

**Introduction**

**MEMORANDUM**

September 18, 2009

TO: County Council

FROM: Jeffrey L. Zyontz,  Legislative Attorney

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

Zoning Text Amendment (ZTA) 09-08, sponsored by the District Council at the request of the Planning Board, is scheduled to be introduced on September 22, 2009. A public hearing will be held on October 27, 2009 at 7:30 p.m. if the Council approves the attached resolution.

ZTA 09-08 would establish a new family of Commercial/Residential (CR) zones. Every CR zone would allow the same land uses and require the same development procedures. Each zone would have a different total maximum floor area ratio (FAR). The maximum allowable FAR in the family of zones would be 8.0. Within the maximum FAR, each zone would have a maximum residential FAR and a maximum non-residential FAR. Unless the residential FAR maximum or the non-residential maximum equals the total maximum FAR, a mix of uses would be required to achieve the total maximum FAR of the zone. The maximum allowable height of any structure would also vary with each zone; the maximum height would be limited to 300 feet. There are design standards in the zone and references to Planning Board adopted design guidelines. Site plan approval would be required for projects adding more than 10,000 feet of floor area.

CR zones would have a “standard method of development” similar to Central Business District zones; however, a maximum standard method density of .5 FAR is the same for all zones. Structures under the standard method of development would not be allowed to be higher than 40 feet.

The optional method of development would establish 5 categories of public benefit under which a project may achieve the zones’ maximum density:

- 1) Transit proximity
- 2) Connectivity and mobility
- 3) Diversity (affordability, public facilities, and land use)
- 4) Design
- 5) Environment

Within the 5 public benefit categories, 33 different criteria would allow the approval of increased density above the standard method of development. Each criterion allows a range of increased density, expressed as a percentage of the applicant's requested FAR minus .5 FAR (the standard method of development FAR). The ZTA specifies the circumstances under which a project might be allowed the upper end of the density range within each criterion. It would not be possible to achieve the applicant's requested optional method of development density by satisfying all of the criteria in a single public benefit category. If a project is not near transit, maximum density will require the use of criteria from 4 different public benefit categories. The Planning Board would have the authority to add ways to increase the density of a project or waive particular requirements of some criteria. The purchase of Building Lot Termination Easements would be required for 12.5 percent of the FAR that exceeds .5 FAR.

A project in the CR zone may include more than 1 building or more than 1 parcel. Some criteria only apply to buildings and not the entire project. A building that satisfies such criteria would be entitled to a density increase in proportion to its size compared to the size.

This packet contains  
ZTA 09-08  
Resolution

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43

Ordinance No:  
Zoning Text Amendment No: 09-08  
Concerning: Commercial/Residential (CR) Zones -  
Establishment  
Draft No. & Date: 3 - 9/15/09  
Introduced: September 22, 2009  
Public Hearing:  
Adopted:  
Effective:

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

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By: District Council at Request of the Planning Board

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

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

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

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

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|--|
| <p><i>EXPLANATION: <b>Boldface</b> indicates a heading or a defined term.<br/><u>Underlining</u> indicates text that is added to existing laws by the original text amendment.<br/>[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.<br/><u>Double underlining</u> indicates text that is added to the text amendment by amendment.<br/>[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.<br/>* * * indicates existing law unaffected by the text amendment.</i></p> |
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OPINION

ORDINANCE

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

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

2 \* \* \*

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

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

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

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

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

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

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

- 28 c) the maximum height must be established as an increment of 5 feet up  
29 to 100 feet and an increment of 10 feet from 100 feet up to 300 feet;  
30 and
- 31 d) permitted density may be averaged over 2 or more directly abutting or  
32 confronting lots in the same CR zone, provided that:
- 33 1) the lots are subject to the same sketch plan;  
34 2) the lots are created by the same preliminary subdivision plan;  
35 3) the maximum total density and nonresidential and residential  
36 density limits apply to the entire development subject to the  
37 sketch plan and subdivision plan, not to individual lots;  
38 4) no building may exceed the maximum height set by the zone;  
39 5) public benefits must be provided in proportion to any phased  
40 development on individual lots; and  
41 6) the resulting development must conform to the design and land  
42 use objectives of the applicable master or sector plan and  
43 design guidelines.

44 **59-C-15.13.** The CR zones can only be applied by sectional map  
45 amendment in conformance with the zoning recommendations of an  
46 approved and adopted master or sector plan.

47 Examples:

- 48 • An area zoned CR-2.0, C1.0, R1.0, H80 allows a total FAR of 2.0, with maximum non-  
49 residential and residential FARs of 1.0, thereby requiring an equal mix of uses to obtain  
50 the total FAR allowed. The height for any building in this zone is limited to 80 feet.
- 51 • An area zoned CR-6.0, C3.0, R5.0, H200 allows a residential FAR up to of 5.0, whereas  
52 non-residential density is only allowed an FAR of up to 3.0, and a mix of the two uses  
53 could yield a total FAR of 6.0. This combination allows for flexibility in the market and  
54 shifts in the surrounding context. The height for any building in this zone is limited to  
55 200 feet.

- An area zoned CR-4.0, C4.0, R4.0, H160 allows the ultimate flexibility in the mix of uses, even buildings with no mix, because the maximum allowed non-residential and residential FARs are both equivalent to the total maximum FAR allowed. The height for any building in this zone is limited to 160 feet.

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

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

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

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

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

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

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

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

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

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

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

- 102 **a)** is majority-owned by a resident of Montgomery County or any  
103 adjacent jurisdiction; and
- 104 **b)** meets the size standards as determined by the Small Business  
105 Administration's Table of Small Business Size Standards (SBA Table)  
106 or is a franchised company with total holdings by the local-owner that  
107 meets the size standards of the Table.

108 **Live/Work unit:** Buildings or spaces within buildings that are used jointly for  
109 commercial and residential purposes where the residential use of the space is  
110 secondary or accessory to the primary use as a place of work.

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

115 **Priority retail street frontage:** Frontage along a right-of-way identified in a  
116 master or sector plan to be developed with street-oriented retail to encourage  
117 pedestrian activity.

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

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

123 **Recreational facilities, participatory, indoor:** Facilities used for indoor sports  
124 or recreation. Spectators would be incidental on a nonrecurring basis. Such  
125 uses typically include bowling alleys, billiard parlors, indoor tennis and  
126 handball courts, and health clubs.

127 **Recreational facilities, participatory, outdoor:** Facilities used for outdoor  
128 sports or recreation. Spectators would be incidental on a nonrecurring basis.  
129 Such uses typically include driving ranges, miniature golf courses, swimming  
130 pools, and outdoor ice skating rinks.

131 **Seasonal Outdoor Sales:** A lot or parcel where a use or product is offered  
132 annually for a limited period of time during the same calendar period each year.

133 The availability or demand for the use or product is related to the calendar  
 134 period, such as Christmas trees, pumpkin patches, or corn mazes.

135 **Transit proximity:** Level 1 proximity is based on the location of a project with  
 136 access to an existing or planned Metrorail Station. Level 2 proximity is based  
 137 on the location of a project with access to an existing or planned MARC  
 138 Station, light rail station, or a stop along a transportation corridor with fixed  
 139 route bus service where service intervals are no longer than 15 minutes during  
 140 peak commute hours. A project adjacent or confronting a transit station or stop  
 141 shares a property line, easement line, or is only separated by a right-of-way  
 142 from a transit station or stop. In addition to a project that is adjacent or  
 143 confronting, a project is also considered to have access to a transit facility if all  
 144 parcels and lots within the project's gross tract area have no more than 25  
 145 percent of their area farther than the applicable distance from the transit station  
 146 or stop and if not more than 10 percent of the residential units in the project are  
 147 farther than the applicable distance from the station or stop. A planned transit  
 148 station or stop must be funded for construction within the first 4 years of the  
 149 Consolidated Transportation Program or the Capital Improvement Program. If  
 150 a project qualifies for more than one transit proximity level, the project may  
 151 only take incentive density for one of the qualifying benefits.

152 **59-C-15.4. Methods of Development and Approval Procedures.**

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

154 **59-C-15.41. Standard Method.**

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

- 159 a) the gross floor area exceeds 10,000 square feet;
- 160 b) any building or group of buildings contains 10 or more dwelling
- 161 units; or
- 162 c) the proposed development generates 30 or more new peak-hour trips.

163 **59-C-15.42. Optional Method.**

164 Optional method development must comply with the general requirements  
165 and development standards of the CR zones and must provide public  
166 benefits under Section 59-C-15.8 to obtain the full densities and height  
167 allowed by the zone. A sketch plan and site plan are required for any  
168 development using the optional method. A sketch plan must be filed under  
169 the provisions below; a site plan must be filed under Division 59-D-3. Any  
170 required preliminary subdivision plan must be submitted concurrently with  
171 the site plan.

- 172 a) Contents of a sketch plan:
  - 173 1) justification statement for optional method development
  - 174 addressing the requirements and standards of this Division,
  - 175 how the development will further the objectives of the
  - 176 applicable master or sector plan, and how the development will
  - 177 be more efficient and effective than the standard method of
  - 178 development;
  - 179 2) total FAR, conceptual uses and maximum densities per use;
  - 180 3) building massing, height, public use and other open spaces, and
  - 181 the relationship of proposed buildings to adjacent buildings;
  - 182 4) general vehicular, pedestrian, and cyclist circulation and
  - 183 access;

- 184           5) table of proposed public benefits and incentive density  
185           requested for each benefit; and  
186           6) general phasing of structures, uses, public benefits, and site  
187           plans.

188       b) Procedure for a sketch plan:

- 189           1) Before filing a sketch plan application, an applicant must  
190           comply with the provisions of Section 4 of the Manual for  
191           Development Review Procedures for Montgomery County, as  
192           amended, that concern the following procedures:  
193               (a) notice;  
194               (b) holding a public meeting; and  
195               (c) posting the site of the submission.  
196           2) The submittal, review procedure, and fees for a sketch plan are  
197           the same as a pre-application submission under Section 50-  
198           33A(a), except that there is no requirement to submit a  
199           preliminary subdivision plan within 90 days.  
200           3) The Planning Board may require some elements of the sketch  
201           plan to be binding on any subsequent site plans.

202       **59-C-15.5. Land Uses.**

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

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

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

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

209 **59-C-15.6. General Requirements.**

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

211 **59-C-15.61. Master Plan and Design Guidelines Conformance.**

212 Development that requires a site plan must be consistent with the applicable  
 213 master or sector plan and any design guidelines adopted by the Planning  
 214 Board.

215 **59-C-15.62. Priority Retail Street Frontages.**

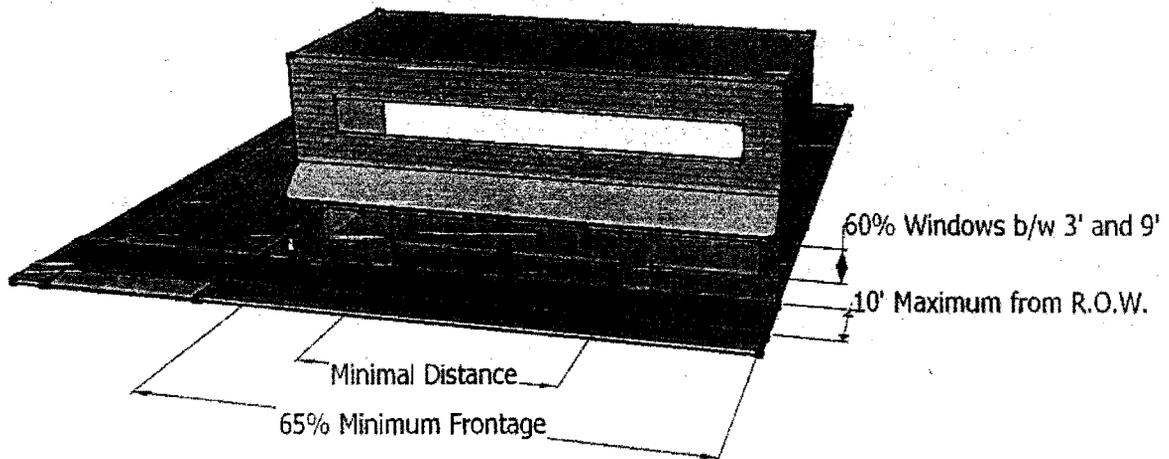
216 Development that requires a site plan and is located on a street identified as  
 217 a priority retail street frontage must provide the following:

- 218 a) on-street parallel parking, unless specifically denied by the agency  
 219 maintaining the right-of-way;
- 220 b) majority of display windows and entrances arranged between zero  
 221 and 45 degrees to the sidewalk;

- 222 c) shop entrances spaced at minimal distances in order to activate the
- 223 street;
- 224 d) building façade along at least 65 percent of the aggregate length of
- 225 the front street right-of-way;
- 226 e) front building wall no farther than 10 feet from the public right-of-
- 227 way or 5 feet if no public utility/improvement easement (PUE or PIE)
- 228 is required; and
- 229 f) windows or glass doors on 60 percent of the building façade between
- 230 3 and 9 feet above sidewalk grade.

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

235  
236



237  
238

*Priority Retail Building Requirements Illustrative*

239 **59-C-15.63. Streetscape.**

240 Streetscape improvements must be consistent with the recommendations of  
 241 the applicable master or sector plan.

242 **59-C-15.64. Bicycle Parking Spaces and Commuter Shower/Change**  
 243 **Facility.**

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

| <b><u>Bicycle and Shower/Change Facilities Required</u></b>                                     |  |
|---|--|
| <u>Use</u>  | <u>Requirement</u>   |
| <b><u>Residential</u></b>   |  |
| <u>In a building containing less than 20 dwelling units.</u>                                    | <u>At least 4 bicycle parking spaces.</u>  |
| <u>In a building containing 20 or more dwelling units.</u>                                      | <u>At least 0.5 bicycle parking spaces per dwelling unit, not to be less than 4 spaces and up to a maximum of 100 required spaces.</u>       |
| <u>In any group living arrangement expressly for senior citizens.</u>                           | <u>At least 0.1 bicycle parking spaces per unit, not to be less than 2 spaces up to a maximum of 100 required spaces.</u>                    |
| <b><u>Non-Residential</u></b>   |  |
| <u>In a building with a total non-residential floor area of 1,000 to 9,999 square feet.</u>     | <u>At least 2 bicycle parking spaces.</u>  |
| <u>In a building with a total non-residential floor area of 10,000 to 99,999 square feet.</u>   | <u>One bicycle parking space per 10,000 square feet, up to a maximum of 100 required spaces.</u>   |
| <u>In a building with a total non-residential floor area of 100,000 square feet or greater.</u> | <u>One bicycle parking space per 10,000 square feet, up to a maximum of 100 required spaces. One shower/change facility for each gender.</u> |

250 **59-C-15.65. Parking.**

- 251 a) The maximum number of parking spaces provided on site must not  
 252 exceed the minimum number established under Article 59-E.

253           b)    The minimum number of parking spaces required is based on transit  
 254                   proximity as follows:

255

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

256

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

- 258                   1)    providing the spaces on site;  
 259                   2)    constructing publicly available on-street parking; or  
 260                   3)    entering into an agreement for shared parking spaces in a  
 261                           public or private facility within 1,000 feet of the subject lot,  
 262                           provided that the off-site parking facility is not in an  
 263                           agricultural (Division 59-C-9), planned unit development  
 264                           (Division 59-C-7), or residential (Division 59-C-1) zone.

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

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

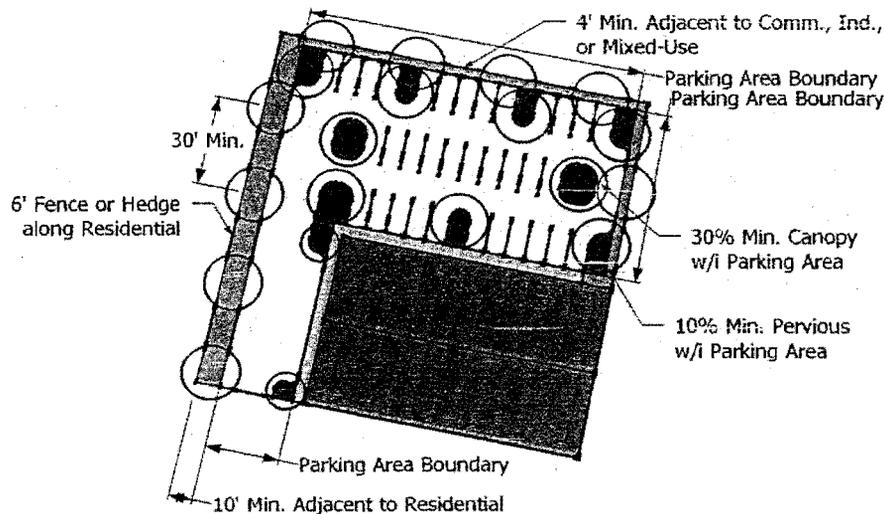
- 273 e) The design of surface parking facilities must comply with the  
274 following:
- 275 1) a parking facility at or above grade must not be located  
276 between the street and the main front wall of the building or the  
277 side wall of a building on a corner lot; however, the Planning  
278 Board may approve a design if it finds that the alternative  
279 design would provide safer and more efficient circulation;
- 280 2) if a site is adjacent to an alley, the primary vehicular access to  
281 the parking facility must be from that alley; and
- 282 3) curb cuts must be kept to a minimum and shared by common  
283 ingress/egress easements whenever possible.
- 284 f) The design of parking facilities with drive-through services must  
285 comply with the following; however, the Planning Board may  
286 approve a design if it finds that the alternative design would provide  
287 safer and more efficient circulation:
- 288 1) the driveway must not be located between the street and the  
289 main front wall of a building or the side wall of a building on a  
290 corner lot;
- 291 2) the drive-through service window must be located on the rear  
292 wall of the building; and
- 293 3) curb cuts to a street must be minimized to one drive aisle of no  
294 more than 20 feet in width for two-way traffic or two drive  
295 aisles each of no more than 10 feet in width for one-way traffic.
- 296 g) Landscaping for surface parking facilities must satisfy the following  
297 requirements:

298

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

299

300



*Surface Parking Landscape Requirements Illustrative*

301

302

303

**59-C-15.7. Development Standards.**

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

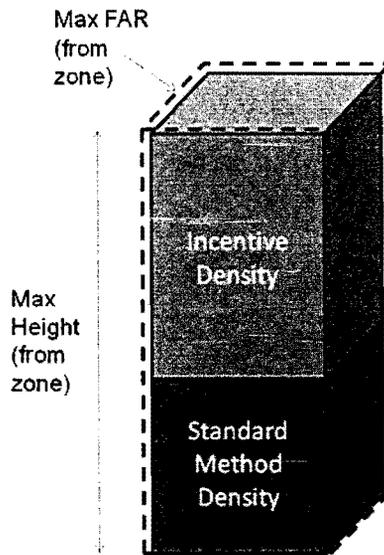
306

**59-C-15.71. Density.**

- 307 a) The maximum density for any standard method project is 0.5 FAR.  
308 Any single land use or any combination of land uses allowed in the  
309 zone may achieve the maximum density.
- 310 b) The maximum total density and mix of maximum non-residential and  
311 residential density for any project using the optional method of  
312 development is specified by the zone. The difference between the  
313 standard method density and optional method density is defined as  
314 “incentive density” and is allowed under the incentive density  
315 provisions of Section 59-C-15.8.

316 **59-C-15.72. Height.**

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

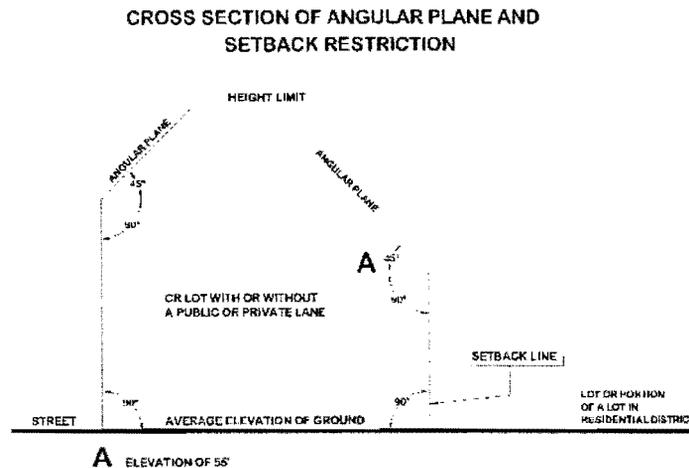


321 *Incentive Density Illustration (with maximum FAR)*

322 **59-C-15.73. Setbacks.**

323 A building must not be any closer to a lot line of an agricultural (Division  
324 59-C-9) or residential (Division 59-C-1) zone than:  
325

- 326 a) 25 feet or the setback required by the adjacent lot, whichever is  
 327 greater; and  
 328 b) the building must not project beyond a 45 degree angular plane  
 329 projecting over the lot measured from a height of 55 feet at the  
 330 setback determined above, with the exception of those features  
 331 exempt from height and setback restrictions under Section 59-B-1.  
 332



333 *Angular Plan Setback Illustration*

334 **59-C-15.74. Public Use Space.**

- 335
- 336
- 337 a) The minimum public use space for any standard method project is 10  
 338 percent of the net tract area of the site.  
 339 b) Projects using the optional method of development must provide  
 340 public use space as follows:

341

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

342

343

c) Public use space must:

344

1) be calculated on the net lot area of the site;

345

2) be rounded to the next highest 100 square feet;

346

3) be easily and readily accessible to the public;

347

4) be placed under a public access easement in perpetuity; and

348

5) contain amenities such as seating options, shade, landscaping,

349

or other similar public benefits.

350

d) Instead of providing on-site public use space, for any site of 3 acres

351

or less, a development may propose the following alternatives,

352

subject to Planning Board approval:

353

1) public use space improvements to an area equal in size within

354

¼ mile of the subject site; or

355

2) a payment in part or in full to the Public Amenity Fund, equal

356

to the average cost of required site improvements, added to the

357

current square foot market value of the area required as public

358

use space.

359

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

360

a) Any building containing 20 or more dwelling units must provide

361

amenity space for its residents as follows:

362

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

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

c) The amenity space requirement may be reduced by ½ for Workforce Housing Units (WFHUs) located within a metro station policy area or if the minimum public open space requirement is satisfied on site.

d) The provision of residential amenity space may be counted towards meeting the required recreation calculations under the M-NCPPC Recreation Guidelines, as amended.

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

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

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

a) The incentive density approved for each proposed public benefit is calculated as a percentage of the total incentive density, which is the incremental difference between the standard method maximum FAR

383 (0.5) and the proposed project FAR up to the maximum FAR allowed  
384 by the zone.

385 b) The minimum and maximum incentive density percentage increases  
386 for each public benefit are established in Section 59-C-15.81(f).

387 c) The Planning Board may accept, reject, or modify a proposed  
388 incentive density or modify the requested percentage above the  
389 minimum of incentive density established up to the maximum  
390 established. Except for those benefits with specific maximum  
391 standards, in approving incentive densities above the minimum, the  
392 Planning Board must consider:

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

401 d) Public benefits that apply to 1 building in a multi-building project  
402 must be weighted proportionally to the density of the applicable  
403 building compared to the total density of the project.

404 e) In addition to the public benefits set forth below, an applicant may  
405 propose other public benefits that will further the goals and objectives  
406 of the applicable master or sector plan for the purpose of obtaining an  
407 incentive density increase.

408 f) The Planning Board may grant no more than 30 percent of the total  
 409 incentive density for a project for the connectivity, design, diversity,  
 410 or environment incentive categories under (h) below or any public  
 411 benefit approved under (e) above.

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

416 g) Provision for inspections, maintenance, and enforcement of public  
 417 benefits provided in return for incentive density must be established  
 418 in a Site Plan Enforcement Agreement approved by the Department of  
 419 Permitting Services and by resolution of the Planning Board before  
 420 the certification of a site plan.

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

| <b>Public Benefit</b>                      | <b>Percent of Incentive Density</b> |                | <b>Section Reference</b> |
|--|-------------------------------------|----------------|--------------------------|
|  | <b>Minimum</b>                      | <b>Maximum</b> |                          |
| <i>Transit Proximity</i>                   | See section reference               |                | 15.82                    |
| <i>Connectivity &amp; Mobility</i>         |                                     |                |                          |
| <u>Community Connectivity</u>              | <u>10</u>                           | <u>20</u>      | <u>15.831</u>            |
| <u>Community Garden</u>                    | <u>5</u>                            | <u>10</u>      | <u>15.832</u>            |
| <u>Parking at the Minimum</u>              | <u>10</u>                           | <u>20</u>      | <u>15.833</u>            |
| <u>Pedestrian Through-Block Connection</u> | <u>5</u>                            | <u>10</u>      | <u>15.834</u>            |
| <u>Public Parking</u>                      | <u>20</u>                           | <u>30</u>      | <u>15.835</u>            |
| <u>Transit Access Improvement</u>          | <u>10</u>                           | <u>20</u>      | <u>15.836</u>            |
| <i>Diversity</i>                           |                                     |                |                          |
| <u>Adaptive Buildings</u>                  | <u>15</u>                           | <u>30</u>      | <u>15.841</u>            |
| <u>Affordable Housing: MPDUs</u>           | See section reference               |                | <u>15.842</u>            |
| <u>Affordable Housing: WFHUs</u>           | See section reference               |                |                          |
| <u>Care Center</u>                         | <u>10</u>                           | <u>20</u>      | <u>15.843</u>            |

|  |           |           |                |
|--|-----------|-----------|----------------|
| <u>Community Facility</u>                    | <u>10</u> | <u>20</u> | <u>15.844</u>  |
| <u>Local Retail Preservation</u>             | <u>10</u> | <u>20</u> | <u>15.845</u>  |
| <u>Unit Mix and Size</u>                     | <u>5</u>  | <u>10</u> | <u>15.846</u>  |
| <b><u>Design</u></b>                         |           |           |                |
| <u>Floor Plate Size</u>                      | <u>10</u> | <u>20</u> | <u>15.851</u>  |
| <u>Historic Resource Protection</u>          | <u>10</u> | <u>20</u> | <u>15.852</u>  |
| <u>Parking Below Grade</u>                   | <u>10</u> | <u>20</u> | <u>15.853</u>  |
| <u>Podium/Tower Setback</u>                  | <u>5</u>  | <u>10</u> | <u>15.854</u>  |
| <u>Public Art</u>                            | <u>10</u> | <u>20</u> | <u>15.855</u>  |
| <u>Public Plaza/Open Space</u>               | <u>5</u>  | <u>10</u> | <u>15.856</u>  |
| <u>Streetscape, Off-Site</u>                 | <u>5</u>  | <u>10</u> | <u>15.857</u>  |
| <u>Exceptional Design</u>                    | <u>10</u> | <u>20</u> | <u>15.858</u>  |
| <b><u>Environment</u></b>                    |           |           |                |
| <u>Bio-retention and Stormwater Recharge</u> | <u>5</u>  | <u>10</u> | <u>15.861</u>  |
| <u>Conveyed Parkland</u>                     | <u>10</u> | <u>20</u> | <u>15.862</u>  |
| <u>Dark Skies</u>                            | <u>5</u>  | <u>10</u> | <u>15.863</u>  |
| <u>Energy Efficiency and Generation</u>      | <u>10</u> | <u>20</u> | <u>15.864</u>  |
| <u>Green Wall</u>                            | <u>5</u>  | <u>10</u> | <u>15.865</u>  |
| <u>LEED Rating</u>                           | <u>10</u> | <u>30</u> | <u>15.866</u>  |
| <u>Rainwater Reuse</u>                       | <u>5</u>  | <u>10</u> | <u>15.867</u>  |
| <u>Transferable Development Rights</u>       | <u>10</u> | <u>30</u> | <u>15.868</u>  |
| <u>Tree Canopy</u>                           | <u>10</u> | <u>20</u> | <u>15.869</u>  |
| <u>Vegetated Area</u>                        | <u>5</u>  | <u>10</u> | <u>15.8610</u> |
| <u>Vegetated Roof</u>                        | <u>10</u> | <u>20</u> | <u>15.8611</u> |

421 **59-C-15.82. Transit Proximity Incentives.**

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

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

|                      |     |     |
|----------------------|-----|-----|
| Between ½ and 1 mile | 20% | 10% |
|----------------------|-----|-----|

425 **59-C-15.83. Connectivity and Mobility Incentives.**

426 A project that enhances connectivity and mobility encourages pedestrian  
 427 and other non-auto travel for short and multi-purpose trips as well as for  
 428 commuting. Such a project facilitates social interaction, provides  
 429 opportunities for healthier living, and stimulates local businesses.

430 **59-C-15.831. Community Connectivity.**

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

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

436 2) at least 35 percent of those uses have a maximum floor area of  
 437 5,000 square feet and that any newly provided retail uses  
 438 remain at or below that area for a period of at least 4 years after  
 439 the initial use-and-occupancy permit is issued for that use.

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

444 **59-C-15.832 Community Garden.**

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

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

- 449           1) is located on the subject site or within 500 feet of the subject  
450           site;
- 451           2) provides all garden spaces with at least 12 inches of soil depth  
452           and access to water; and
- 453           3) provides community garden space at a rate equivalent to 1  
454           space per 20 dwelling units. Each space must be at least 16  
455           square feet. At least 1 out of each 10 spaces must be accessible  
456           under ADA standards.
- 457       b) The maximum increase requires additional features such as a  
458           composting facility, additional garden space, seating areas, doubling  
459           as a green roof, or additional accessible garden plots.

460       **59-C-15.833. Parking at the Minimum.**

- 461       a) The minimum incentive density increase requires that sites of 1 acre  
462           or more provide on-site only the minimum required number of  
463           parking spaces.
- 464       b) The maximum increase requires that sites of less than 1 acre provide  
465           on-site only the minimum required number of parking spaces.

466       **59-C-15.834. Pedestrian Through-Block Connections.**

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

- 469       a) The minimum incentive density increase for a pedestrian through-  
470           block connection requires that:
- 471           1) the pedestrian connection must provide direct access between  
472           streets;
- 473           2) the pedestrian connection must be at least 15 feet in width;

- 474 3) at least 35 percent of the walls facing the interior pedestrian  
475 connection below a height of 8 feet must have clear,  
476 unobstructed windows, unless the Planning Board finds that an  
477 alternative design is at least equally safe;
- 478 4) the pedestrian connection must be open to the public between  
479 sunrise and sunset and, where it leads to a transit facility or  
480 publicly-accessible parking facility within ½ mile, for the hours  
481 of operation of the transit and/or parking facility; and
- 482 5) retail uses fronting both a pedestrian connection and a street  
483 must maintain operable doors from both unless not required by  
484 the Planning Board during site plan review due to exceptional  
485 site circumstances.

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

- 487 1) direct connection to parks;  
488 2) transit facilities;  
489 3) public buildings;  
490 4) pedestrian connection with accessible retail uses along a  
491 majority of its length;  
492 5) connections increased in width; or  
493 6) public artworks integrated into the walk.

494 **59-C-15.835. Public Parking.**

- 495 a) The minimum increase requires providing on-site the difference  
496 between the minimum number of required parking spaces and the  
497 maximum number of allowed parking spaces as publicly accessible  
498 spaces for free or at a market rate.

499        b) The maximum increase requires providing public parking spaces, as  
500            required above, in combination with additional improvements, such  
501            as constructing those spaces underground or in a structure.

502        **59-C-15.836. Transit Access Improvement.**

- 503        a) The minimum incentive density increase for transit access  
504            improvements requires that the improvements:
- 505            1) are located within 1/2 mile of the proposed development site  
506            or, in the case of mobile transit improvements such as a bus  
507            shuttle, provide regular access for passengers within 1/2 mile;  
508            and
  - 509            2) are built to ADA accessibility standards as amended.
- 510        b) The maximum increase requires additional benefits such as closer  
511            access, new access easements, connecting walkways, mezzanines,  
512            seating areas, structures for wind/rain protection, or concourse areas.

513        **59-C-15.84. Diversity Incentives.**

514        **59-C-15.841. Adaptive Buildings.**

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

- 518        a) The minimum incentive density increase for an adaptive building  
519            requires that:
- 520            1) the floor to floor dimension must be at least 15 feet for all  
521            floors; and
  - 522            2) the internal floor plan is based on a structural system allowing  
523            flexibility of volumes divisible from 1 open floor plate to any  
524            number of parceled volumes.

- 525        b)    The maximum increase requires additional benefits such as that:  
526            1)    the structural system has additive capacity for any available  
527            density and height that is not used by the building without  
528            demolition of the structure; or  
529            2)    the internal layout is built to allow changes between residential,  
530            retail, and office uses by minor modifications.

531        **59-C-15.842. Affordable Housing.**

- 532        a)    All residential development must comply with the requirements of  
533            Chapters 25A and 25B for the provision of Moderately Priced  
534            Dwelling Units (MPDUs) and Workforce Housing Units (WFHUs).  
535        b)    Provision of MPDUs above the minimum required grants an incentive  
536            density increase, providing the following standards are met:  
537            1)    the increase in density is calculated on the incentive density as  
538            required by Chapter 25A;  
539            2)    the MPDUs must be reasonably distributed throughout the  
540            project; and  
541            3)    any dwelling units built under this section must be controlled  
542            under the MDPU or WFHU provisions for a minimum period  
543            of 99 years.

544        Example: Provision of 14.5 percent MPDUs achieves an incentive density increase of 20 percent  
545        (25-A-5(c)(3)). In the case of a CR4.5, that would equal 0.20 x 4.0 (the incentive density), which  
546        is 0.8 FAR.

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

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

552        **59-C-15.843. Care Center.**

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

561 **59-C-15.844. Community Facility.**

- 562 a) The minimum incentive density increase for a community facility that  
563 helps meet the needs of residents and workers requires that the  
564 community facility:
- 565 1) is recommended in the applicable master plan or sector plan;  
566 and
- 567 2) is accepted for operation and use by an appropriate public  
568 agency, community association, or nonprofit organization.
- 569 b) The maximum increase requires further benefits, such as an entrance  
570 to the facility directly on the street, location of the building within 10  
571 feet of a public sidewalk, associated outdoor open space, or  
572 integration into an area with a residential FAR of at least 2.0 (or at  
573 least 30 dwelling units per acre).

574 **59-C-15.845. Local Retail Preservation.**

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

- 577 a) preservation of up to 2 small businesses: 10 percent; and  
578 b) preservation of 3 or more small businesses: 20 percent.

579 Exact terms of lease requirements and rental agreements must be established  
580 by the site plan enforcement agreement.

581 **59-C-15.846. Unit Mix and Size.**

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

- 586 1) 7.5 percent as efficiency dwelling units;
- 587 2) 8 percent as one-bedroom dwelling units;
- 588 3) 8 percent as two-bedroom dwelling units; and
- 589 4) 5 percent as three-bedroom dwelling units.

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

- 592 1) 10 percent as efficiency dwelling units;
- 593 2) 10 percent as one-bedroom units;
- 594 3) 10 percent as two-bedroom units; and
- 595 4) 7.5 percent as three-bedroom units.

596 **59-C-15.85. Design Incentives.**

597 **59-C-15.851. Floor Plate Size.**

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

- 600 1) the floor area of any floor above a height of 120 feet does not  
601 exceed 10,000 square feet for residential uses or 19,000 square  
602 feet for non-residential uses, or 12,000 square feet for mixed-  
603 uses (if not more than 60 percent of a mixed-use floor is used  
604 for any single use); and

605           2)    the exterior of the building facing any street or public open  
606                    space has at least 60 percent glass on the floors with the  
607                    reduced floor plate.

608    b)    The maximum increase requires additional benefits, such as providing  
609            the reduced floor plates in conjunction with the Exceptional Design  
610            factor, providing smaller floor plates, combining this incentive with  
611            the tower setback, providing a larger percentage of glass, or  
612            integrating sustainable technologies into the architecture.

613    **59-C-15.852. Historic Resource Protection.**

614    a)    The minimum incentive density increase for the preservation of a  
615            historic resource designated in the Master Plan for Historic  
616            Preservation requires that a preservation strategy for the resource is  
617            approved by the Planning Board as part of the site plan enforcement  
618            agreement and that a historic area work permit is issued by the  
619            Historic Preservation Commission.

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

624    **59-C-15.853. Parking Below Grade.**

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

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

631 **59-C-15.854. Podium/Tower Setback.**

- 632 a) The minimum incentive density increase for the provision of a tower  
633 setback requires that the tower must be set back from the first floor  
634 building frontage at or below 72 feet and the setback must be at least  
635 6 feet.
- 636 b) The maximum increase requires that the tower setback be at or below  
637 50 feet and that the setback be at least 12 feet.

638 **59-C-15.855. Public Art.**

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

- 641 a) The minimum incentive density increase for public art requires that it:
- 642 1) enhances the general or specific cultural objectives of the
  - 643 applicable master or sector plan; and
  - 644 2) is approved by the Public Arts Trust Steering Committee.
- 645 b) The maximum increase requires that, in addition to the above  
646 requirements, the artwork fulfill at least 5 of the following goals as  
647 determined by the Public Arts Trust Steering Committee:
- 648 1) achieve aesthetic excellence;
  - 649 2) ensure an appropriate interaction between the art and the
  - 650 architectural setting in terms of scale, materials, and context;
  - 651 3) ensure public access and invite public participation;
  - 652 4) encourage collaboration between the artist(s) and other project
  - 653 designers early in the design phases;
  - 654 5) ensure long-term durability of permanent works through
  - 655 material selection or a documented maintenance program;

- 656           6)    encourage a rich variety of arts including permanent, temporary  
657                    (revolving), and event programming;
- 658           7)    increase public understanding and enjoyment of art through  
659                    interpretive information and/or programmed events; and
- 660           8)    achieve a collection of commissioned art that is unique and  
661                    contributes in a positive way to the identity of the community.
- 662    c)    A fee instead of public art may be accepted for incentive density as  
663            follows:
- 664            1)    the minimum fee is calculated on 1 percent of the  
665                    development's projected cost;
- 666            2)    the fee is paid to the Public Arts Trust Steering Committee;
- 667            3)    the fee is used for installation, management, and maintenance  
668                    of public art at the discretion of the Public Arts Trust Steering  
669                    Committee, with preference given to the policy area where the  
670                    proposed development is located; and
- 671            4)    the incentive density is equal to a 5 percent increase for every 1  
672                    percent of projected development cost paid to the Public Arts  
673                    Trust, up to 20 percent.

674    **59-C-15.856. Public Plaza/Open Space.**

675    Plazas are important public amenities and create interesting spaces and  
676    active gathering areas.

- 677    a)    The minimum incentive density increase for any plaza requires that:
- 678            1)    the plaza is directly accessible to a street;
- 679            2)    the plaza must be open to the public at least between sunrise  
680                    and sunset;

- 681           3)   no proposed loading or parking facilities should be visible  
682                   below a height of the fourth floor; and  
683           4)   the plaza must be in addition to any public use space required  
684                   by the development standards or other minimum open space  
685                   requirement of this Division.
- 686       b)   The maximum increase requires that the above requirements are met,  
687           in addition to the following:
- 688           1)   the plaza's width must be at least 50 feet;  
689           2)   where the plaza is provided as part of a redevelopment,  
690                   buildings facing the plaza must be designed so that:
- 691                   A)   the walls of any non-residential floor area facing the  
692                           plaza must have windows on at least 60 percent of the  
693                           façade below a height of 40 feet; and
- 694                   B)   the main entry to any dwelling units is from a wall facing  
695                           the plaza; and
- 696           3)   the plaza should contain seating, trash receptacles, landscaping,  
697                   and other amenities such as water features, kiosks, and passive  
698                   recreation areas.

699       **59-C-15.857. Streetscape, Off-Site.**

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

- 702       a)   The minimum incentive density increase for streetscape  
703           improvements requires that the following criteria are met:
- 704           1)   the improvements must be located within 1/2 mile of the  
705                   subject site; and
- 706           2)   the improvements are equal to 18 percent of the net lot.

707        b) The maximum increase requires that the improvements be equal to at  
708            least 36 percent of the net lot area.

709        **59-C-15.858. Exceptional Design.**

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

714        a) provides innovative solutions in response to the architectural context  
715            and surrounding landscape, for example, by rotating floor plates for  
716            views or reconciling offset street-walls;

717        b) creates a sense of place that will serve as a landmark in the  
718            community, for example, by creating a distinguishing element that is  
719            visible from an important view or at a gateway to an area;

720        c) enhances the public realm in a distinct and original manner, for  
721            example, by using existing materials and forms in new ways to  
722            provide continuity and contrast;

723        d) adds to the diversity of the built realm within the community, for  
724            example, by introducing new materials, building methods, or design  
725            styles;

726        e) uses design solutions to make compact/infill living, working, and  
727            shopping environments pleasurable and desirable, for example, by  
728            retrofitting surface parking lots and single-use retail malls or creating  
729            multi-use, pedestrian-dominated realms in previous auto-oriented  
730            areas; and

731        f) integrates environmentally sustainable solutions, for example, by  
732            using stormwater management facilities that incorporate best

733 management practices in an apparent and observable way or  
734 integrating passive solar features into the visible structure of a  
735 building or site.

736 **59-C-15.86. Environment Incentives.**

737 **59-C-15.861. Bio-retention and Stormwater Recharge.**

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

744 **59-C-15.862. Conveyed Parkland.**

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

751 **59-C-15.863. Dark Skies.**

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

758 submitted and approved by the Planning Board with a site plan  
759 application.

760 **59-C-15.864. Energy Efficiency and Generation.**

761 a) The minimum density incentive increase for the use of on-site  
762 renewable energy generation requires that buildings must meet the  
763 minimum energy efficiency standards of 17.5 percent for new  
764 buildings, 10.5 percent for existing buildings, or generate at least 1.5  
765 percent of their energy on-site.

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

769 **59-C-15.865. Green Walls**

770 a) The minimum incentive density increase for a green wall requires that  
771 it:

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

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

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

781 **59-C-15.866. LEED Rating.**

782 A LEED-rated building or equivalent rating system approved under Chapter  
783 8 Article VII is eligible for an incentive density increase if it meets any

784 continuing requirements necessary to maintain that status.  
785 (<http://www.usgbc.org/Default.aspx>) The amount of incentive density  
786 increase is equal to the following:

- 787 a) LEED Silver: 10 percent
- 788 b) LEED Gold: 20 percent
- 789 c) LEED Platinum: 30 percent

790 **59-C-15.867. Rainwater Reuse.**

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

797 **59-C-15.868. Transferable Development Rights.**

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

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

808 **59-C-15. 869. Tree Canopy.**

- 809 a) The minimum incentive density increase for the provision of tree  
810 canopy requires coverage of at least 25 percent of the on-site open  
811 space at 15 years growth.
- 812 b) The maximum increase requires coverage of at least 50 percent of the  
813 on-site open space at 15 years growth.

814 **59-C-15.8610. Vegetated Area.**

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

825 **59-C-15.8611. Vegetated Roof.**

- 826 a) The minimum incentive density increase for a vegetated roof requires  
827 that the:
- 828 1) vegetated roof must cover at least 33 percent of the roof of the  
829 building, excluding any space occupied by mechanical  
830 equipment; and
- 831 2) soil or media depth must be at least 4 inches.
- 832 b) The maximum increase requires coverage of at least 60 percent of the  
833 roof area.

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

a) A development under the Optional Method must purchase building lot termination (BLT) easements under Chapter 2B, or a contribution must be made to the Agricultural Land Preservation Fund under Chapter 2B equal to 12.5 percent of the incentive density floor area using the following formula:

- 1) one BLT easement is required for each 9,000 square feet of residential floor area;
- 2) one BLT easement is required for every 7,500 square feet of non-residential floor area.

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

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

- a) A lawfully existing building or structure and the uses therein, which predates the applicable sectional map amendment, is a conforming structure or use, and may be continued, renovated, reconstructed to the same size and configuration, or enlarged up to 10 percent above the existing floor areas or 30,000 square feet, whichever is less, and does not require a site plan. A larger addition requires compliance with the full provisions of this Division.
- b) A project that received an approved development plan under Division 59-D-1 or schematic development plan under Division 59-H-2 before the enactment of the CR zones may proceed under the binding elements of the

860 development plan and will thereafter be treated as a lawfully existing  
861 building and may be renovated or reconstructed under Subsection (a) above.  
862 Such projects may be amended as allowed under Division 59-D-1 or 59-H-  
863 2, under the provisions of the previous zone; however, any increase in the  
864 total floor area or building height beyond that allowed by Subsection (a)  
865 above requires full compliance with the full provisions of this Division.  
866 c) A project which has had a preliminary or site plan approved before the  
867 applicable sectional map amendment may be built or altered at any time,  
868 subject to either the full provisions of the previous zone or this division, at  
869 the option of the owner. If built under the previous approval, it will be  
870 treated as a lawfully existing building and may be renovated or  
871 reconstructed under Subsection (a) above.

872

873 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the date of  
874 Council adoption.

875

876 This is a correct copy of Council action.

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879 Linda M. Lauer, Clerk of the Council

Resolution No.: \_\_\_\_\_  
Introduced: September 22, 2009  
Adopted: \_\_\_\_\_

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

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By: District Council

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Subject: Notice of Public Hearing on Zoning Text Amendment 09-08

Background

1. Section 59-H-9.3 of the Montgomery County Ordinance requires that, within 30 days of introduction of any text amendment, the Council act by resolution to set a date and time for public hearing on the proposed amendment.
2. Zoning Text Amendment No. 09-08, introduced on September 22, 2009 would establish Commercial/Residential (CR) zones.
3. The Planning Board requested the consideration of the Zoning Text Amendment to help implement the Planning Board Draft Gaithersburg West Master Plan and the White Flint Sector Plan.

Action

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

Legal notice will be given of the public hearing to be held on October 27, 2009 at 7:30 p.m., in the Council Hearing Room, Stella Werner Council Office Building, Rockville, Maryland, for the purpose of giving the public an opportunity to comment on the proposed amendment.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council