### Guideline Criteria

Incentive density may be granted for master-planned major public facilities if:

1. The applicant conveys land and/or floor area for the facility; and/or
2. Constructs the facility.
3. Incentive density is limited to a maximum of 70%

Formula:  $(((L+F)/(N)*2)+((C/N)*4))*100$

N = net lot area in square feet

L = land area conveyed in square feet

F = floor area conveyed in square feet

C = constructed area of facility in square feet

Projects that vary from a simple conveyance and/or construction will be granted incentive density based on public review and comment commensurate with master plan goals and community priorities.

### Example

Provision of floor area and full build-out of library/community center within building; no land conveyed.

Formula:  $(((L+F)/(N)*2)+((C/N)*4))*100$

N	net lot area	866,205 square feet
L	land area conveyed	0 square feet
F	floor area conveyed	20,000 square feet
C	constructed area of facility	20,000 square feet

Calculation: 14% incentive density

# Transit Proximity

Zoning Ordinance

## 59-C-15.83. Incentives for Transit Proximity.

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

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

- a) A project is adjacent to or confronting a transit station or stop if it shares a property line, easement line, or is separated only by a right-of-way from an existing or planned transit station or stop and 100 percent of the gross tract area submitted in a single sketch plan application is within ¼ mile of the transit portal.
- b) For all other projects to qualify for incentive density availability at other distances, at least 75 percent of the gross tract area in a single sketch plan application must be within the range for which the incentive is proposed. The incentive density for projects with less than 75 percent of the gross tract area in one distance range must be calculated as the weighted average of the percentage of area in each range.

## Transit Proximity (continued)

### Guideline Criteria

Level 1 transit is defined in the zoning ordinance as a Metrorail station; level 2 transit is defined as an existing or planned station or stop along a rail or bus line with a dedicated, fixed path (e.g., MARC, purple line, CCT) (59-C-15.3). For the purposes of these guidelines, *planned stations or stops* are those that have been identified on an approved master or sector plan.

*Confronting properties* are those that are directly across each other based on a line between the two properties that is drawn perpendicular to the right-of-way. Properties that are directly diagonal across an intersection are also considered confronting.

Subsection a) is straightforward: to qualify for the highest proximity incentive, a property must share a property line with or confront a property with a transit station or stop. Further, 100% of the tract submitted in a single sketch plan that takes advantage of this incentive must be within ¼ mile of that boundary.

Subsection b) ensures that properties are granted incentive density in proportion to their proximity to a transit station or stop when they straddle the ranges. There are two parts to this provision. First, if a property is 75% within a proximity range, the entire property is eligible for the density incentive enumerated for that range. Second, if less than 75% of a property is within a proximity range, a property is eligible for a weighted average. In this case, the amount of property in each range must be calculated and the density incentive enumerated as a weighted average.

Formula:  $(((t1/T)*P1)+(t2/T)*P2))*100$

T = total net tract area in square feet

t1 = net tract area in range 1 in square feet

t2 = net tract area in range 2 in square feet

P1 = percentage for range 1 in decimal form  
(i.e., 20% = 0.20)

P2 = percentage for range 2 in decimal form

### Example

Formula:  $(((t1/T)*P1)+(t2/T)*P2))*100$

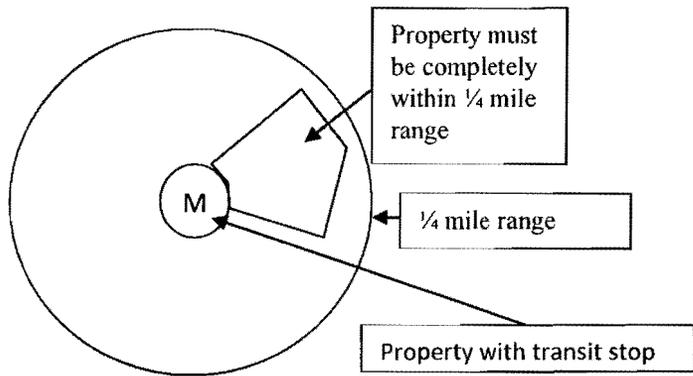
T	total tract area	80,000 square feet
T1	tract area within proximity range 1	55,000 square feet
T2	tract area within proximity range 2	25,000 square feet
P1	percentage for range 1	0.20 %
P2	percentage for range 2	0.15 %

Calculation: 18 % incentive density

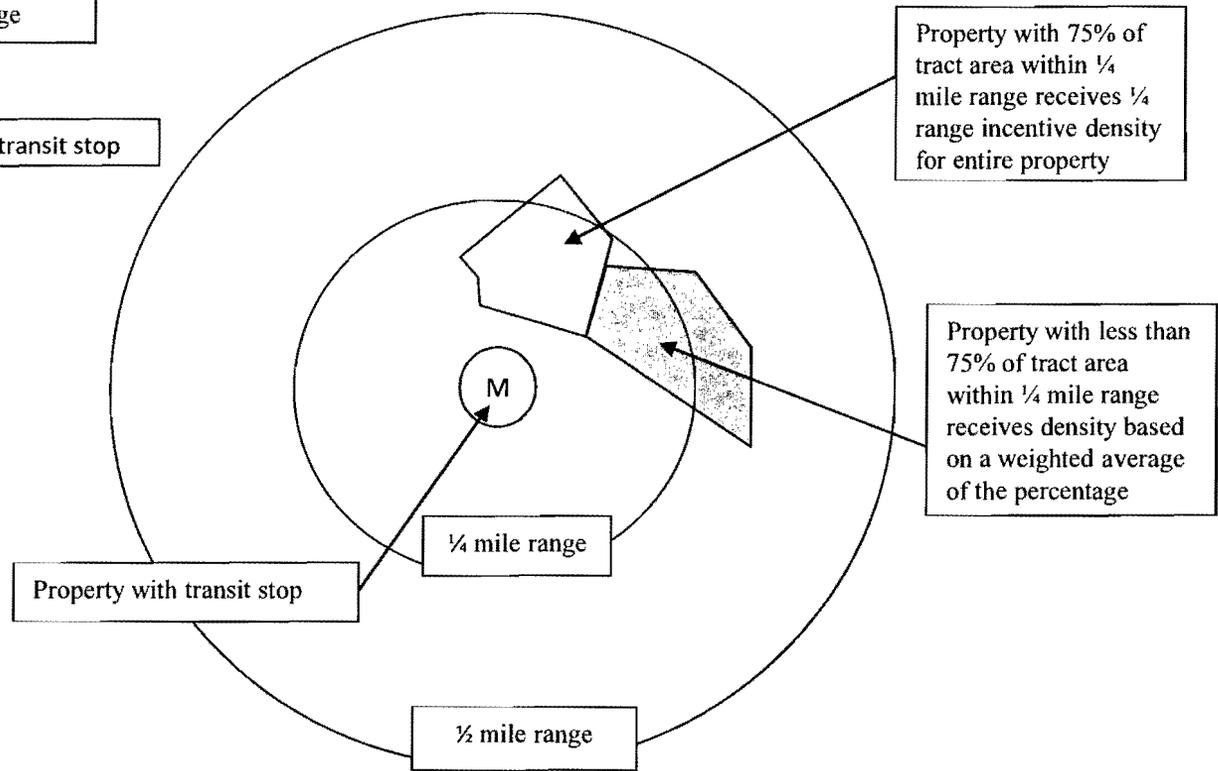
31

Illustrations

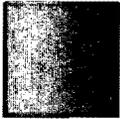
To qualify for subsection a):



To calculate under subsection b):



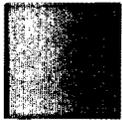




## 59-C-15.84. Incentives for Connectivity and Mobility.

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

- a) **Neighborhood Services:** Safe and direct pedestrian access to 10 different retail services on site or within ¼ mile, of which at least 4 have a maximum retail bay floor area of 5,000 square feet.
- b) **Minimum Parking:** Provision of the minimum required parking for projects of one acre of gross tract area or more.
- c) **Through-Block Connections:** Safe and attractive pedestrian connections between streets.
- d) **Public Parking:** Provision of up to the maximum number of parking spaces allowed in the zone as public parking.
- e) **Transit Access Improvement:** Ensuring that access to transit facilities meets County standards for handicapped accessibility.
- f) **Trip Mitigation:** A binding and verifiable Traffic Mitigation Agreement to reduce the number of weekday morning and evening peak hour trips attributable to the site in excess of any other regulatory requirement; the agreement must result in non-auto driver mode share of at least 50% for trips attributable to the site.



# Neighborhood Services

Zoning Ordinance

## 59-C-15.84.a) Neighborhood Services:

Safe and direct pedestrian access to 10 different retail services on site or within ¼ mile, of which at least 4 have a maximum retail bay floor area of 5,000 square feet.



## Guideline Criteria

Incentive density of 10% is appropriate for a project that meets the criteria delineated in the zoning ordinance.

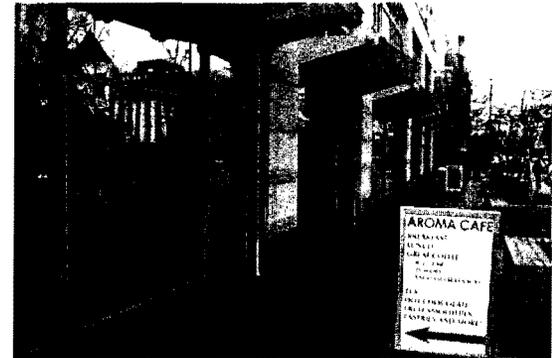
Additional incentive density may be granted if other criteria are met, such as:

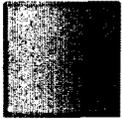
- Accessibility to those services for the disabled;
- Businesses associated with live-work units; or
- Required number of retail uses is within 1 block.

*Different retail services* include banks, cafes, care centers, community/civic centers, convenience stores, dry cleaners, hair care services, hardware stores, health clubs, laundromats, libraries, medical and dental offices, parks, pharmacies, police and fire stations, post offices, religious institutions, restaurants, schools, supermarkets, theaters.



## Illustrations





# Minimum Parking

Zoning Ordinance

## 59-C-15.84.b) Minimum Parking:

Provision of the minimum required parking for projects of one acre of gross tract area or more.



### Guideline Criteria

For projects on one acre of gross tract area or more, incentive density is calculated on a sliding scale from no density for providing the maximum allowable number of spaces on-site to 20% incentive density for providing no more than the minimum number of spaces on site.

Formula:  $(((A/P)/(A/R))*0.20)*100$

- A = maximum allowed spaces
- R = minimum required spaces
- P = proposed spaces

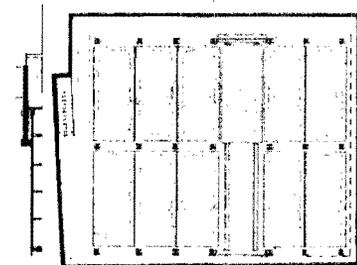


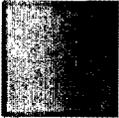
### Example

Formula:  $(((A/P)/(A/R))*0.20)*100$

A	maximum allowed spaces	100 spaces
R	minimum required spaces	50 spaces
P	proposed spaces	60 spaces

Calculation: 17 % incentive density





# Through-Block Connections

Zoning Ordinance

## 59-C-15.84.c) Through-Block Connections:

Safe and attractive pedestrian connections between streets.



### Guideline Criteria

Incentive density of 15% is appropriate for connections that meet the following requirements:

- Open-air, non-climate controlled
- Provides direct access between streets and may be provided through the first floor of a building if the property owner grants a public access easement for the walkway;
- At least 15 feet in width;
- At least 35 percent of the walls facing the interior pedestrian connection below a height of 8 feet have clear, unobstructed windows; and
- Open to the public between sunrise and sunset and, where the connection leads to a transit facility or publicly-accessible parking facility within ½ mile, for the hours of operation of the transit and/or parking facility.

Additional incentive density may be appropriate if other criteria are met, such as:

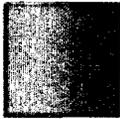
- Direct connection to parks, transit facilities, or public buildings;
- Accessible retail uses along a majority of its length;
- Increased width; or
- Public artworks integrated into the walk.

Incentive density below 15% may be granted if some of the guideline requirements are not provided.



### Illustrations





Zoning Ordinance

## 59-C-15.84.d) Public Parking:

Provision of up to the maximum number of parking spaces allowed in the zone as public parking.



### Guideline Criteria

Incentive density is calculated on a sliding scale from no density if public parking is not provided to 25% incentive density for providing 100% of the spaces between the minimum required and the maximum allowed as publicly available spaces.

Formula:  $[(P/(T-R))*0.25]*100$

- P = public spaces provided
- T = total spaces provided
- R = minimum required spaces



### Example

Formula:  $[(P/(T-R))*0.25]*100$

P	public spaces provided	25 spaces
T	total spaces provided	115 spaces
R	minimum required spaces	80 spaces

Calculation: 18 % incentive density



## Transit Access Improvement

Zoning  
Ordinance

### 59-C-15.84.e) Transit Access Improvement:

Ensuring that access to transit facilities meets County standards for handicapped accessibility.

### Guideline Criteria

Incentive density of 15% is appropriate for transit access improvements that:

- Upgrade pedestrian connections to transit stations or stops to County standards for handicapped accessibility; and
- Are located within ½ mile of the project site or, in the case of mobile transit improvements such as a bus shuttle, provide regular access for passengers within ½ mile.

Additional incentive density may be appropriate if other criteria are met, such as:

- Closer access;
- Provision of public access easements; or
- Construction of seating areas/shelters.

### Illustrations



## Trip Mitigation

### Zoning Ordinance

#### 59-C-15.84.f) Trip Mitigation:

A binding and verifiable Traffic Mitigation Agreement to reduce the number of weekday morning and evening peak hour trips attributable to the site in excess of any other regulatory requirement; the agreement must result in non-auto driver mode share of at least 50% for trips attributable to the site.

### Guideline Criteria

Incentive density of 15% is appropriate for trip mitigation that meets the zoning ordinance requirements. The traffic mitigation agreement (TMA) must:

- Be accepted by M-NCPPC and MCDOT prior to certification of any site plan for development subject to the agreement; and
- Outline the policies, tracking mechanisms, and reporting procedures to be put in place regarding car-pooling, transit subsidies, parking restrictions, bicycle facilities, and other mitigation strategies.

Additional incentive density may be appropriate if other criteria are met, such as:

- Shower facilities not otherwise required;
- Bike storage facilities above the minimum required; or
- Flex-car spaces.

### Illustrations



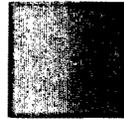
## Diversity of Uses and Activities

### Zoning Ordinance

#### 59-C-15.85. Incentives for Diversity of Uses and Activities.

In order to increase the variety and mixture of land uses, types of housing, economic diversity, and community activities; contribute to development of a more efficient and sustainable community; reduce the necessity for automobile use; and facilitate healthier lifestyles and social interaction, the Planning Board may approve incentive density of up to 30% for a project that provides affordable housing or a public facility, as described below, or at least 2 of the other following public benefits:

- a) **Affordable Housing:** All residential development must comply with the requirements of Chapter 25A for the provision of Moderately Priced Dwelling Units (MPDUs) and may provide Workforce Housing Units (WFHUs) under Chapter 25B.
  - 1) MPDU Incentive Density: Provision of MPDUs above the minimum required 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 FAR for the entire project.
  - 2) WFHU Incentive Density: Provision of WFHUs is calculated at the following rate: 2 times the percentage of units provided as WFHUs.
- b) **Adaptive Buildings:** Provision of buildings with minimum floor-to-floor heights of at least 15 feet on any floor that meets grade and 12 feet on all other floors. Internal structural systems must be able to accommodate various types of use with only minor modifications.
- c) **Care Centers:** Child or adult day care facilities.
- d) **Small Business Retention:** Provision of on-site space for small, neighborhood-oriented businesses.
- e) **Dwelling Unit Mix:** Provision of at least 7.5% efficiency units, 8% 1-bedroom units, 8% 2-bedroom units, and 5% 3-or-more bedroom units.
- f) **Enhanced Accessibility for the Disabled:** Provision of dwelling units that satisfy American National Standards Institute A117.1 Residential Type A standards or units that satisfy an equivalent County standard.



Zoning Ordinance

## 59-C-15.85.a) Affordable Housing:

All residential development must comply with the requirements of Chapter 25A for the provision of Moderately Priced Dwelling Units (MPDUs) and may provide Workforce Housing Units (WFHUs) under Chapter 25B.

- 1) MPDU Incentive Density: Provision of MPDUs above the minimum required 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 FAR for the entire project.
- 2) WFHU Incentive Density: Provision of WFHUs is calculated at the following rate: 2 times the percentage of units provided as WFHUs.



## Guideline Criteria

The calculations for incentive density for affordable housing are provided in the zoning ordinance and chapter 25A and must comply with all applicable regulations. Moderately Priced Dwelling Units (MPDUs) are calculated as a percent of the total number of dwelling units prior to the calculation of Workforce Housing Units (WFHUs). WFHUs are calculated based on the number of market rate units after the MPDU calculation is made.

Formula:  $M + ((W * 2) * 100)$

M = MPDU incentive density from Chapter 25A in whole number (i.e., 18% = 18)

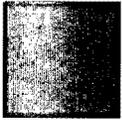
W = percent WFHUs proposed in decimal form (i.e., 6% = 0.06)



## Example

Formula:  $M + ((W * 2) * 100)$

Total units proposed:	100 units
MPDUs percent provided:	0.145 % units
MPDUs required:	15 MPDUs
M MPDU Density (from 25A):	20 %MPDU density
W WFHUs percent provided:	0.05 % units
WFHUs required:	5 WFHUs
Calculated Market Rate Units Allowed:	80 Market Rate Units
Calculation:	10 % WFHU density
Calculation:	30 % incentive density



# Adaptive Buildings

Zoning Ordinance

## 59-C-15.85.b) Adaptive Buildings:

Provision of buildings with minimum floor-to-floor heights of at least 15 feet on any floor that meets grade and 12 feet on all other floors. Internal structural systems must be able to accommodate various types of use with only minor modifications.



## Guideline Criteria

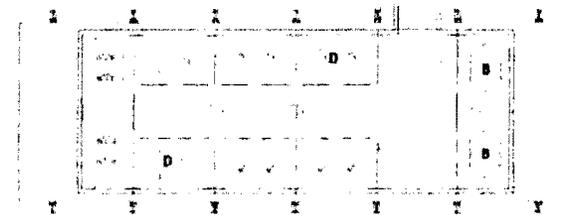
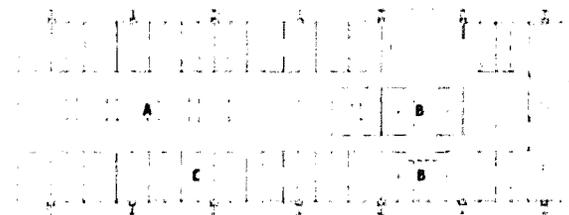
Incentive density of 10% is appropriate for an adaptive building that meets the requirements of the zoning code.

Additional incentive density may be appropriate if other criteria are met, such as:

- The structural system can support additional density and height that may be added in the future, up to the maximum permitted density, without demolishing the structure; or
- The internal layout is built to allow changes between residential, retail, and office uses by minor modifications.



## Illustrations



## Care Centers

### Zoning Ordinance

#### 59-C-15.85.c) Care Centers:

Child or adult day care facilities.

### Guideline Criteria

Incentive density of 15% is appropriate for care centers that provide:

- Daytime adult or child care for at least 15 total users; and
- At least 25 percent of the spaces open to the public at large.

Additional incentive density may be appropriate if other criteria are met, such as:

- More than 15 users;
- Adjacent lay-by or on-site drop-off area;
- Higher percentage of spaces open to the general public; or
- Recreation facilities provided above those required by law.

### Illustrations



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## Small Business Retention

### Zoning Ordinance

#### 59-C-15.85.d) Small Business Retention:

Provision of on-site space for small, neighborhood-oriented businesses.

### Guideline Criteria

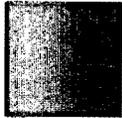
Incentive density of 15% is appropriate for developments that provide retail bays of no more than 5,000 square feet for:

- At least 3 small businesses on sites over 1 acre; or
- All of the commercial spaces on smaller sites.

Further, the approved gross floor space for these businesses must be restricted for a period of six years after the issuance of the initial use and occupancy permits. The six year time period is binding upon future owners and successors in title and must be stated as a condition of any site plan approved by the Planning Board. Before a building permit is submitted for approval, the applicant must file a covenant in the land records of Montgomery County, Maryland that reflects these restrictions.

### Illustrations





# Dwelling Unit Mix

Zoning Ordinance

## 59-C-15.85.e) Dwelling Unit Mix:

Provision of at least 7.5% efficiency units, 8% 1-bedroom units, 8% 2-bedroom units, and 5% 3-or-more bedroom units.



## Guideline Criteria

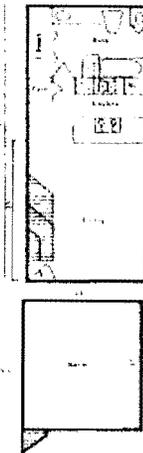
Incentive density of 5% is appropriate for providing residential buildings with a mix of dwelling unit types (calculated by rounding to the next higher whole number) with a minimum of:

- 7.5 percent efficiency dwelling units;
- 8 percent one-bedroom dwelling units;
- 8 percent two-bedroom dwelling units; and
- 5 percent three-bedroom or larger dwelling units.

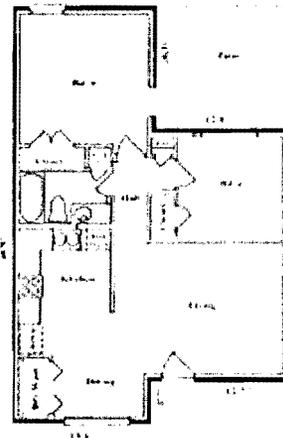


## Illustrations

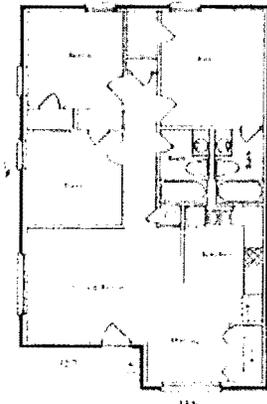
1 Bedroom / 1 Bath  
approx. 690 sq. ft.



2 Bedroom / 1 Bath  
approx. 850 sq. ft.



3 Bedroom / 2 Bath  
approx. 1013 sq. ft.



# Enhanced Accessibility for the Disabled

Zoning Ordinance

## 59-C-15.85.f) Enhanced Accessibility for the Disabled:

Provision of dwelling units that satisfy American National Standards Institute A117.1 Residential Type A standards or units that satisfy an equivalent County standard.

### Guideline Criteria

Provision of dwelling units that satisfy ANSI A117.1 Residential Type A standards, or an equivalent County standard, is eligible for incentive density on a sliding scale calculated as a percentage of complying units up to 20%.

Formula:  $(A/T)*100$

A = ANSI A117.1 units  
T = total units

### Example

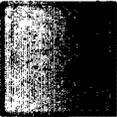
Formula:  $(A/T)*100$

A	ANSI 117.1 units	12 units
T	total units	200 units

Calculation: 6% incentive density



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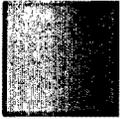
## Design Quality

### Zoning Ordinance

#### 59-C-15.86. Incentives for Quality Building & Site Design.

High quality design is especially important in urban, integrated-use settings to ensure that buildings and uses are compatible with each other and adjacent communities and to provide a harmonious pattern of development. Due to the increased density of these settings, buildings tend to have high visibility. High quality design may help to attract residents and businesses to locate in these settings. Location, height, massing, façade treatments, and ornamentation of buildings affect sense of place, orientation, and the perception of comfort and convenience. The quality of the built environment affects light, shadow, wind, and noise, as well as the functional and economic value of property. In order to promote high quality design, the Planning Board may approve incentive density of up to 30% to a project that provides at least 2 of the following public benefits:

- a) **Historic Resource Protection:** Preservation and/or enhancement of a historic resource indicated on the Master Plan for Historic Preservation in conformance with a plan approved by the Historic Preservation Commission. A fee-in-lieu for a specific preservation project may be paid to the Historic Preservation Division as specified in the Guidelines for Public Benefits.
- b) **Structured Parking:** Parking provided within a structure or below-grade.
- c) **Tower Setback:** Setback of building by a minimum of 6 feet beyond the first floor façade at a maximum height of 72 feet.
- d) **Public Art:** Provision of public art must be reviewed for comment by the Public Arts Trust Steering Committee. A fee-in-lieu may be paid to the Trust as specified in the Guidelines for Public Benefits.
- e) **Public Open Space:** Provision of open space in addition to the minimum required by the zone. Public open space must be easily accessible to the public during business hours and/or at least from sunrise to sunset and must contain amenities such as seating, plantings, trash receptacles, kiosks, and water features.
- f) **Streetscape:** Construction of off-site streetscape in addition the requirements of this division.
- g) **Exceptional Design:** Building design that provides innovative solutions in response to the immediate context; creates a sense of place and serves as a landmark; enhances the public realm in a distinct and original manner; introduces new materials, forms, or building methods; uses design solutions to make compact infill development living, working, and shopping environments more pleasurable and desirable; and integrates low-impact development methods into the overall design of the site and building.



# Historic Resource Protection

Zoning Ordinance

## 59-C-15.86.a) Historic Resource Protection:

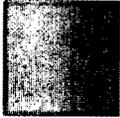
Preservation and/or enhancement of a historic resource indicated on the Master Plan for Historic Preservation in conformance with a plan approved by the Historic Preservation Commission. A fee-in-lieu for a specific preservation project may be paid to the Historic Preservation Division as specified in the Guidelines for Public Benefits.



## Guideline Criteria

Incentive density of 15% is appropriate for projects that protect historic resources by one of the following means:

- Preservation and restoration of a historic resource designated in the Master Plan for Historic Preservation;
- Protection and enhancement of off-site historic resources by providing capital improvements, interpretive signs, museum-type exhibits, integration and construction of context-appropriate landscape and settings, or protection of important viewsheds; or
- Payment of a fee as follows:
  1. The minimum fee is 1.0% of the development’s projected cost up to \$100,000;
  2. The fee is paid prior to the release of the first building permit for the development;
  3. The fee is used for stabilization, restoration rehabilitation, or interpretive improvements of publicly owned historic resources on parkland; or for the identification, evaluation, documentation, interpretation or related activities that will lead to a better understanding of the County’s historic resources; and
  4. The fee is to be used for a project within or near the policy area where the proposed development is located.



# Structured Parking

Zoning Ordinance

## 59-C-15.86.b) Structured Parking:

Parking provided within a structure or below-grade.



### Guideline Criteria

Structured parking may be granted incentive density on a sliding scale based on the percentage of total on-site spaces provided in above ground parking multiplied by 10% , plus the percentage of total on-site spaces provided in below grade parking multiplied by 20%.

Formula:  $(((A/T)*0.10)+((B/T)*0.20))*100$

- A = above-grade spaces
- B = below-grade spaces
- T = total spaces



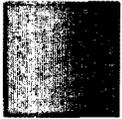
### Example

Formula:  $(((A/T)*.10)+((B/T)*0.20))*100$

A	above-grade spaces	200 spaces
B	below-grade spaces	145 spaces
T	total spaces	345 spaces

Calculation: 14 % incentive density





## Tower Setback

Zoning  
Ordinance

### 59-C-15.86.c) Tower Setback:

Setback of building by a minimum of 6 feet beyond the first floor façade at a maximum height of 72 feet.



### Guideline Criteria

Incentive density of 5% is appropriate for buildings that meet the requirements of the zoning ordinance.

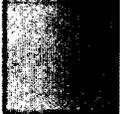
Additional incentive density may be appropriate if other criteria are met, such as:

- Greater setback;
- Setback at a lower level; or
- Integration of setback with reduced floor plate sizes on upper stories.



### Illustrations





## Public Art

### Zoning Ordinance

#### 59-C-15.86.d) Public Art:

Provision of public art must be reviewed for comment by the Public Arts Trust Steering Committee. A fee-in-lieu may be paid to the Trust as specified in the Guidelines for Public Benefits.



## Guideline Criteria

Incentive density of 5% is appropriate for public art that is reviewed for comment by the Public Arts Trust Steering Committee and is found to fulfill at least five of the following goals:

- Achieve aesthetic excellence;
- Ensure an appropriate interaction between the art and the architectural setting in terms of scale, materials, and context;
- Ensure public access and invite public participation;
- Encourage collaboration between the artist(s) and other project designers early in the design phases;
- Ensure long-term durability of permanent works through material selection and/or a documented maintenance program;
- Encourage a rich variety of arts including permanent installations, revolving temporary works, and event programming;
- Increase public understanding and enjoyment of art through interpretive information and/or programmed events; and
- Contribute to a collection of commissioned art that is unique and fosters a positive community identity.

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

- The minimum fee is calculated on 0.5 percent of the development's projected cost up to \$100,000;
- The fee is paid to the Public Arts Trust Steering Committee prior to release of a building permit; and
- The fee is used for installation, management, and maintenance of public art at the discretion of the Public Arts Trust Steering Committee, with preference given to the policy area where the proposed development is located.

## Public Open Space

### Zoning Ordinance

#### 59-C-15.86.e) Public Open Space:

Provision of open space in addition to the minimum required by the zone. Public open space must be easily accessible to the public during business hours and/or at least from sunrise to sunset and must contain amenities such as seating, plantings, trash receptacles, kiosks, and water features.

### Guideline Criteria

Incentive density for public open space above the public use space requirements of the zone is granted on a sliding scale based on the percentage of the net lot area placed in open space up to 20%. The open space should meet the following requirements:

- Directly accessible to a street; and
- Open to the public between sunrise and sunset;
- No proposed loading or parking facilities are visible below a height of the fourth floor;
- Contains seating, trash receptacles, landscaping, and other amenities such as water features, kiosks, and passive recreation areas;
- At least 35 feet at its narrowest width;
- Walls of any non-residential floor area facing the open space have windows on at least 60 percent of the façade below a height of 40 feet; and
- Main entries to any dwelling units are from a wall facing the open space.

A fee-in-lieu of public open space may be accepted for incentive density as follows:

- The fee equals \$35 per square foot plus the development's market rate of land value per square foot for whatever percentage of the net lot is requested as open space incentive density up to 20%;
- The fee is paid into the Planning Department amenity fund or other designated open space construction, renovation, or improvement fund prior to release of a building permit; and
- The fee is used for installation, management, and maintenance of public facilities and amenities in part or in full that the Planning Board finds consistent with the goals of the applicable master plan.

# Public Open Space (continued)

## Guideline Criteria

Formula:  $(P/N) \times 100$

P = public open space in square feet

N = net lot area in square feet

## Example

Formula:  $(P/N) \times 100$

P public open space

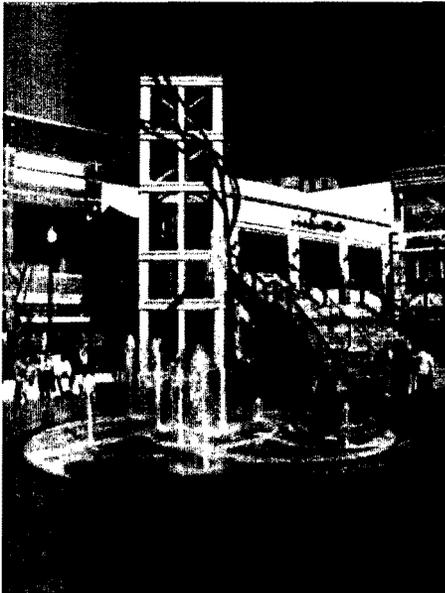
6,000 square feet

N net lot area

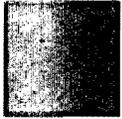
46,000 square feet

Calculation:

13 % incentive density



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# Streetscape

Zoning Ordinance

## 59-C-15.86.f) Streetscape:

Construction of off-site streetscape in addition the requirements of this division.



## Guideline Criteria

Incentive density for improvements to off-site streetscape is granted on a sliding scale based on the area improved calculated as a percentage of the net lot area multiplied by 0.25. The improvements must follow the Bethesda Streetscape Standards, as amended, including providing utilities underground.

Formula:  $(S/N)*100$

S = streetscape improvements in square feet

N = net lot area in square feet



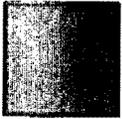
## Example

Formula:  $(S/N)*100$

S	streetscape improvements	9,000 square feet
N	net lot area	78,000 square feet

Calculation: 12 % incentive density

55



# Exceptional Design

Zoning Ordinance

## 59-C-15.86.g) Exceptional Design:

Building design that provides innovative solutions in response to the immediate context; creates a sense of place and serves as a landmark; enhances the public realm in a distinct and original manner; introduces new materials, forms, or building methods; uses design solutions to make compact infill development living, working, and shopping environments more pleasurable and desirable; and integrates low-impact development methods into the overall design of the site and building.



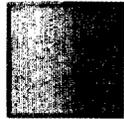
## Guideline Criteria

Incentive density of 10% is appropriate for development that meets at least 4 of the zoning ordinance criteria and 15% for development that meets all of them.



## Illustrations





**59-C-15.87. Incentives for Protection and Enhancement of the Natural Environment.**

In order to combat sprawl and mitigate or reverse environmental problems such as heat from the built environment, inadequate carbon-sequestration, and pollution caused by reliance on the automobile, the Planning Board may approve a density increase up to 30% for the public benefits in this Subsection:

- a) CR zones require the purchase of BLT easements or payment to the Agricultural Land Preservation Fund for at least 5% but no more than 30% of the incentive density under the following conditions.
  - (1) Any private BLT easement must be purchased in whole units; or
  - (2) BLT payments must be made to the Agricultural Land Preservation Fund, based on the amount established by Executive Regulations under Chapter 2B; if a fraction of a BLT easement is needed, a payment based on the gross square footage of incentive density must be made to the Agricultural Land Preservation Fund for at least the fraction of the BLT easement.
  - (3) (A) For the first 5% of incentive density, each BLT easement purchase or payment allows 20,000 gross square feet of incentive density or a proportion thereof, allowed by a payment for a fraction of a BLT.  
(B) For the incentive density above 5%, each BLT easement purchase or payment allows 30,000 gross square feet of incentive density or a proportion thereof, allowed by a payment for a fraction of a BLT.
- b) **Energy Conservation and Generation:** Provision of energy-efficiency that exceeds standards for the building type by 17.5% for new buildings or 10% for existing buildings, or provision of renewable energy generation facilities on-site or within ½ mile of the site for a minimum of 2.5% of the projected energy requirement.
- c) **Green Wall:** Installation and maintenance of a vegetated wall that covers at least 30% of any blank wall or parking garage façade visible from a public street or open space.
- d) **Tree Canopy:** Coverage at 15 years of growth of at least 25% of the on-site open space.
- e) **Vegetated Area:** Installation of plantings in a minimum of 12 inches of soil covering at least 5,000 square feet of previously impervious surfaces. This does not include vegetated roofs.
- f) **Vegetated Roof:** Provision of a vegetated roof with a soil depth of at least 4 inches covering at least 33% of a building's roof, excluding space for mechanical equipment.

Zoning Ordinance

## 59-C-15.87.a) Building Lot Terminations:

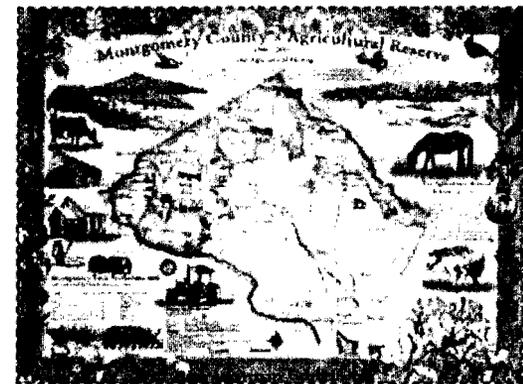
CR zones require the purchase of BLT easements or payment to the Agricultural Land Preservation Fund for at least 5% but no more than 30% of the incentive density under the following conditions.

- (1) Any private BLT easement must be purchased in whole units; or
- (2) BLT payments must be made to the Agricultural Land Preservation Fund, based on the amount established by Executive Regulations under Chapter 2B; if a fraction of a BLT easement is needed, a payment based on the gross square footage of incentive density must be made to the Agricultural Land Preservation Fund for at least the fraction of the BLT easement.
- (3) (A) For the first 5% of incentive density, each BLT easement purchase or payment allows 20,000 gross square feet of incentive density or a proportion thereof, allowed by a payment for a fraction of a BLT.  
(B) For the incentive density above 5%, each BLT easement purchase or payment allows 30,000 gross square feet of incentive density or a proportion thereof, allowed by a payment for a fraction of a BLT.

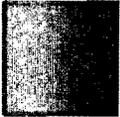
## Guideline Criteria

Calculations for incentive density for BLTs are provided in Section 59-C-15.87(a) of the zoning ordinance.

## Illustrations



58



# Energy Conservation & Generation

Zoning Ordinance

## 59-C-15.87.b) Energy Conservation and Generation:

Provision of energy-efficiency that exceeds standards for the building type by 17.5% for new buildings or 10% for existing buildings, or provision of renewable energy generation facilities on-site or within 1/2 mile of the site for a minimum of 2.5% of the projected energy requirement.



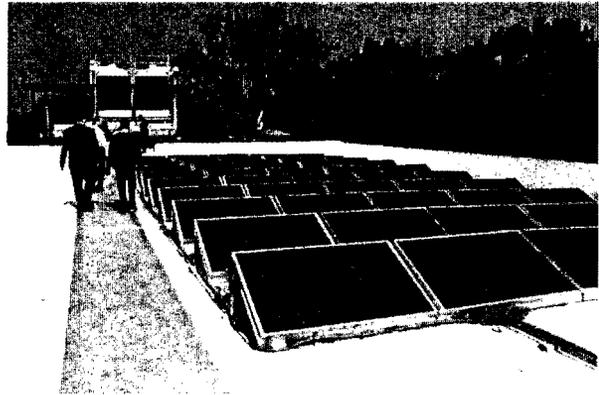
## Guideline Criteria

Incentive density of 10% is appropriate for buildings that meet the energy-efficiency requirements of the zoning ordinance.

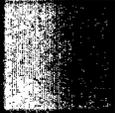
Additional incentive density of 15% is appropriate for buildings that meet the renewable energy generation requirements of the zoning ordinance.



## Illustrations



59



## Green Wall

### Zoning Ordinance

#### 59-C-15.87.c) Green Wall:

Installation and maintenance of a vegetated wall that covers at least 30% of any blank wall or parking garage façade visible from a public street or open space.



### Guideline Criteria

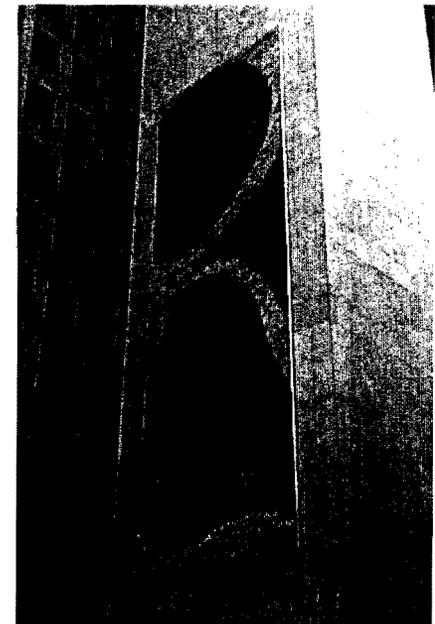
Incentive density of 5% is appropriate for buildings that meet the requirements of the zoning ordinance.

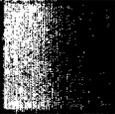
Additional incentive density may be appropriate if other criteria are met, such as:

- Greater percent of coverage;
- Southern or western exposure;
- Plants with varying flowering seasons; or
- Integration into an overall energy or environmental site design program.



### Illustrations





## Tree Canopy

### Zoning Ordinance

#### 59-C-15.87.d) Tree Canopy:

Coverage at 15 years of growth of at least 25% of the on-site open space.



### Guideline Criteria

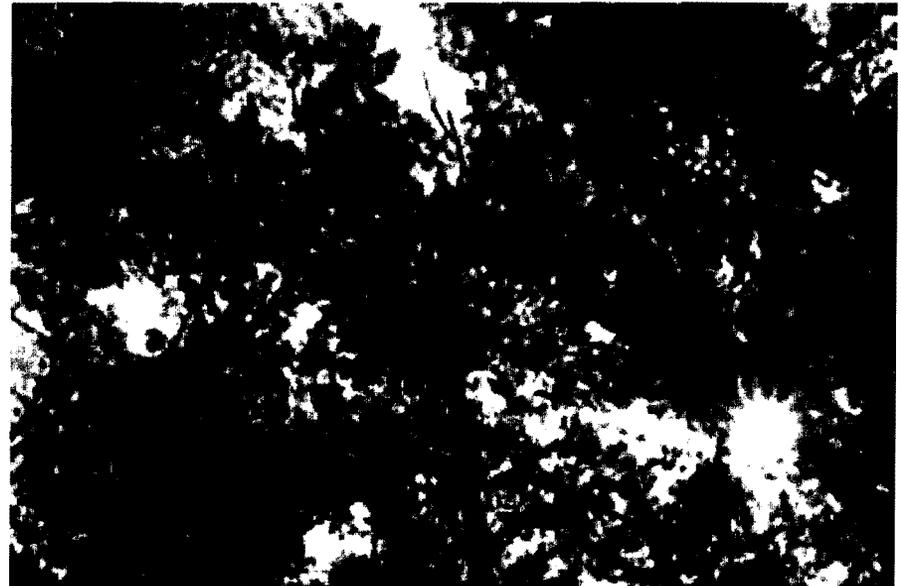
Incentive density of 10% is appropriate for development that meet the requirements of the zoning ordinance.

Additional incentive density may be appropriate if other criteria are met, such as:

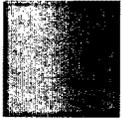
- Greater coverage;
- Larger planting size;
- Increased number of varieties;
- Integration with stormwater facilities; or
- Use of native species.



### Illustrations



(6)



# Vegetated Area

Zoning Ordinance

## 59-C-15.87.e) Vegetated Area:

Installation of plantings in a minimum of 12 inches of soil covering at least 5,000 square feet of previously impervious surfaces. This does not include vegetated roofs.



## Guideline Criteria

Incentive density of 5% is appropriate for development that meet the requirements of the zoning ordinance.

Additional incentive density may be appropriate if other criteria are met, such as:

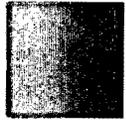
- Area replaces impervious area;
- Larger area;
- Maintenance program is provided;
- Greater soil depth, or
- Use of vegetated area as a community garden.



## Illustrations



62



# Vegetated Roof

Zoning  
Ordinance

## 59-C-15.87.f) Vegetated Roof:

Provision of a vegetated roof with a soil depth of at least 4 inches covering at least 33% of a building's roof, excluding space for mechanical equipment.



## Guideline Criteria

Incentive density of 10% is appropriate for development that meet the requirements of the zoning ordinance.

Additional incentive density may be appropriate if other criteria are met, such as:

- Greater coverage;
- Greater depth;
- Plant species that provide habitat; or
- Native plant species.



## Illustrations





**HOUSING  
OPPORTUNITIES  
COMMISSION**  
OF MONTGOMERY COUNTY, MD

10400 Detrick Avenue  
Kensington, Maryland 20895-2484  
(240) 773-9000

June 28, 2011

The Honorable Nancy Floreen, Chair  
Planning, Housing and Economic Development Committee  
Montgomery County Council  
Sixth Floor  
100 Maryland Avenue  
Rockville, Maryland 20850

Dear Ms. Floreen:

The Commissioners of the Housing Opportunities Commission have been following the PHED Committee's recent worksessions on the CR Zones with great interest. We are intensely interested in the supply of affordable housing in Montgomery County and in maximizing opportunities to develop homes that will be available to the County's working families.

We have developed a proposal that we believe will improve the opportunities to locate affordable housing in the transit-accessible, mixed-use communities for which the CR zones have been created. It is attached. The proposal is intended to make it more likely that developers in the CR Zones will substantially increase the percentage of MPDUs that they provide. In short, our proposal removes affordable housing from the list of public benefits and, instead, requires developers to provide 20% MPDUs in order to achieve the maximum FAR.

As an alternative, if the PHED Committee wants affordable housing to remain on the list of public benefits, we would suggest that developers earn 40 points for providing 20% MPDUs. We hope that you find the proposal worthy of your support.

Tedi Osias, HOC's Director of Legislative and Public Affairs, will be attending your worksession on June 30 and can answer questions that you may have about our proposal.

Thank you for your efforts to improve the affordability of housing available to the Montgomery County's working families.

Sincerely,

Roberto Pinero  
Chair



cc: Council Member George Leventhal  
Council Member Marc Elrich  
Jeff Zyontz, Legislative Attorney

## **HOC's Proposal for Additional Requirements and Development Incentives for Affordable Housing for Development in CR and CRT Zones**

Montgomery County's families urgently need affordable housing with good accessibility to transit and job centers. Housing affordable to the "typical family" employed in Montgomery County is not being built in amounts adequate to meet the need. For some time, the County's families have found housing in the County to be exceedingly expensive, and recent economic changes have priced even more families out of decent housing choices. Much more affordable housing is needed to meet the needs of not only the lower paid workforce but also of households making between 80%-120% of the County Median Income (\$75,200- \$112,800 for a family of four!). Lower income elderly and disabled residents are impacted even more severely.

The CR Zone is intended for use in the high-density, transit-served mixed-use areas of Montgomery County. The CRT Zone is likewise intended for transit-served, mixed-use areas of lower intensity. The Commission is concerned that development in these areas will continue to include only the 12.5% of Moderately Priced Dwelling Units (MPDUs) required by current standards. The underlying problem in the CR and CRT Zones is that additional affordable housing is only one of a list of optional benefits by which a developer may add density between the base and maximum FAR. We have studied the list of benefits and believe that this affordable housing option is not competitive. It can't compete with other optional benefits that are less expensive and/or enhance the marketability of the project.

We propose that a CR or CRT Zone developer be required to increase the percentage of MPDUs beyond the 12.5% requirement to be allowed to reach the maximum residential density allowed in either zone. We suggest that the developer be required to provide 20% MPDUs to build the final 20% of residential density.

As an alternative, if affordable housing is to remain on the public benefits list, we propose that developers earn 40 bonus points for providing 20% MPDUs.

We also propose a payment option. A developer would be allowed to provide a payment in lieu of the additional MPDUs. The payment for each MPDU would be 70% of the full development cost (construction hard costs plus all soft costs) of an average unit. The payments would be deposited in an Enterprise Fund administered by the Department of Housing and Community Affairs (DHCA) to be used to construct housing with a high affordable housing component on a site within a mile or a ten minute bus ride of a Metro station. (This requirement could be changed if full service Bus Rapid Transit is implemented.)

Developers of primarily commercial properties should also provide an affordable housing payment in order to reach maximum FAR. The developer of a majority office or commercial property would provide payments to achieve the top 10% of non-residential FAR. We can consult with planning staff to propose an appropriate amount for this payment.

Workforce housing should not be included in the CR Zone's public benefit options. The additional affordable housing should help meet the much greater need for housing at the MPDU income level or below.



June 29, 2011

The Honorable Nancy Floreen, Chair  
Planning, Housing and Economic Development Committee  
Montgomery County Council  
Sixth Floor  
100 Maryland Avenue  
Rockville, Maryland 20850

RE: **ZTA 11/01** – Commercial/Residential (CR) Zones

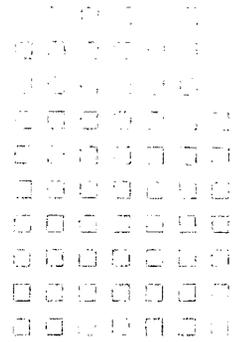
Dear Chair Floreen:

Federal Realty is the owner of Mid-Pike Plaza, a property within the White Flint Sector, and recently submitted a site plan for the development of over 850,000 square feet of commercial and residential uses in the first phase. We have reviewed the letter from the Housing Opportunities Commission dated June 28, 2011 and we have tested the financial performance of Mid-Pike phase 1 against HOC's proposal to increase the MPDU requirement from 12.5% to 20%. Our analysis showed that the resulting reduction in net operating income under this scenario does not justify the cost of redeveloping our shopping center, as the yield on development fell below our required return on investment. The loss of income from the additional MPDU burden destroys over \$7 million of value in just phase 1 of Mid-Pike, deeming the project infeasible.

Under the current MPDU requirement, Federal Realty has already committed through our approved sketch plan to provide approximately 215 MPDUs. If, due to the increased burden of having to build an additional 130 MPDUs, we are unable to move forward with our redevelopment plans, not only would the additional 130 MPDUs never get built, but the base 215 MPDUs that we have already committed to provide would also not deliver. The cost of development in Metro served areas is already more expensive due to the cost of structured parking and concrete construction, and we ask that you not support HOC's proposal to further increase the cost of development such that it is no longer feasible.

Sincerely,

Tommy Mann  
Federal Realty Investment Trust



1626 East Jefferson Street  
Rockville, MD 20852-4041  
PH 301.998.8100

# THE WHITE FLINT PARTNERSHIP

June 24, 2011

Ms. Nancy Floreen, Chair  
And Members of the Planning, Housing and  
Economic Development Committee  
100 Maryland Avenue, 6<sup>th</sup> Floor  
Rockville, MD 20850

Re: Zoning Text Amendment 11-01 – CR Zones

Dear Chair Floreen and Members of the PHED Committee:

This letter is submitted on behalf of the White Flint Partnership (“Partnership”) in response to the discussion at the June 22, 2011 PHED worksession on CR Zones (“Worksession”). The Partnership was heavily engaged in the recent drafting of the CR Zone. To date, three members of the Partnership have received Sketch Plan approval pursuant to the CR Zone. Consequently, these are the only property owners in the County with experience using the CR Zone.

Initially, we urge the PHED Committee to consider the following fundamental points:

- The CR Zones have been in effect for only approximately 18 months and were adopted after very extensive public debate and input. In this time, the zones have produced sketch plan approval for three innovative and exciting mixed-use projects. These plans carefully implement the White Flint Sector Plan (“Sector Plan”), which received broad-based citizen support. Accordingly, in light of both the strong community and private sector support, it is unwarranted and premature to radically alter the CR Zones. Moreover, such modifications would jeopardize and very likely defeat the well thought-out and forward-looking zoning strategy to implement master and sector plans by providing mixed-use zones that promote sound public interest goals within a feasible economic framework.
- The CR Zones provide a far superior process for public input than that which it replaced. In contrast to the existing optional process, the extent and choice of public benefits available in the CR Zones are made clear. In this regard, citizens and developers are equally informed of the type and range of public benefits that are available for discussion when a development is initially proposed and can work toward mutual agreement with equal and specific knowledge. Additionally, articulation of the available public benefits aides in accurately shaping community expectations at an early stage. Finally, priorities among available benefits are set by the applicable master or sector plan, encouraging and rewarding public input at an early stage.
- A diversity of public benefits is a critical element in achieving the public interest – one size does not fit all. It is clear that Montgomery County is a diverse and varied County and not all

communities within it require the same public benefits. The CR Zones wisely provide for and respond to this diversity.

We would like to address three concerns were voiced during the hearing and Worksession, or during our interactions with some residents in attendance:

1. First, that the CR Zones will be applied in a blanket fashion across the County or by using the local map amendment process as opposed to the current zone requirements that it is applied through master plans. There is nothing in the proposed ZTA to justify this concern.
2. Second, that the Planning Board has asked for some flexibility in the application of a master plan at the time of plan review. Master Plans have a long life, often 20 to 30 years or more. It would be difficult, if not impossible, for a master plan to accurately predict the future in all respects. Limited flexibility by the Planning Board avoids unnecessary impediments to the implementation of the major goals and objectives of the master plan.
3. Finally, that the public benefits provisions of the CR Zones are not adequate. We believe the CR Zones present a much improved and informed process. The CR Zones are indeed new and it will take some time for both the business and residential community to become accustomed to them. More particularly, below is a brief defense of the public benefits as proposed in the original CR Zone:
  - The variety in choices of public benefits is a positive and not a negative, because it allows the zone to be utilized in various parts of the County with difference economic conditions. Prior to the Sector Plan, a property owner in White Flint could rezone and develop a project providing 12.5% MPDU's and streetscape improvements as the ONLY public benefits. As noted, under the new CR Zones, three Sketch Plans have been approved with more than 30 individual public benefits. We recommend caution when trying to compare White Flint, Wheaton, Kensington, Takoma Park, Great Seneca Science Center and other parts of the County to Friendship Heights and Bethesda. Friendship Heights and Bethesda CBD garners the highest residential and commercial rents in the entire County. There is a reason Wisconsin Place was able to justify building a very expensive new recreation center. It is because the value of the underlying land in that CBD is much higher than elsewhere in the County. In most parts of the County, including White Flint, where land values are less than half those in Friendship Heights, the choices of amenities must be broader and must in fact be economically feasible for that locale.
  - To dramatically reduce the existing list of public benefit choices and thus mandate all new development select from a smaller pool of benefits does not work economically. By limiting the choices of public benefits, the CR Zones will drive up the cost of development in the places that are least likely to be able to afford the additional costs. In Wheaton, Kensington, and Takoma Park, where land values are below those in White Flint, the problem would be

further exacerbated. This would leave a large portion of properties without the ability to reach the 100 points required by the zone to redevelop.

- Even worse, if the County were to simply require property owners to do many of the benefits outlined in the CR Zones without receiving any credit for those additional costs, it will result in an unrealistic increase in rents and a dramatic halt in economic growth in the County due to lack of regional competitiveness. Guided by the priorities established in the applicable master plan, the key to a successful sketch plan is a negotiation between the local residents, the property owner, Staff and Planning Board to determine which mix of identified public benefits is right for that individual site.
- Montgomery County is a diverse County with diverse interests and needs. The public benefit list in the CR Zones was negotiated over more than 18 months at both the Planning Board level and the County Council in 2009 and 2010. While encouraging green roofs, enhanced accessibility for the aging, or pedestrian connectivity might not be important to one community, it may in fact be very important to a different constituency or community within the County.
- It is important to note that the public benefits which ultimately are approved for any given project will be part of a negotiation between the property owners, local residents, Staff and Planning Board. Regardless of the number of categories, the categories establish a clear framework for those conversations. In addition, the Incentive Density Guidelines for implementation of the CR Zones further define identified public benefits and may be modified over time to further encourage particular amenities at given points in time. In essence, the CR Zones guided by the applicable master plan become a living, breathing document that can grow with the County.
- Finally, we felt it was important to address affordable housing. This is a valid concern in Montgomery County, however, if we are going to realistically address it, it must be done as a larger policy matter outside of the CR Zones. The development community has been working with the County Executive's office on this issue for the past year and continues to hope that changes to the affordable housing section of the Code will occur in the coming year. You may recall from the economic report the Partnership provided to the Council during the Sector Plan process, the cost of the current MPDU program is \$30 per sf in increased land costs. This dwarfs the costs of all other public benefits combined. For this public benefit to be a realistic choice, it must be made economically feasible to the development community. The original MPDU legislation in the 1970's was proposed as net neutral. We have lost sight of that goal over the past 10 years. This major policy issue cannot be handled by changes to the CR Zones. As an interim solution, a larger incentive for this category could be awarded as an incentive, but the community must be aware that it comes with a high cost and may severely reduce the provision of other desired public amenities recommended in a master plan. Until this reality is confronted and an

Ms. Nancy Floreen, Chair, and  
Members of the PHED Committee  
June 24, 2011  
Page 4

economically realistic program established, the problem is not going to go away regardless of the CR Zones.

We appreciate the opportunity to express our views on the issues raised at the Worksession. We have, by separate attachment to this letter, provided additional responses to comments regarding particular public benefits. We respectfully request that the PHED Committee recommend approval of the ZTA as submitted by the Planning Board. We further request that, if any additional modifications are made to the public benefit categories of the CR Zones over the objections of the Partnership, all properties within the White Flint Sector Plan be grandfathered from such changes.

Very truly yours,

THE WHITE FLINT PARTNERSHIP

Federal Realty Investment Trust  
Gables Residential  
The JBG Companies  
Lerner Enterprises  
The Tower Companies  
Saul Centers, Inc.

cc: Jeff Zyontz  
Francoise Carrier  
Rollin Stanley  
Joshua Sloan  
David Lieb

## ATTACHMENT

As noted above, the provision of a range of identified public benefits which may be prioritized by the applicable master plan is a sound and much improved process. In addition to fairly engaging the community and implementing the master plan, the system recognizes the differing needs of communities and economic realities of development. At the Worksession, statements were made concerning the limited costs of several public benefits, characterized as “low hanging fruit.” At the time the CR Zones were considered, the costs of individualized public benefits were provided and evaluated. Moreover, the final list of public benefits to be provided in any given project is the product of a negotiation with the community, Staff and Planning Board. In this regard, if the benefit proposed is unacceptable, it will be rejected.

- Major Public Facilities: The master plan states where major public facilities will go. The CR Zone merely provides a mechanism for receiving greater incentive density points for providing these items or for contributing to them.
- Transit Proximity: Once again, not all transit station areas are created equal. Wheaton and Kensington are not equivalent to Friendship Heights or White Flint. The goal of this category is to encourage more development closest to transit. The benefit to the County is reduced congestion, traffic, and increased modal split. This public benefit also recognizes the added cost of developing near transit stations at higher densities where structured parking is extremely expensive. We note that, in White Flint, the CR Zones set the base density at 0.5, which in most cases was a significantly lower FAR than under the zones that previously existed. The Transit Proximity bonus enables property owners closest to Metro to regain some of this lost development right.
- Neighborhood Services: Provides an incentive to provide the right type and design of development in areas of the County that today are not pedestrian friendly.
- Minimum Parking: The CR Guidelines have a clear formula for calculating this public benefit by using a sliding scale that provides more incentive density points for less structured parking.
- Through Block Connection: These are essentially open space areas that are not developed. The property owner is giving up land and in many cases making parking structures less efficient. For example, in the case of Mid-Pike Plaza, this public benefit was added during the Sketch Plan process at the request of Staff and is an example of how the system works effectively to get public benefits that are important to the community. Specifically, it resulted in positive increased pedestrian connectivity and reduced reliance on the automobile.
- Public Parking: This is a very important public benefit given that the County does not own property in White Flint and other transit-oriented areas where CR is being applied, and will need to use this incentive category to create functional parking lot districts.
- Transit Access Improvements: This category is for improving the accessibility to a transit station. This usually requires elevators which are very expensive. If the property owner is providing such a public benefit in lieu of the County having to incur the cost to provide it, credit is clearly deserved.

- Trip Mitigation: In White Flint, the Planning Department will be doing bi-annual mobility reviews to see where modal splits stand. This will provide important information on the success of a property in achieving the modal split goals. Moreover, providing a TMD program as requested is a huge cost to the developer, resulting in potential lost revenue from office tenants for providing less parking.
- Off-site Streetscape: This is an important and beneficial new category. It cannot be defined in the master plan because you never know when this issue will occur. For example, if a property owner develops three-quarters of a block and is offering to do streetscape improvements in front of the other portion of the block, it is a great way to complete grids of streets and sidewalks. As with many of the benefits, the credit for this item will be determined with input from Staff, local residents and the Planning Board.
- Advanced Dedication: Most of the CR zoned properties are along strip shopping center routes. If these streets are going to change, major infrastructure projects need to occur. This category provides the County with necessary right-of-way earlier in the process so that it is available for construction without acquisition or delay, saving money, and implementing needed infrastructure. Additionally, it is a benefit because, in many instances, the new infrastructure will prematurely remove surface parking or other existing improvements.
- Affordable Housing: During the Worksession, the recently approved White Flint sketch plans were referenced as, in essence, not providing sufficient affordable housing because they did not utilize the affordable housing incentive density benefit. The need to address the larger affordable housing policy issue is addressed in our letter. However, the recent White Flint projects provide a substantial number of MPDUs (12.5%), as required by law.
- Adaptive Buildings: Several projects to be built under the CR Zones involve long-term plans spanning many years in their build-out. Planning up front for future market changes is not in the interest of most property owners who may sell their properties within 5 to 7 years of redevelopment. Therefore, it is in the interest of the County to request adaptive buildings.
- Day Care Centers: This category provides an appropriate financial incentive to provide this important public benefit.
- Dwelling Unit Mix: One recent sketch plan in White Flint incorporated this category as a public benefit choice. It is a real cost to developers and one that cannot be mandated within economic constraints.
- Enhanced Accessibility: This is a credit only if you go above and beyond the required code which is appropriate.
- Historic Resource Protection: This is a judgment call by Staff and the Planning Board based upon the facts of the individual sketch plan. It does not make sense to remove it simply because we are not sure where it would be applied.
- Structured Parking: Structured parking is almost as expensive to provide as MPDU's. As such, it is the second most costly public benefit. It is easy to argue that it should be required, but that does not take into account the economic realities in most areas of the County.

- Tower Step Back: This requires a double set of columns as you are setting back from the columns on the outside of your building. In buildings with retail at the base it requires transfer beams which are very expensive. There is clearly a cost to providing this public benefit.
- Public Art: Not all developers are going to provide public art as a matter of course. This is an important public benefit for community enhancement.
- Public Open Space: In the context of a master plan which calls out for larger neighborhood parks, civic spaces, etc., the new reduced 10% public open space requirement is sufficient. The issue at hand is not the change from 20% to 10%, it is allowing for better grouping of public space to create great spaces. The County has plenty of areas with a 20% requirement and yet the public space is not usable nor attractive.
- Exceptional Design: Our comment is the same as provided for the public art category – design is important and exceptional design comes with high cost. Efforts to quantify it have been made.
- Architectural Elevations: This is a good addition and will encourage developers to provide this important public benefit.
- Energy Conservation: The goal of the CR Zone is to provide an incentive for sustainable practices. If we want to simply legislate this we increase the cost of development in the County at the expense of other public benefits. The goal of the zone is to have a mix of public benefits provided by different buildings.
- Vegetated Wall: Again, this public benefit is not “low hanging fruit.” This is expensive and comes with long-term maintenance.
- Tree Canopy: This is an added expense to development and should not be mandated without a public benefit credit.
- Vegetated Area: This also is a substantial added expense in structure and soil.
- Habitat Preservation: This is a judgment call by Staff and the Planning Board based upon the facts of the individual sketch plan. It does not make sense to remove it simply because we are not sure where it would be applied.



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**OFFICE OF THE CHAIRMAN**

July 1, 2011

The Honorable Nancy Floreen  
Montgomery County Council  
100 Maryland Avenue  
Rockville, Maryland 20850

Dear Ms. Floreen:

Roberto Piñero forwarded to me the letter he sent to you on June 28 on behalf of the Housing Opportunities Commission concerning the CR zone and the provision of affordable housing. I am taking this opportunity to provide our initial comments on the proposals in that letter.

I am summarizing the ideas conveyed in that letter as follows.

1. Increase the mandatory affordable housing contribution from 12.5 % to 20 %. This would be a 60 % increase.
2. As an alternative to #1, increase the public benefit value for affordable housing by granting 40 incentive density points for 20 % affordable housing.
3. As an alternative to #1 and #2, provide for an affordable housing contribution as a "payment option". This would be set at 70 % of the costs for designing and building an affordable unit.
4. Apply whichever of the above alternatives the Council may select to require affordable housing contributions for commercial construction, including offices, that does not include a residential component.

Several of these ideas would require amendments to chapter 25A of the County Code. In addition, some are beyond the scope of the CR zone, particularly point #4. Several of the points raised are probably best looked at in the context of the Housing Policy currently under review.

Given that we share many of the objectives of the proposals, but have concerns regarding broad implications over many master plans with competing priorities, we suggest the following alternatives:

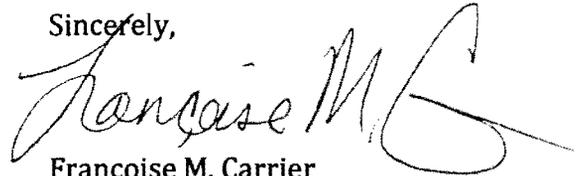
Floreen, July 1, 2011

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1. We would rather that particular master plans encourage affordable housing by listing it as a targeted priority so we have more leverage when it comes to sketch plan review.
2. Alternatively, we would suggest a 15% minimum MPDU requirement, worth 22 incentive density points, for all development that proposes 50 or more residential units.

It is important to remember that by replacing single purpose commercial zones that do not allow housing with mixed use zones that do allow housing, the County would be increasing the supply of housing as well as the corresponding amount of both affordable housing and housing that is within reach of more residents. We will look forward to discussing these concepts further with the PHED committee at your convenience.

Sincerely,



Françoise M. Carrier  
Chair, Montgomery County  
Planning Board

cc: Roberto Piñero, HOC Chair  
Councilmember Marc Elrich  
Councilmember George Leventhal  
Jeff Zyontz, Legislative Attorney