

Action

MEMORANDUM

February 23, 2010

TO: County Council

FROM: Jeffrey L. Zyontz,  Legislative Attorney

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

Council worksession, February 16, 2010: The Council did not take any action to endorse, modify, or reject any of the Planning, Housing, and Economic Development Committee's recommendations on ZTA 09-08. The Council heard a presentation by the Planning Board Chairman, Planning Staff, former Planning Board members, and Council Staff. The Council agreed to conduct a closed session on ZTA 09-08 due to potential litigation. Council President Floreen requested Councilmembers to forward their amendments to staff for inclusion in this packet.

The following issues were the subject of recommended changes from the Planning, Housing, and Economic Development Committee's recommendations by Councilmembers and the Planning Board. The Planning Board provided a rationale for their recommendations.

1) Should density averaging be allowed between different CR zones?

The Council tries to avoid applying multiple zones to a property under single ownership. On occasion, an application for development includes the properties of multiple owners and may include more than one zoning classification. **The PHED committee recommended allowing density to be shifted between any CR zones** (line 28). This would allow greater design flexibility similar to the provisions in the CBD zones. As proposed, the allowable building height on the lower density zoned area would not be increased. *Staff would recommend allowing density averaging between CR zones if the density could only go from a lower density zone to a higher density zone.* This recommendation assumes that the Council applied a lower zone to land for a reason. Whatever that reason is, it is not negated by a joint application with its neighbors.

Councilmember Berliner recommends the following amendment consistent with density sharing in CBD zones:

Starting at line 27:

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

- (a) the lots are subject to the same sketch plan;
- (b) the lots are created by the same preliminary subdivision plan;
- (c) the maximum total density and non-residential and residential density limits apply to the entire development, not to individual lots;
- (d) no building may exceed the maximum height set by the zone;
- (e) public benefits must be provided under the phasing element of an approved sketch plan; [[and]]
- (f) the total maximum density in a CR zone adjacent to or confronting residentially zoned lots or parcels may not be exceeded; and
- [[f]] (g) the resulting development must conform to the design and land use objectives of the applicable master or sector plan and design guidelines.

Staff comment – Councilmember Berliner’s recommendation is a middle ground between: 1) only allowing density transfers from lower CR zones to higher density CR zones; and 2) allowing density transfers between any CR zone.

2) Should the Planning Board be allowed to unilaterally amend a sketch plan?

The sketch plan was intended to allow a developer and the developer’s neighbors to set the ground rules for a successful optional method project. A site plan conforming to the sketch plan would only be subject to more detailed compatibility issues. Planning Staff proposed allowing the Planning Board to amend the sketch plan at site plan. **The Committee was convinced that the Planning Board should have the discretion to amend a sketch plan based on the facts presented at site plan.**

After the January 25 PHED Committee meeting, Council President Floreen reconsidered her recommendation concerning the Planning Board’s authority to amend a sketch plan. In her opinion, the applicant should initiate changes to binding elements or conditions made by the Planning Board in approving a sketch plan. This opinion was supported by Councilmember Knapp during the Committee’s worksessions. Council President Floreen would replace Subsection 59-C-15.42 (d) (lines 252-255) with the following text:

- (d) During site plan review, an applicant may request, and the Board may approve, modifications to the binding elements or conditions of an approved sketch plan. The applicant must identify any proposed modification in the notice of application for the site plan. In acting to approve a sketch plan modification as part of site plan review, the Board must make the findings required in Section 59-C-15.42 (c) in addition to those required by Section 59-D-3.

Councilmember Berliner believes that the applicant should have a higher standard of proof to amend the binding element of a sketch plan, but the Planning Board should also be authorized to amend a sketch plan. He recommends amending subsection (d) as follows:

- (d) During site plan review, an applicant may request, and the Board may approve, modifications to the binding elements or conditions of an approved sketch plan.
 - (1) The applicant must identify any proposed modification in the notice of application for the site plan. The applicant has the burden of proof to demonstrate to the

Planning Board's satisfaction that the proposed modifications are warranted and in the public interest.

- (2) If new facts are presented by any party in the site plan process that convince the Planning Board that a modification is in the public interest, then the Planning Board may approve such modifications.

In acting to approve a sketch plan modification as part of site plan review, the Board must make the findings required in Section 59-C-15.42 (c) in addition to those required by Section 59-D-3.

The Planning Board would amend Council President Floreen's recommendation for subsection (d) as follows:

- (d) During site plan review, the Planning Board may approve modifications to the binding elements or conditions of an approved sketch plan. If requested by the applicant, notice of the site plan application must identify those changes requested. If changes are recommended after the application is made, notice of the site plan hearing must identify changes requested. 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.

The rationale for the Planning Board's recommendation is as follows:

The Planning Board should be allowed to revisit its findings regarding a sketch plan when the more detailed site plan is presented, without the need for increased fees, filing documents, and confusion created by a pro forma amendment.

Most sketch plans are changed at site plan review due to more detailed analysis of a site, changes in the surrounding area, contract negotiations, modifications to designs based on detailed development plans, and generally revised opinions based on greater knowledge. These may be made by the applicant or requested by citizen representatives or staff.

Regardless of the source, it should be clear to citizens and the staff that requests for changes are not off the table and may be made by any interested party.

Staff comment – Councilmember Berliner's amendment retains respect for the sketch plan approval while permitting amendments based upon new facts.

3) How should design guidelines be approved?

The Committee recommended allowing the Planning Board to adopt design guidelines. Councilmember Elrich recommends making any such guidelines Council approved regulations:

After line 265:

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

Development that requires a site plan must be consistent with the applicable master or sector plan and must address any design guidelines approved by the [[Planning Board]] Council as a method 2 regulation under Chapter 2A Section 15 that implement the applicable plan.

59-C-15.62. Priority Retail Street Frontages.

Development that requires a site plan and is located on a street identified as a priority retail street frontage in the applicable master plan, sector plan, or design guidelines must be developed in a manner that is consistent with the recommendations and objectives of the applicable plan and address any applicable design guidelines approved by the [[Planning Board]] Council as a method 2 regulation under Chapter 2A Section 15 that implement the applicable plan.

After line 293:

59-C-15.63. Streetscape.

Streetscape improvements must be consistent with the recommendations of the applicable master or sector plan and must address any [[Planning Board]] design guidelines approved by the Council as a method 2 regulation under Chapter 2A Section 15 that implement the applicable plan.

- 4) Should an identifiable element of a proposed project allow incentive density from more than one criteria? Should guidelines concerning density increase criteria be approved by the Council?**

The Committee recommended removing several density increase criteria because an identifiable element of a proposed project would be allowed to double count that element under more than one density increase criteria. ZTA 09-08 was also criticized for delegating the Council's zoning authority. Councilmember Berliner recommends prohibiting a single element from getting multiple credits and requiring Council approved regulations.

Line 887 and following:

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 are in addition to and do not supersede any standards, requirements, prohibited incentive density criteria, or rules of incentive density calculation included in this Division.

- (a) Guidelines must not allow any single feature of a project a density incentive increase from more than 1 density increase criteria.
- (b) Any guidelines authorized under this Subsection must be approved by the Council as a method 2 regulation under Chapter 2A Section 15.

With the approval of this amendment, Councilmember Berliner does not agree with the Committee's recommendation to prohibit the criteria recommended by the Planning Board.

Staff comments – Subsection (a) of Councilmember Berliner's addresses problems that the PHED Committee resolved by deleting community gardens, LEEDs certifications, and floor plate size. It would not address the problems with Dark Skies, rainwater reuse, and stormwater retention. The issue for these latter criteria concerns having appropriate non-optional standards.

Subsection (b) avoids delegating the Council's zoning authority to the Planning Board.

- 5) What is the maximum incentive density increase that a master planned public facility should receive?**

The Committee recommended allowing a maximum of 70 percent for a master planned public facility or site. The Planning Board Chairman recommends amending that to 50 percent. This recommendation would amend line 896 accordingly.

6) Should a density increase be allowed for proximity to bus service?

ZTA 09-08 as introduced would have allowed projects near a bus stop density credit in the optional method of development process (lines 131-132). The PHED Committee recommended deleting this credit but providing a credit for transit on a dedicated rights-of-way. The Committee also recommended an increased transit credit for proximity to dedicated right-of-way compared to level 2 transit proximity in ZTA 09-08 as introduced (lines 904-905).¹ **In the view of a majority of the Committee, bus headways are too variable over time to warrant the awarding of density credit.** The presence of bus routes is something that the Council may or may not consider when it applies the maximum density with the CR zoned property.

Civic associations argued unsuccessfully to the PHED Committee to delete any credit for transit proximity. Such a credit would not be caused by the action of the developer, and the effect would be to require fewer public benefits. In the Committee's view, it is good public policy to make it easier for development to occur closer to transit than further away from transit. The credit for transit proximity would accomplish that object.

The Planning Board recommends adding a credit for bus proximity as follows:

Line 143:

Transit proximity is categorized in ~~[[two]]~~ 3 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; and (3) proximity to a bus stop that does not have a dedicated and fixed path but has service intervals that are no longer than 15 minutes during peak hour commuting hours.

Line 900:

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:

¹ The DANAC Corporation submitted testimony that the transit mode share of people near fixed guideway transit was closer to the transit ridership of heavy rail than reflected in the density increased allowed by the Planning Board's recommendations.

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

The Planning Board provided the following rationale for its recommendation:

- * Precedent: Jurisdictions with incentives or density bonus programs for bus transit:
 - a. Charlotte, NC
 - b. Marysville, WA
 - c. Cedar Rapids, IA
 - d. Mobile, AL
 - e. Woodinville, WA
 - f. Louisville, KY
- * Other incentives that rely on operational criteria, such as the neighborhood services or small business retention, were recommended by the PHED Committee and are self-reinforcing – especially in combination with access to such bus routes.
- * Environmental site design policy objectives required by the state can only be instituted if properties redevelop, and this incentive will help encourage such redevelopment of largely paved and built sites. There is a significant amount of pollutants from surface parking lots that will only be captured and treated if these properties redevelop or substantial public investment is made.
- * The net effects of the policy are expected to be minimal in the context of county development, but are in-line with AGP policies regarding targeted growth and will provide significant aesthetic and environmental benefits to the local neighborhoods.

Staff comment – The Planning Board’s rationale does not address the problem that bus headways change over time.

7) Should the transit proximity incentive be determined by a single measure for an entire sketch plan or by the proportion on land within each distance category?

Transit proximity must be measured from a point of access to the area of land included in a sketch plan. The Committee was persuaded that the incentive density should be determined by the proportion of land in each distance category. The Planning Board recommends different wording that would allow for a single classification for some land.

- (b) [[The appropriate incentive density applies to the gross land area of the project within each distance category.]] For all other projects to qualify for incentive density availability at the 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 less than 75 percent of the gross tract in one distance range must be calculated as the weighted average of the percentage of area in each range.

Staff comment - The Planning Board recommendation would give a greater incentive density to a project that had 75 percent of its land area within a proximity category than the provision recommended by the PHED Committee.

8) Should density credit be awarded for community gardens, floor plate size, bio-retention and stormwater recharge, rainwater reuse, dark skies, or LEED ratings?

The optional method of development would establish 6 categories of public benefit under which a project may achieve the zones' maximum density:

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

Within the last 4 listed public benefit categories, there are the following types of attributes that would be density incentives:

Connectivity and mobility	Diversity	Design	Environment
Neighborhood Services	Affordable Housing	Historic Resource Protection	Building Lot Termination
Minimum Parking	Adaptive Buildings	Structured Parking	Energy Conservation and Generation
Through-Block Connections	Care Centers	Tower Setback	Green Wall
Public Parking	Small Business Retention	Public Art	Tree Canopy
Transit Access Improvement	Dwelling Unit Mix	Public Open Space	Vegetated Area
		Streetscape	Vegetated Roof

As introduced, some public benefit categories fit into multiple incentive density categories. A community garden may also be a vegetative area or part of a green roof. Floor plate size maximum may qualify for exceptional design. A tower setback reduces floor plate size as well. LEED certifications are partially obtained by having a green roof, a green wall, stormwater recharge and reuse, a vegetative area, and energy efficiency. Storm water recharge may be accomplished by rainwater reuse.

Stormwater recharge will be covered by Executive regulations. Dark Skies is a policy that has not been adopted by the Council and is not at all effective when used one building at a time on a voluntary basis. The Council has other means outside of zoning to determine what should be required.

ZTA 09-08 as recommended by the PHED Committee would allow the Planning Board to determine if a single attribute would allow a developer to get multiple credits. **The PHED Committee recommended prohibiting any density credit from the listed attributes** to prevent a single attribute from getting

credit from multiple categories, credit from attributes covered by executive regulations, and credit to accomplish a policy not adopted by the Council (lines 1029-1036).

The Planning Board would not recommend prohibiting any criteria from ZTA 09-08 as introduced:

After Line 928:

- (f) Community Gardens: Safe and accessible garden space of 500 square feet or one 16 square-foot plot per 20 dwelling units, whichever is greater, on site or within 500 feet of the site.

The Planning Board provided the following rationale:

1. The Department of Parks has a community garden program that cannot keep up with demand.
2. CR-zoned areas, by their nature, will usually be areas of higher density or – even at low density – areas of more intense land use. Therefore, carving out areas on roofs, above parking garages, in pocket parks, etc., is important to provide green space and its concomitant environmental benefits and provide garden space to apartment and condominium dwellers that do not have the luxury of a suburban lawn.
3. A provision in the incentive implementation guidelines can limit an applicant’s ability to “double-dip” and take credit for using a community garden as a green roof.
4. Locally available produce – and the activity to cultivate your own garden plot – is conclusively tied to better health.
5. As important as the health benefits are, community gardens are a neighborhood-strengthening tool. (For both d. and e. see, for one example: Armstrong, Donna, A Survey of Community Gardens in Upstate New York: Implications for Health Promotion and Community Development, Health and Place 2000; 6(4):319-327.)

Staff Comment – Community gardens could be on land that qualifies for the “vegetative area” incentive”. The duplication issue can be addressed by including the criteria but prohibiting an attribute from getting multiple credits.

After Line 988:

- (g) Reduced Floor Plate: Provision of buildings in which floor areas above 120 feet that do not exceed 10,000 square feet for residential uses or 19,000 square feet for non-residential uses. The reduced floor plate must contain a minimum of 60% glass on all exterior walls facing a street or public open space.

AMEND SUBSECTION LETTERS THEREAFTER

The Planning Board provided the following rationale:

1. Tower setbacks do not always ensure reduction of the floor plate to the dimensions recommended by this incentive. In fact, it would rarely happen that the two happened coincidentally without the two incentives.
2. A tower setback is required to ensure pedestrian comfort – both psychologically (due to the perception of mass) and environmentally (due to a decrease in wind-shear) – along the street immediately adjacent to a building.

3. A reduced floor plate has a larger impact because it relates to perception from greater distances and to the impact of shadows on properties that may be some distance from such a tall building.
4. Examples of tower setbacks that do not achieve the desired impact that a reduced floor plate would be numerous.

Staff Comment – Reduced setbacks could be on a building that qualifies for the “tower setback” incentive”. The duplication issue can be addressed by including the criteria but prohibiting any one attribute from getting multiple credits.

After line 996:

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 lack of groundwater recharge, inadequate carbon-sequestration, and pollution caused by reliance on the automobile, the Planning Board may approve incentive density of up to 50% for certain projects that purchase building lot terminations, or up to 30 % for LEED ratings as described below, or at least two of the other following public benefits:

After Line 1013:

- (b) LEED, or County-Approved Equivalent: The Planning Board may approve incentive density as follows for a building or project that achieves a LEED rating for new construction, or a LEED-ND for existing buildings, or an equivalent rating approved under Chapter 8, Article VII:
 - (1) 10% for LEED Silver;
 - (2) 20% for LEED Gold; and
 - (3) 30% for LEED Platinum.

AMEND SUBSECTION LETTERS THEREAFTER

The Planning Board provided the following rationale:

1. Construction of a new building of a certain size is required to be LEED certified; this requires a very low threshold for green building. These are the points required for the various levels:
 - Certified - 34 to 42 points
 - Silver - 43 to 50 points
 - Gold - 51 to 67 points
 - Platinum - 68 to 92 points
2. Removing an incentive to provide greener buildings is inconsistent with the sustainability objectives approved by the committee regarding the objectives of the zone and the incentive program. Further, by removing this public benefit option, all negotiating power of the staff, citizens, and the Planning Board will be removed for obtaining benefits well beyond the typical “green” incentives – issues such as materials, recycling, conservation, reuse, traffic reduction, etc.
3. The incentive implementation guidelines can limit incentive density granted for other environmental benefits if they are also used to obtain LEED credits.

Staff Comment – LEED certification could be obtained in part by satisfying some of the other density increasing criteria: energy conservation, green wall, vegetative roof, and tree canopy. The duplication issue can be addressed by including the criteria but prohibiting an attribute from getting multiple credits.

After Line 1028:

- (h) Groundwater Recharge: Bio-retention and stormwater recharge facilities beyond existing County requirements on-site or within ¼ mile of the site must provide a minimum of 25% recharge of projected stormwater outfall for a 10-year event.
- (i) Rainwater Reuse: Collection and reuse of at least 25% of rainwater from a 10-year event on site.

The Planning Board provided the following rationale:

1. Consultant’s draft report for the Department of Environmental Protection recommends greater integration of terminology and standards between CR zones, and zoning in general, and Maryland environmental site design (ESD) practices.
2. Most redevelopment properties will have to do little to address the “maximum extent practicable” requirement of ESD practices.
3. Incentives must remain to encourage micro-habitat creation and groundwater recharge that will not be required under the state’s mandate.
4. Re-use of rainwater is both an issue of stream protection (by decreasing run-off), an aesthetic issue (smaller quantity detention areas), and an economic/water-saving issue (less potable water necessary for irrigation, etc.) and should not be necessarily conflated with ESD issues.

Staff comment – The Executive Staff continues to recommend leaving the issue of groundwater recharge and rainwater reuse to stormwater regulation; they do not recommend retaining it as a density incentive.

After line 1028:

- (j) Lighting: Provision of lighting that complies with the standards established by the International Dark Sky Association, or County- approved equivalent.

The Planning Board provided the following rationale:

1. Light pollution is a problem rarely addressed by environmental incentives, but it has a large impact on our ecological and aesthetic realm. A brief summary of the costs attributed to light pollution:
 - Energy waste
 - Harm to human health
 - Harm to nocturnal wildlife and ecosystems
 - Reduced safety and security
 - Reduced visibility at night
 - Poor nighttime ambience

2. For discussion of effects on people see Klinkenborg, Our Vanishing Night, National Geographic, November 2008. On environment see Longcore and Rich, Ecological Light Pollution, Frontiers in Ecology and the Environment: Vol. 2, No. 4, pp. 191-198.

Staff comment – Lighting standards at site plan should not allow light pollution on neighboring property or over illuminated surfaces; those elements should not be an option. The Dark Sky standards include light frequency; when Dark Sky standards were proposed to the Council as a requirement, the Policy Department expressed safety concerns.

Delete lines 1029 – 1036.

9) Should the purchase of BLT easements be optional (20,000 square feet of floor area for each BLT)?

The Planning Board shifted its opinion of BLTs since the introduction of ZTA 09-08. As introduced, BLTs were mandatory. The Planning Board’s more recent opinion would make the purchase of BLTs optional. Making the purchase of BLT easements optional will dramatically limit the purchase of BLTs as compared to a mandatory program. The BLT option may be the most expensive option per square foot of additional space in the CR zones. It would be an option that would never be exercised.

The alternative payment for a BLT is something in the Council’s control but is NOT a decision made in the text of the zone. The Council will have the opportunity to determine how that payment is priced in the course of adopting Executive Regulations.

The PHED Committee agreed with the Planning Board proposed amendment to make the purchase of BLT easements optional (lines 1003-1013). Staff recommends making BLTs a requirement for projects more dense than .5 FAR.

The following table gives alternatives to the PHED recommendation and comments on the positive and negative effects of the alternatives.

Alternative	Positive effect	Negative effect
Allows more floor area per BLT easement purchased or payment made	Makes the option more price competitive with other incentives	Reduces the number of BLTs that would be absorbed (assuming that BLT would be used at all)
Allows the floor area increase from BLTs to increase the allowable standard method of development	Allows a revenue generating attribute that would otherwise cost money in processing fees	Reduces the number of public benefits; gives an incentive to not achieve maximum density

Councilmember Elrich recommends the following amendment:

After line 910:

- (c) Any incentive density increase approved by the Planning Board for an optional method of development application must satisfy Subsection 59-C-15.87(a).

Starting at line 996:

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 lack of groundwater recharge, inadequate carbon-sequestration, and pollution caused by reliance on the automobile, [the Planning Board may approve incentive density of up to 50% for certain projects that purchase building lot terminations, as described below, or at least two of the other following public benefits must only approve:] CR zones require the purchase of BLT easements or payment to the Agricultural Land Preservation Fund for at least 30% but no more than 50% of the incentive density as described in this Subsection.

- (a) Building Lot Termination (BLT): The Planning Board [may] must approve incentive density for the purchase of Building Lot Termination easements or for payment to the Agricultural Land Preservation Fund [in an amount set regularly by Executive Regulation, subject to] under the following conditions:
- (1) (a) Any private BLT easement must be purchased must be in whole units; or
[[2]](b) BLT payments [may be in fractional units] per gross square foot of incentive density must be made to the Agricultural Land Preservation Fund, including payments for fractional BLTs, based on the amount established by Executive Regulations under Chapter 2B;
[[3]](2) Each BLT easement purchase or payment allows 20,000 gross square feet of incentive density [[; and]].
[[4) The Planning Board may grant up to 20% of total incentive density for sites greater than ½ acre and up to 50% of the total incentive density for sites ½ acre or smaller.]]

Issues raised by staff

Should the CR zone be adopted in advance of the Zoning Ordinance Re-write?

The Zoning Ordinance Re-write is an effort to simplify the current Ordinance. Planning Staff criticized the number of processes, the number of zones, and the number of footnotes in their initial review of the current Ordinance. If the Council approves ZTA 09-08, the Re-write would amend the CR zones so that its processes (sketch plan and site plan), land uses, and general structure were consistent with the entirety of the new Ordinance. The impending Zoning Ordinance Re-write calls into question the need to do a ZTA as complex and novel as ZTA 09-08.

In documents sent to the Planning Department's Zoning Advisory Panel on February 12, 2010, Planning Staff and their consultant suggested the need to use the CR zones to replace all commercial and mixed-use zones. In their opinion, revisions to add more certainty for residents, landowners, and developers to the draft CR zones are warranted. Reducing the Planning Board's discretion would increase certainty.

Staff recommended working through ZTA 09-08 during the Committee's worksessions. The aspects of clarity and certainty in ZTA 09-08 as introduced were the most persuasive arguments to work through the details. In view of the Committee's recommendations, the Council's time, the impending Zoning

Ordinance Re-write, and the ability to amend the TMX zones to implement the White Flint Sector Plan and the Gaithersburg West Master Plan², *staff does not recommend adopting ZTA 09-08.*

When should the CR zones be applied?

Generally

The Planning Board Chairman and the Planning Director told the PHED Committee that they do know how the CR zones would be used in the Zoning Ordinance Re-write process. These statements were made in the context of supporting an amendment to ZTA 09-08 to allow the CR zones to be used only when specifically recommended in a master plan (lines 39-40).

If the requirement for a specific master plan recommendation is not amended in the Zoning Ordinance Re-write process, then the CR zones could not be applied by Sectional Map Amendment. CR zones that are of limited application would be counter to the Zoning Ordinance Re-write's simplification goal.

The representatives of civic associations are concerned that land currently zoned for commercial or mixed uses could get increased density without sufficient citizen involvement if ZTA 09-08 allows a CR zone to be applied without a specific master plan recommendation. The concern would be justified if the density of all CR zones allowed higher FARs than current zones; however, under ZTA 09-08 the density of a CR zone can be uniquely crafted to any zone with a current FAR of .5 or higher.³ There will be public involvement in the Zoning Ordinance Re-write process. *If the Council approves ZTA 09-08, staff recommends allowing CR zones to be applied by a Sectional Map Amendment without a specific recommendation of the master plan.*

Small lots

Representatives from the City of Takoma Park recommended making the CR zones less onerous on small lots. The Committee recommended allowing any development less than 10,000 square feet in floor area to proceed as a standard method of development project without the need for site plan approval, even if the FAR exceeds .5. Any lot smaller than 20,000 square feet in area will be benefited by these changes. Lots that do not require site plan approval would not be required to provide public use space.

Smaller lots currently find the required minimum parking an obstacle to intense development. Many buildings above a .3 FAR require expensive structured parking. Small lots would benefit by the reduced parking requirements in ZTA 09-08.

The feasibility of optional method projects on small lots would be dependent upon the maximum FAR allowed. The consultant costs to prepare an application for a .5 FAR increase may not be any different than an application for a 3 FAR increase. Under the Committee's recommendation, Planning Board

² Representatives of civic organizations provided a starting point for such amendments to the TMX zone in correspondence to the Council during the last week of January. This option would require the introduction of a new ZTA to appropriately amend the TMX zone.

³ The standards of a new CR zone that would be comparable to a site's current zoning must be crafted carefully, but it has a built-in advantage for small sites. ZTA 09-08 would limit the amount of required parking in CR zones as compared to the same uses in other zones. Currently, many projects limit themselves to the highest level of density that can be achieved with accommodating the required parking on surface parking lots. Reducing the amount of parking required will make some additional development achievable. The cost of structured parking can exceed \$30,000 for each parking space. In some markets, the prevailing rental rates would not cover the costs of the floor area plus the cost of structured parking.

adopted guidelines would determine whether floor area increases vary with the amount of public benefit provided. ZTA 09-08 as introduced had a number of density increase criteria that would have varied with lot size, not increased floor area.

Whether the CR zone should be applied to a particular small lot would be an issue for the Council in the course of approving a master plan amendment and Sectional Map Amendment. ZTA 09-08 establishes the CR zones; it does not apply the zone to any sites. The maximum density of any individual CR zone would not be determined by the approval of ZTA 09-08. The CR zone may not be appropriate for small lots, particularly in marginally profitable markets.

Should the CR density increases be expressed as the percent of the proposed optional method density increase above a density of .5 FAR.?

ZTA 09-08 would establish 6 major criteria for the approval of density above an FAR of .5. The density increase from each criterion (density incentive) is expressed as a percentage of “incentive density”. Incentive density would be defined as **the amount of proposed floor area above a .5 FAR**. The method of calculating incentive density will give applicants an incentive to apply for the maximum density allowed by the zone for 2 reasons:

- 1) Even small additions above a .5 FAR would generally be required to satisfy 4 different public benefit categories.⁴ The same would be true for large additions above .5 FAR.
- 2) The requirement for sketch plans and site plan approvals do not change.

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 .5 FAR**. Under this type of provision, an applicant who proposed using only 30 percent of the incentive density would be required to satisfy fewer criteria.

The Committee recommended defining density as the amount of proposed floor area above a .5 FAR. Staff recommends defining density as the maximum floor area allowed by the zone minus .5 FAR.

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⁴ Lots near transit may require as few as 2 additional density increasing criteria.

Ordinance No:
Zoning Text Amendment No: 09-08
Concerning: Commercial/Residential (CR)
Zones - Establishment
Draft No. & Date: 7 - 1/25/10
Introduced: September 22, 2009
Public Hearing: October 27, 2009
Adopted:
Effective:

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

By: District Council at Request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

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

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

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

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

OPINION

Zoning Text Amendment No. 09-08 was introduced on September 22, 2009 at the request of the Planning Board to establish CR zones.

The Montgomery County Planning Board, in its report to the Council, recommended that the text amendment be approved with amendments.

The County Council held a public hearing on October 27, 2009 to receive testimony concerning the proposed text amendment. The Council received a significant amount of testimony, both in support of and in opposition to ZTA 09-08. The Executive expressed concerns about ZTA 09-08 that included the delegation of authority to the Planning Board with insufficient standards and density incentives that require ongoing monitoring or are already required by the County Code. Mr. Leggett urged the Council and the Planning Board to identify alternative zones to implement the ongoing master plan amendments.

As a general characterization, the development community was generally in support of the ZTA with amendments to clarify the zone's intent, allow flexibility from specific standards, and change transit proximity standards. The civic community expressed concerns about how the zone would be applied to property, the sketch plan process (particularly its ability to provide adequate information to the community), the value to the community of some the density increasing attributes, and the ability of communities to negotiate for major public facilities and open spaces. Some testimony suggested using the TMX zone with amendments instead of creating a new CR zone. This testimony questioned the need for the new CR zones in advance of the Zoning Ordinance Re-write project. The City of Takoma Park raised concerns about the impact of the CR zones on small lots. Questions about the zones' legality were also raised.

The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation. The Committee received briefings from the Planning Department before ZTA 09-08's introduction on July 27, 2009 and after its introduction October 13, 2009. In 2009, the Committee conducted worksessions on ZTA 09-08 on November 2, 9, 17, and 23. In 2010, the Committee conducted worksessions on January 11 and 25. Planning Board and Planning Staff recommendations changed over this time period. The Committee allowed interested parties to speak and participate during its worksessions.

On January 25, 2010 the Committee (2-1, Councilmember Elrich opposed) recommended approval of ZTA 09-08 with amendments. A majority of the Committee believed that the ZTA would aid in the implementation of the Gaithersburg West Sector Plan, the White Flint Sector Plan, and other master and sector plans. Councilmember Elrich believed that existing zones could be amended to implement the plans before the Council.

The District Council reviewed Zoning Text Amendment No. 09-08 at a worksession held on February 9, 2010, and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

The following table summarizes the Committee's recommended changes from ZTA 09-08 as introduced.

PHED Recommended Revision	Reason(s) for the revision(s)	Alternative Considered
Allow density averaging between different CR zones (line 28) (2-1, Councilmember Elrich would allow density transfers only from a lower to a high density zone)	Density averaging allows for greater design flexibility	Allow density averaging only from a lower density zone to a higher density zone
Apply a CR zone only if it is specifically recommended in a master plan instead of in conformance with a plan (lines 39-40)	The master plan process allows for a careful consideration of properties; a conformance requirement would allow a sectional map amendment to replace current zones with CR zones	
Delete the definition of locally owned small business (lines 94-99)	Creating a density incentive for small retail spaces instead would be more easily enforced	
Revise the definition of recreation (lines 117-120)	Simplifies the allowable land uses	
Add definitions of renovation and reconstruction (lines 121-123)	This clarification was requested by the City of Takoma Park	
Revise the definition of transit proximity (lines 128-146) (2-1, Council President Floreen would allow a transit proximity density increase for bus service)	Bus service changes over time and therefore should not justify decreased parking and increased density; proximity should be determined by the building's distance to transit	Create 3 levels of transit proximity; allow some density increase for bus stop proximity
Delete a site plan requirement caused only by trip productions (lines 154-155)	Buildings smaller than 10,000 feet of floor area should not warrant site plan review in CR zones	
Require a sketch plan application before or with a preliminary plan application (line 164)	The sketch plan should be the starting point for subsequent applications	
Defined sketch plan process (lines 194-252)	The process and requirements for approval were not clearly defined; clarification was requested by civic communities	Require a single sketch plan for land under single ownership
Revise the Planning Board's authority to amend a sketch plan (lines 252-255) (2-1, Councilmember Knapp opposed to a unilateral change)	The Planning Board should have the discretion to judge new information when a site plan is approved; discrepancies from the sketch plan should be noted in the staff report	Require applicant's consent to change the essential elements

PHED Recommended Revision	Reason(s) for the revision(s)	Alternative Considered
Allow Planning Board to adopt design guidelines that implement the master plan; applicant must address the guidelines at site plan (lines 266-268)	The Planning Board's guidelines can respond to changing circumstances	Require Council approved regulations instead of guidelines
Allow Planning Board guidelines to designate priority retail streets (lines 270-274)	The Planning Board's guidelines can respond to changing circumstances	Designate priority retail streets in a master plan or in Council approved regulations
Revise the requirement for bike parking (lines 298-304)	The requirements should be amended to be progressive with the size of buildings; references for free parking should be deleted	
Reduce the number of parking spaces for retail and restaurants (lines 306-315)	The current parking requirements are too high; 4 spaces for every 1,000 square foot of leasable space is sufficient	
Apply parking rates to the gross floor area within each distance category (lines 320-331)	The distance from transit should determine the parking reduction, not a single categorization of a large site	
Allow drive-through service windows on side walls, if screened (lines 351-353)	The visual objections to service windows can be mitigated with screening	
Delete the landscaping requirement for internal streets and sidewalks (lines 357-359)	No buffering should be required internally	
Amend the floor area allowed as a standard method development (the larger of .5 FAR or 10,000 square feet of floor area) (lines 369-370)	Buildings less than 10,000 sq. ft. are too small to invoke the optional method of development process	
Allow for retaining existing setbacks (lines 394-396)	Setbacks for existing buildings have established the neighbors' expectations	
Amend public use space requirements and apply the requirement to the total area within a sketch plan application; limit off-site public use space (lines 405-412)	Open space on an individual lot is unimportant; the amendment would simplify differences to 5% between classifications; allow small developments (less than 10,000 square feet that do not require site plan approval) to have no public use space; large sites should have on-site public use space	Do not require any standard method project to provide public use space; some optional method projects would not be required to provide public use space

PHED Recommended Revision	Reason(s) for the revision(s)	Alternative Considered
Allow the Planning Board to adopt guidelines to determine the density increase for every criteria (lines 878-891)	Planning Board guidelines can change with changed circumstances	Determine the maximum density increase in the text of the zone or in Council approved regulations
Allow a maximum 70 percent density increase for major public facilities or sites (lines 892-899)	Major public facilities can be a justification for greater density than other density-increasing criteria; allow the opportunity for a repeat of the type of recreation center in Friendship Heights	
Amend the density increase for proximity to transit (lines 900-908)	The relative difference of transit ridership for dedicated transit ways is closer to heavy rail than was reflected in the Planning Board's numbers as introduced	Do not allow any density increase for transit proximity
Apply density increase for proximity to transit proportionally (lines 909-910)	The distance from transit should determine the density increase, not a single categorization of a large site	
Amend the BLT provisions to make the purchase of BLT easements in exchange for additional density optional (lines 1003-1013)	Requiring BLTs would reduce development in the CR zone by increasing costs; allow 20,000 sq. ft. of floor area per BLT purchased as an option without any requirement; allow the payment for a partial BLT	
Prohibit density increases from community gardens, floor plate size, bio-retention and stormwater recharge, rainwater reuse, dark skies, or LEED ratings (2-0, Council President Floreen absent) (lines 1029-1036)	These attributes duplicate similar attributes for which there may be density increases, some attributes that can be addressed by other laws or regulations; "Dark Skies" interjects standards on single projects that are effective only when applied to all projects	
Amend the grandfathering provisions (lines 1037-1069)	The CR zones should not invalidate approved plans or the conforming status of existing structures; only non-grandfathered increment should be subject to the standards of the CR zone	Provide grandfathering for additions of 30,000 square feet without any FAR limit

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 09-08 will be approved as amended.

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 combinations of
7 a sequence of [[four]] 4 factors: maximum total floor area ratio (FAR), maximum non-
8 residential FAR, maximum residential FAR, and maximum building height. These zones
9 are identified by a sequence of symbols: CR, C, R, and H, each followed by a number
10 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 FAR;
13 (c) the number following the symbol “R” is the maximum residential FAR; and
14 (d) the number following the symbol “H” is the maximum building height in feet.

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

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

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

27 **59-C-15.121.** Permitted density may be averaged over 2 or more directly abutting or
28 confronting lots in [[the same]] one or more CR [[zone]] zones, provided that:

- 29 [[1]] (a) the lots are subject to the same sketch plan;

- 30 ~~[[2]]~~ (b) the lots are created by the same preliminary subdivision plan;
 - 31 ~~[[3]]~~ (c) the maximum total density and non-residential and residential density limits
 32 apply to the entire development [[subject to the sketch plan and subdivision plan]],
 33 not to individual lots;
 - 34 ~~[[4]]~~ (d) no building may exceed the maximum height set by the zone;
 - 35 ~~[[5]]~~ (e) public benefits must be provided [[in proportion to any phased development
 36 on individual lots]] under the phasing element of an approved sketch plan; and
 - 37 ~~[[6]]~~ (f) the resulting development must conform to the design and land use
 38 objectives of the applicable master or sector plan and design guidelines.
- 39 **59-C-15.13. The CR zones can only be applied when specifically recommended by an**
 40 **approved and adopted master or sector plan and only by the sectional map amendment**
 41 **[[in conformance with the zoning recommendations of an approved and adopted master**
 42 **or sector plan]] process.**

Examples:

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

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

57 The CR zones permit a mix of residential and non-residential uses at varying densities
 58 and heights. The zones promote economically, environmentally, and socially sustainable
 59 development patterns where people can live, work, and have access to services and
 60 amenities while minimizing the need for automobile use. The application of the CR

- 61 zones [[are]] is appropriate where ecological impacts can be moderated by co-locating
62 housing, jobs, and services. The objectives of the CR zones are to:
- 63 (a) implement the policy recommendations of applicable master and sector plans;
 - 64 (b) target opportunities for redevelopment of single-use areas and surface parking lots
65 with a mix of uses;
 - 66 (c) reduce dependence on the automobile by encouraging development that integrates
67 a combination of housing types, mobility options, commercial services, and public
68 facilities and amenities;
 - 69 (d) encourage an appropriate balance of employment and housing opportunities and
70 compatible relationships with adjoining neighborhoods;
 - 71 (e) establish the maximum density and building height for each zone, while retaining
72 appropriate development flexibility within those limits; and
 - 73 (f) standardize optional method development by establishing minimum requirements
74 for the provision of the public benefits that will support and accommodate density
75 above the standard method limit.

76 **59-C-15.3. Definitions Specific to the CR Zones.**

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

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

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

85 **Day care facilities and centers:** facilities and centers that provide daytime care for
86 children and/or adults, including: child daycare facility (family day care, group day
87 care, child day care center); daycare facility for not more than 4 senior adults and

88 persons with disabilities; and day care facility for senior adults and persons with
89 disabilities.

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

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

94 **[[Locally-owned small business:** a commercial business that:

95 (a) is majority-owned by a resident of Montgomery County or any adjacent
96 jurisdiction; and

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

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

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

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

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

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

113 **Recreational facilities, participatory [[, indoor]]:** Facilities used for [[indoor]] sports
114 or recreation. [[Spectators would be incidental on a nonrecurring basis. Such uses

115 typically include bowling alleys, billiard parlors, indoor tennis and handball courts,
116 and health clubs.]]

117 **[[Recreational facilities, participatory, outdoor:** Facilities used for outdoor sports or
118 recreation. Spectators would be incidental on a nonrecurring basis. Such uses
119 typically include driving ranges, miniature golf courses, swimming pools, and
120 outdoor ice skating rinks.]]

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

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

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

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

142 a project qualifies for more than one transit proximity level, the project may only take
 143 incentive density for one of the qualifying benefits.]] Transit proximity is categorized
 144 in two levels: 1. proximity to an existing or planned Metrorail Station; 2. proximity
 145 to an existing or planned station or stop along a rail or bus line with a dedicated, fixed
 146 path.

147 **59-C-15.4. Methods of Development and Approval Procedures.**

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

149 **59-C-15.41. Standard Method.**

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

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

156 **59-C-15.42. Optional Method.**

157 Optional method development must comply with the general requirements and
 158 development standards of the CR zones and must provide public benefits under Section
 159 59-C-15.8 to obtain [[the full densities]] greater density and height than allowed [[by the
 160 zone]] under the standard method of development. A sketch plan and site plan are
 161 required for any development using the optional method. A sketch plan must be filed
 162 under the provisions below; a site plan must be filed under Division 59-D-3. Any
 163 required preliminary subdivision plan must not be submitted [[concurrently with the site
 164 plan]] before a sketch plan is submitted.

165 **[[a) Contents of a sketch plan:**

- 166 1) justification statement for optional method development addressing the
 167 requirements and standards of this Division, how the development will
 168 further the objectives of the applicable master or sector plan, and how the

169 development will be more efficient and effective than the standard method
170 of development;

171 2) total FAR, conceptual uses and maximum densities per use;

172 3) building massing, height, public use and other open spaces, and the
173 relationship of proposed buildings to adjacent buildings;

174 4) general vehicular, pedestrian, and cyclist circulation and access;

175 5) table of proposed public benefits and incentive density requested for each
176 benefit; and

177 6) general phasing of structures, uses, public benefits, and site plans.

178 b) Procedure for a sketch plan:

179 1) Before filing a sketch plan application, an applicant must comply with the
180 provisions of Section 4 of the Manual for Development Review Procedures
181 for Montgomery County, as amended, that concern the following
182 procedures:

183 (a) notice;

184 (b) holding a public meeting; and

185 (c) posting the site of the submission.

186 2) The submittal, review procedure, and fees for a sketch plan are the same as a
187 pre-application submission under Section 50-33A(a), except that there is no
188 requirement to submit a preliminary subdivision plan within 90 days.

189 3) The Planning Board may require some elements of the sketch plan to be
190 binding on any subsequent site plans.]]

191 (a) A sketch plan application must contain:

192 (1) a justification statement that addresses how the project meets the
193 requirements and standards of this Division for optional method
194 development and describes how the development will further the objectives
195 of the applicable master or sector plan;

- 196 (2) an illustrative plan or model that shows the maximum densities for
197 residential and non-residential uses, massing, and heights of buildings;
198 locations of public use and other open spaces; and the relationships between
199 existing or proposed buildings on adjoining tracts;
- 200 (3) an illustrative diagram of proposed vehicular, pedestrian, and bicycle
201 access, circulation, parking, and loading areas;
- 202 (4) a table of proposed public benefits and the incentive density requested for
203 each; and
- 204 (5) the general phasing of structures, uses, public benefits, and site plan
205 applications.
- 206 (b) Procedure for a sketch plan:
- 207 (1) Before filing a sketch plan application, an applicant must comply with the
208 provisions of the Manual for Development Review Procedures, as amended,
209 that concern the following:
- 210 (A) notice;
211 (B) posting the site of the application submittal; and
212 (C) holding a pre-submittal meeting.
- 213 (2) A public hearing must be held by the Planning Board on each sketch plan
214 application no later than 90 days after the filing of an optional method
215 development application, unless a request to extend this period is requested
216 by the applicant, Planning Board staff, or other interested parties. A request
217 for an extension must be granted if the Planning Board finds it not to
218 constitute prejudice or undue hardship on any interested party. A
219 recommendation regarding any request for extension must be acted upon as
220 a consent agenda item by the Planning Board on or before the 90-day
221 hearing period expires. Notice of the extension request and
222 recommendation by Staff must be posted no fewer than 10 days before the
223 item's agenda date.

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

230 (4) The Planning Board must act within 30 days after the close of the record of
231 the public hearing, by majority vote of those present and voting based upon
232 the hearing record, to approve, approve subject to modifications, conditions,
233 or binding elements, or disapprove.

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

237 (1) The plan: (A) meets the requirements and standards of this Division; (B)
238 will further the objectives of the applicable master or sector plan; and (C)
239 will provide more efficient and effective development of the site than the
240 standard method of development;

241 (2) The proposed building massing and height and public use and other open
242 spaces are located and scaled to achieve compatible relationships with each
243 other and with existing and proposed buildings and open space adjacent to
244 the site and with adjacent communities;

245 (3) The general vehicular, pedestrian, and bicyclist access, circulation, parking,
246 and loading areas are adequate, safe, and efficient;

247 (4) The proposed public benefits and associated requested incentive density
248 will further the objectives of the applicable master or sector plan and the
249 objectives of the CR zones; and

250 (5) The general phasing of structures, uses, public benefits, and site plans is
251 feasible and appropriate to the scale and characteristics of the project.

252 (d) The Planning Board may approve changes or modification of its findings
 253 regarding a sketch plan at the time of site plan review. Any inconsistency between
 254 the approved sketch plan and the proposed site plan must be identified in the site
 255 plan staff report submitted to the Planning Board.

256 **59-C-15.5. Land Uses.**

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

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

<u>(a) Agricultural</u>	
<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>
<u>(b) Residential</u>	
<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>
<u>(c) Commercial Sales and Service</u>	
<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>
(d) Institutional & Civic	
<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>
(e) Industrial	
<u>Manufacturing and production, artisan</u>	<u>P</u>
<u>Manufacturing, compounding, processing, or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries, synthetic molecules, 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>
(f) Other	
<u>Accessory buildings and uses</u>	<u>P</u>
<u>Bus terminals, non-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>

263 **59-C-15.6. General Requirements.**

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

265 **59-C-15.61. Master Plan and Design Guidelines Conformance.**

266 Development that requires a site plan must be consistent with the applicable master or

267 sector plan and must address any design guidelines [[adopted]] approved by the Planning

268 Board that implement the applicable plan.

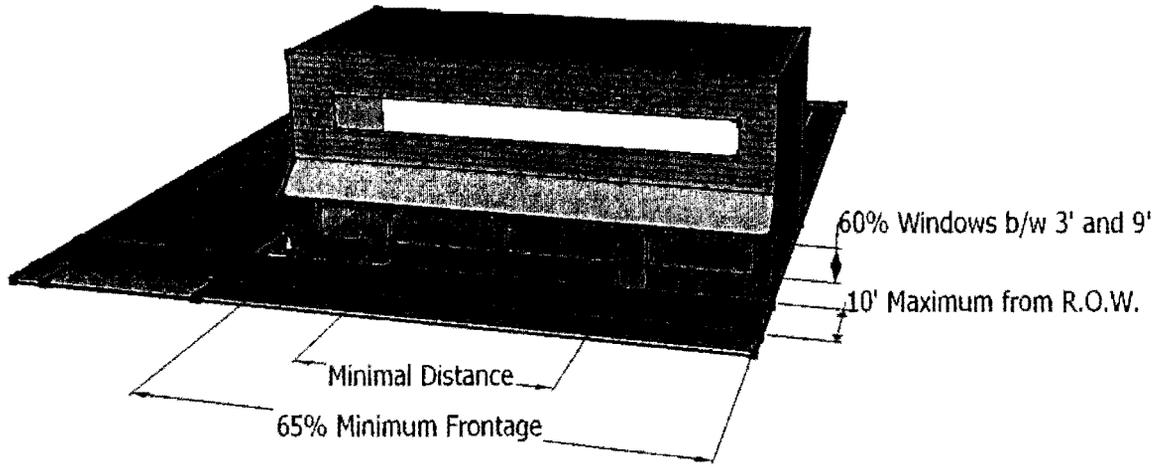
269 **59-C-15.62. Priority Retail Street Frontages.**

270 Development that requires a site plan and is located on a street identified as a priority
271 retail street frontage in the applicable master plan, sector plan, or design guidelines must
272 [[provide the following:]] be developed in a manner that is consistent with the
273 recommendations and objectives of the applicable plan and address any applicable
274 design guidelines approved by the Planning Board that implement the applicable plan.

- 275 [(a) on-street parallel parking, unless specifically denied by the agency maintaining the
276 right-of-way;
- 277 b) majority of display windows and entrances arranged between zero and 45 degrees
278 to the sidewalk;
- 279 c) shop entrances spaced at minimal distances in order to activate the street;
- 280 d) building façade along at least 65 percent of the aggregate length of the front street
281 right-of-way;
- 282 e) front building wall no farther than 10 feet from the public right-of-way or 5 feet if
283 no public utility/improvement easement (PUE or PIE) is required; and
- 284 f) windows or glass doors on 60 percent of the building façade between 3 and 9 feet
285 above sidewalk grade.

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

290



291
 292 *Priority Retail Building Requirements Illustrative]]*

293 **59-C-15.63. Streetscape.**

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

297 **59-C-15.64. Bicycle Parking Spaces and Commuter Shower/Change Facility.**

298 (a) Bicycle parking facilities must be [[free of charge,]] secure[[,]] and accessible to
 299 all residents or employees of the proposed development.

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

303

<u>Bicycle and Shower/Change Facilities Required</u>	
<u>Use</u>	<u>Requirement</u>
<u>Residential</u>	
<u>In a building containing less than 20 dwelling units.</u>	<u>At least 4 bicycle parking spaces.</u>
<u>In a building containing 20 or more dwelling units.</u>	<u>At least 0.5 bicycle parking spaces per dwelling unit, not to be [[less]] fewer than 4 spaces and up to a maximum of 100 required spaces.</u>
<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]] fewer than 2 spaces, up to a maximum of 100 required spaces.</u>

<u>Non-Residential</u>	
<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]] Two bicycle parking spaces for the first 10,000 square feet plus one additional space for every additional 10,000 square feet, up to a maximum of 100 [[required]] spaces.</u>
<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]] Two bicycle parking spaces for the first 10,000 square feet plus one additional space for every additional 10,000 square feet, up to a maximum of 100 [[required]] spaces. One shower/change facility for each gender available only to employees when the building is accessible.</u>

304 **59-C-15.65. Parking.**

305 (a) [[The maximum]]

306 (1) For projects that satisfy the requirements for transit proximity levels 1 or 2,
 307 the number of parking spaces provided on site must not exceed the
 308 [[minimum]] number [[established]] required under Article 59-E[.], except
 309 that the maximum number of parking spaces for general retail and restaurant
 310 uses is 4 spaces for every 1,000 square feet of gross leasable area and no
 311 parking spaces are required for restaurant outdoor patron areas.

312 (2) All projects that do not satisfy the requirements for transit proximity levels
 313 1 or 2 must meet the parking requirements established under Article 59-E,
 314 except that the number of parking spaces for general retail and restaurant
 315 uses in Subsection (a)(1) may be provided without a parking waiver.

316 (b) [[The]] Except for retail and restaurant uses that satisfy Subsection (a)(1) and
 317 projects that do not satisfy transit proximity level 1 or 2, the [[minimum]] number
 318 of parking spaces required is based on a building's distance from transit
 319 [[proximity]]as follows:

320

Minimum Parking Requirements				
	Transit Proximity (Level 1 or 2)			
	<u>¼ mile from transit</u>	<u>¼ to ½ mile from transit</u>	<u>½ mile to 1 mile from transit</u>	<u>>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>

321 The appropriate parking rates apply to the gross floor area within each distance category.

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

- 323 (1) providing the spaces on site;
- 324 (2) constructing publicly available on-street parking; or
- 325 (3) participating in a parking lot district or entering into an agreement for
 326 shared parking spaces in a public or private facility within 1,000 feet of the
 327 subject lot, [[provided that]] if the off-site parking facility is not in an
 328 agricultural (Division 59-C-9), planned unit development (Division 59-C-
 329 7), or residential (Division 59-C-1) zone.

330 (d) Every “car-share” space provided reduces the total [[minimum]] number of
 331 required spaces by 6 spaces for non-residential use or 3 spaces for residential use.

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

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

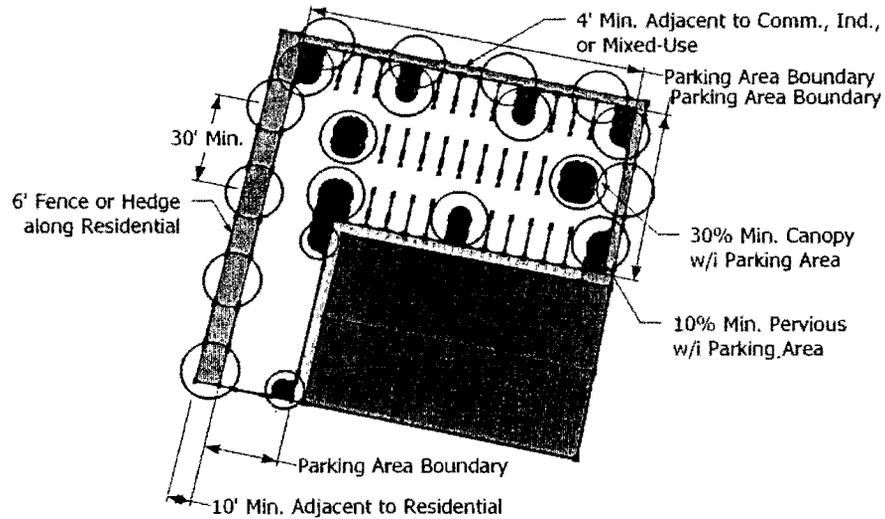
- 337 (1) a parking facility at or above grade must not be located between the street
 338 and the main front wall of the building or the side wall of a building on a
 339 corner lot [[: however,]] unless the Planning Board [[may approve a design
 340 if it]] finds that [[the alternative design would provide safer and more]] safe
 341 and efficient circulation would be better served by a different arrangement;

- 342 (2) if a site is adjacent to an alley, the primary vehicular access to the parking
 343 facility must be from that alley; and
- 344 (3) curb cuts must be kept to a minimum and shared by common ingress/egress
 345 easements whenever possible.
- 346 (f) The design of parking facilities with drive-through services must comply with the
 347 following; however, the Planning Board may approve a design if it finds that the
 348 alternative design would provide safer and more efficient circulation:
- 349 (1) the driveway must not be located between the street and the main front wall
 350 of a building or the side wall of a building on a corner lot;
- 351 (2) the drive-through service window must be located on the rear or side wall of
 352 the building; any service window on the side wall of a building must be
 353 permanently screened from any street; and
- 354 (3) curb cuts to a street must be minimized to one drive aisle of no more than 20
 355 feet in width for two-way traffic or two drive aisles each of no more than 10
 356 feet in width for one-way traffic.
- 357 (g) [[Landscaping]] Except for areas used for internal driveway or sidewalk
 358 connections between lots or parcels that are not in residential (59-C-1) or
 359 agricultural (59-C-9) zones, landscaping for surface parking facilities must satisfy
 360 the following requirements:

Minimum Landscape Standards for Surface Parking	
<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>

Internal Pervious Area	10 percent of the parking facility area comprised of individual areas of at least 100 square feet each.
Tree Canopy Coverage	30 percent of the parking facility area (at 15 years growth).

361
362



Surface Parking Landscape Requirements Illustrative

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59-C-15.7. Development Standards.

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

368

59-C-15.71. Density.

369 (a) The maximum density for any standard method project is the greater of 0.5 FAR or
370 10,000 square feet of gross floor area. Any single land use or any combination of
371 land uses allowed in the zone may achieve the maximum density.

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

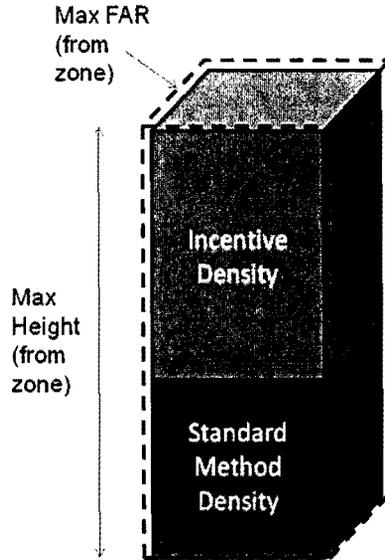
377

59-C-15.72. Height.

378 (a) The maximum height for any building or structure in a standard method project is
379 40 feet.

380 (b) The maximum height for any building or structure in an optional method project is
381 determined by the zone.

382 [[



383 *Incentive Density Illustration (with maximum FAR)]]*

384 **59-C-15.73. Setbacks.**

385 (a) A building must not be any closer to a lot line [[of]] shared with a lot or parcel in
386 an agricultural (Division 59-C-9) or residential (Division 59-C-1) zone than:

387 [[a]] (1) 25 feet or the setback required by the adjacent lot, whichever is
388 greater; and

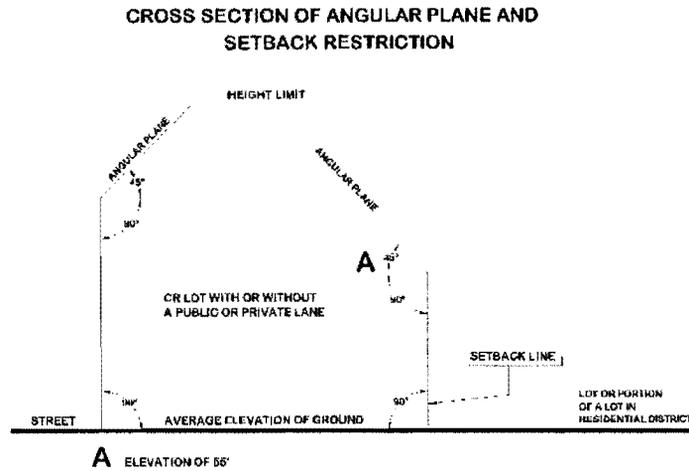
389 [[b]] (2) the building must not project beyond a 45 degree angular plane
390 projecting over the lot measured from a height of 55 feet at the setback
391 determined above, with the exception of those features exempt from height
392 and setback restrictions under Section 59-B-1.

393 (b) The development of a new building in place of a building existing when the CR
394 zone is applied may be built to the pre-existing setbacks if the height of the new
395 building is not increased over that of the former building.

396

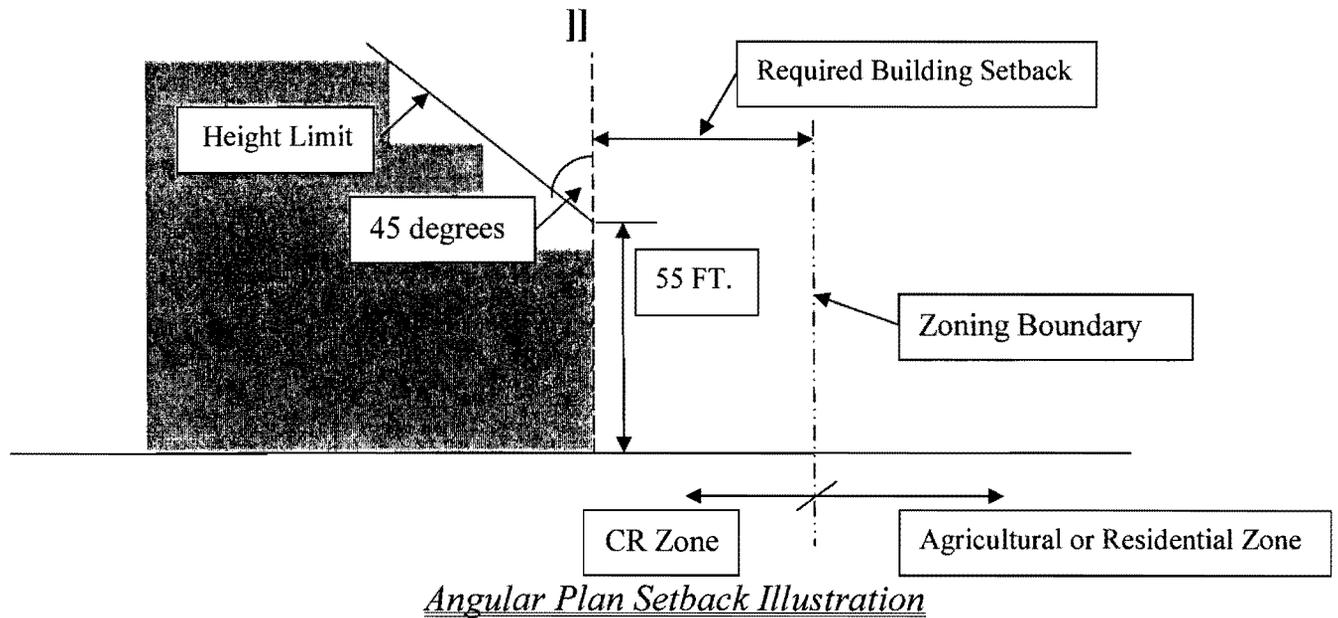
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59-C-15.74. Public Use Space.

(a) [[The minimum public]] Public use space is not required for any standard method project [[is 10 percent of the net tract area of the site.]] that does not require a site plan. If a site plan is required for the proposed project, then the minimum public use space is 10 percent of the project's net land area.

(b) Projects using the optional method of development must provide public use space as follows:

411

Minimum Required Public Use Space (% of net lot tract area)				
Acres (Gross)	Number of Existing and Planned Right-of-Way Frontages			
	1	2	3	4+
$\leq \frac{1}{2}$	0	0	4 0%	6 5%
$\frac{1}{2} - 1.00$	0	4 0%	6 5%	8 10%
1.01 - 3.00	4 0%	6 5%	8 10%	10%
3.01 - 6.00	6 5%	8 10%	10%	10%
6.01 +	8 10%	10%	10%	10%

412

413 (c) Public use space must:

- 414 (1) be calculated on the net ~~lot~~ tract area ~~of the site~~ that was included in
 415 the sketch plan application;
 416 (2) be rounded to the next highest 100 square feet;
 417 (3) be easily and readily accessible to the public;
 418 (4) ~~be placed under a public access easement in perpetuity~~ be distributed
 419 within the entire tract area included in the sketch plan application; and
 420 (5) contain amenities such as seating options, shade, landscaping, or other
 421 similar public benefits.

422 (d) Instead of providing on-site public use space, for any site of 3 acres or less, a
 423 development may propose the following alternatives, subject to Planning Board
 424 approval:

- 425 (1) public use space improvements ~~to an area equal in~~ of an equal or greater
 426 size within 1/4 mile of the subject site; or
 427 (2) a payment in part or in full to the Public Amenity Fund~~, equal to the~~
 428 average cost of required site improvements, added to the current square foot
 429 market value of the area required as public use space] under Section 59-D-
 430 2.31.

431 (e) A development on a site larger than 3 acres may only provide off-site public use
 432 space in order to provide master-planned open space improvements, or a payment
 433 under Subsection (d)(2), for an area of equal or greater size required on site that is:

- 434 (1) located within the same master plan area as the proposed development; and

435 (2) indicated on the approved sketch plan.

436 **59-C-15.75. Residential Amenity Space.**

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

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

440
 441 (b) The amenity space is not required for Moderately Priced Dwelling Units (MPDUs)
 442 on a site within a metro station policy area or where the Planning Board finds that
 443 there is adequate recreation and open space within a ½ mile radius of the subject
 444 site.

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

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

451 **59-C-15.8. Special Regulations for the Optional Method of Development**

452 **59-C-15.81. Incentive Density Provisions.**

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

- 457 [(a) The incentive density approved for each proposed public benefit is calculated as a
458 percentage of the total incentive density, which is the incremental difference
459 between the standard method maximum FAR (0.5) and the proposed project FAR
460 up to the maximum FAR allowed by the zone.
- 461 b) The minimum and maximum incentive density percentage increases for each
462 public benefit are established in Section 59-C-15.81(f).
- 463 c) The Planning Board may accept, reject, or modify a proposed incentive density or
464 modify the requested percentage above the minimum of incentive density
465 established up to the maximum established. Except for those benefits with
466 specific maximum standards, in approving incentive densities above the minimum,
467 the Planning Board must consider:
- 468 1) the size and configuration of the parcel;
 - 469 2) the policy objectives and priorities of the applicable master or sector plan;
 - 470 3) the applicable design guidelines;
 - 471 4) the relationship of the site to adjacent properties;
 - 472 5) the presence or lack of similar benefits nearby; and
 - 473 6) quantitative and qualitative enhancements provided exceeding the
474 delineated minimum incentive density standards.
- 475 d) Public benefits that apply to 1 building in a multi-building project must be
476 weighted proportionally to the density of the applicable building compared to the
477 total density of the project
- 478 e) In addition to the public benefits set forth below, an applicant may propose other
479 public benefits that will further the goals and objectives of the applicable master or
480 sector plan for the purpose of obtaining an incentive density increase.
- 481 f) The Planning Board may grant no more than 30 percent of the total incentive
482 density for a project for the connectivity, design, diversity, or environment

483 incentive categories under (h) below or any public benefit approved under (e)
 484 above.

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

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

[[h] Table of density incentives: Incentive Zoning Table			
Public Benefit	Percent of Incentive Density		Section Reference
	Minimum	Maximum	
<u>Transit Proximity</u>	<u>See section reference</u>		<u>15.82</u>
<u>Connectivity & Mobility</u>			
<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>
<u>Diversity</u>			
<u>Adaptive Buildings</u>	<u>15</u>	<u>30</u>	<u>15.841</u>
<u>Affordable Housing: MPDUs</u>	<u>See section reference</u>		<u>15.842</u>
<u>Affordable Housing: WFHUs</u>	<u>See section reference</u>		
<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>
<u>Design</u>			
<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>
<u>Environment</u>			
<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>]]

493

494 **[[59-C-15.82. Transit Proximity Incentives.]]**

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

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

498

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499

500 **[[59-C-15.83. Connectivity and Mobility Incentives.**

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

505 **[[59-C-15.831. Community Connectivity.**

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

- 509 1) at least 10 different existing or proposed retail uses with direct pedestrian
510 access are within 1/2 mile; and
- 511 2) at least 35 percent of those uses have a maximum floor area of 5,000 square
512 feet and that any newly provided retail uses remain at or below that area for
513 a period of at least 4 years after the initial use-and-occupancy permit is
514 issued for that use.

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

518 **[[59-C-15.832 Community Garden.**

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

- 521 a) The minimum incentive density increase requires that the garden:
- 522 1) is located on the subject site or within 500 feet of the subject site;
- 523 2) provides all garden spaces with at least 12 inches of soil depth and access to
524 water; and
- 525 3) provides community garden space at a rate equivalent to 1 space per 20
526 dwelling units. Each space must be at least 16 square feet. At least 1 out of
527 each 10 spaces must be accessible under ADA standards.

528 b) The maximum increase requires additional features such as a composting facility,
529 additional garden space, seating areas, doubling as a green roof, or additional
530 accessible garden plots.]]

531 **[[59-C-15.833. Parking at the Minimum.**

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

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

536 **[[59-C-15.834. Pedestrian Through-Block Connections.**

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

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

- 541 1) the pedestrian connection must provide direct access between streets;
542 2) the pedestrian connection must be at least 15 feet in width;
543 3) at least 35 percent of the walls facing the interior pedestrian connection
544 below a height of 8 feet must have clear, unobstructed windows, unless the
545 Planning Board finds that an alternative design is at least equally safe;
546 4) the pedestrian connection must be open to the public between sunrise and
547 sunset and, where it leads to a transit facility or publicly-accessible parking
548 facility within ½ mile, for the hours of operation of the transit and/or
549 parking facility; and
550 5) retail uses fronting both a pedestrian connection and a street must maintain
551 operable doors from both unless not required by the Planning Board during
552 site plan review due to exceptional site circumstances.

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

- 554 1) direct connection to parks;

- 555 2) transit facilities;
- 556 3) public buildings;
- 557 4) pedestrian connection with accessible retail uses along a majority of its
- 558 length;
- 559 5) connections increased in width; or
- 560 6) public artworks integrated into the walk.]]

561 **[[59-C-15.835. Public Parking.**

- 562 a) The minimum increase requires providing on-site the difference between the
- 563 minimum number of required parking spaces and the maximum number of allowed
- 564 parking spaces as publicly accessible spaces for free or at a market rate.
- 565 b) The maximum increase requires providing public parking spaces, as required
- 566 above, in combination with additional improvements, such as constructing those
- 567 spaces underground or in a structure.]]

568 **[[59-C-15.836. Transit Access Improvement.**

- 569 a) The minimum incentive density increase for transit access improvements requires
- 570 that the improvements:
 - 571 1) are located within 1/2 mile of the proposed development site or, in the case
 - 572 of mobile transit improvements such as a bus shuttle, provide regular access
 - 573 for passengers within 1/2 mile; and
 - 574 2) are built to ADA accessibility standards as amended.
- 575 b) The maximum increase requires additional benefits such as closer access, new
- 576 access easements, connecting walkways, mezzanines, seating areas, structures for
- 577 wind/rain protection, or concourse areas.]]

578 **[[59-C-15.84. Diversity Incentives.]]**

579 **[[59-C-15.841. Adaptive Buildings.**

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

- 583 a) The minimum incentive density increase for an adaptive building requires that:
- 584 1) the floor to floor dimension must be at least 15 feet for all floors; and
 - 585 2) the internal floor plan is based on a structural system allowing flexibility of
 586 volumes divisible from 1 open floor plate to any number of parceled
 587 volumes.
- 588 b) The maximum increase requires additional benefits such as that:
- 589 1) the structural system has additive capacity for any available density and
 590 height that is not used by the building without demolition of the structure;
 591 or
 - 592 2) the internal layout is built to allow changes between residential, retail, and
 593 office uses by minor modifications.]]

594 **[[59-C-15.842. Affordable Housing.**

- 595 a) All residential development must comply with the requirements of
 596 [[Chapters]]Chapter 25A and 25B for the provision of Moderately Priced
 597 Dwelling Units (MPDUs) and Workforce Housing Units (WFHUs).
- 598 b) Provision of MPDUs above the minimum required grants an incentive density
 599 increase, providing the following standards are met:
- 600 1) the increase in density is calculated on the incentive density as required by
 601 Chapter 25A;
 - 602 2) the MPDUs must be reasonably distributed throughout the project; and
 - 603 3) any dwelling units built under this section must be controlled under the
 604 MDPU or WFHU provisions for a minimum period of 99 years.

605 Example: Provision of 14.5 percent MPDUs achieves an incentive density increase of 20 percent (25-A-
 606 5(c) (3)). In the case of a CR4.5, that would equal 0.20 x 4.0 (the incentive density), which is 0.8 FAR.

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

609 [[Example: Provision of 5 percent WFHUs achieves an incentive density increase of 10 percent;
610 provision of 12 percent WFHUs achieves an incentive density increase of 24 percent.]]

611 **[[59-C-15.843. Care Center.**

612 a) The minimum incentive density increase for a center for daytime adult or child
613 care requires a facility for at least 12 users and the general public must have the
614 opportunity to comprise at least 25 percent of the users.

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

618 **[[59-C-15.844. Community Facility.**

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

- 621 1) is recommended in the applicable master plan or sector plan; and
622 2) is accepted for operation and use by an appropriate public agency,
623 community association, or nonprofit organization.

624 b) The maximum increase requires further benefits, such as an entrance to the facility
625 directly on the street, location of the building within 10 feet of a public sidewalk,
626 associated outdoor open space, or integration into an area with a residential FAR
627 of at least 2.0 (or at least 30 dwelling units per acre).]]

628 **[[59-C-15.845. Local Retail Preservation.**

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

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

633 Exact terms of lease requirements and rental agreements must be established by the site
634 plan enforcement agreement.]]

635 **[[59-C-15.846. Unit Mix and Size.**

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

- 639 1) 7.5 percent as efficiency dwelling units;
- 640 2) 8 percent as one-bedroom dwelling units;
- 641 3) 8 percent as two-bedroom dwelling units; and
- 642 4) 5 percent as three-bedroom dwelling units.

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

- 645 1) 10 percent as efficiency dwelling units;
- 646 2) 10 percent as one-bedroom units;
- 647 3) 10 percent as two-bedroom units; and
- 648 4) 7.5 percent as three-bedroom units.]]

649 **[[59-C-15.85. Design Incentives.]]**

650 **[[59-C-15.851. Floor Plate Size.**

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

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

659 b) The maximum increase requires additional benefits, such as providing the reduced
660 floor plates in conjunction with the Exceptional Design factor, providing smaller

661 floor plates, combining this incentive with the tower setback, providing a larger
662 percentage of glass, or integrating sustainable technologies into the architecture.]]

663 **[[59-C-15.852. Historic Resource Protection.**

664 a) The minimum incentive density increase for the preservation of a historic resource
665 designated in the Master Plan for Historic Preservation requires that a preservation
666 strategy for the resource is approved by the Planning Board as part of the site plan
667 enforcement agreement and that a historic area work permit is issued by the
668 Historic Preservation Commission.

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

672 **[[59-C-15.853. Parking Below Grade.**

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

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

678 **[[59-C-15.854. Podium/Tower Setback.**

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

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

684 **[[59-C-15.855. Public Art.**

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

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

- 688 1) enhances the general or specific cultural objectives of the applicable master
689 or sector plan; and
- 690 2) is approved by the Public Arts Trust Steering Committee.
- 691 b) The maximum increase requires that, in addition to the above requirements, the
692 artwork fulfill at least 5 of the following goals as determined by the Public Arts
693 Trust Steering Committee:
- 694 1) achieve aesthetic excellence;
- 695 2) ensure an appropriate interaction between the art and the architectural
696 setting in terms of scale, materials, and context;
- 697 3) ensure public access and invite public participation;
- 698 4) encourage collaboration between the artist(s) and other project designers
699 early in the design phases;
- 700 5) ensure long-term durability of permanent works through material selection
701 or a documented maintenance program;
- 702 6) encourage a rich variety of arts including permanent, temporary (revolving),
703 and event programming;
- 704 7) increase public understanding and enjoyment of art through interpretive
705 information and/or programmed events; and
- 706 8) achieve a collection of commissioned art that is unique and contributes in a
707 positive way to the identity of the community.
- 708 c) A fee instead of public art may be accepted for incentive density as follows:
- 709 1) the minimum fee is calculated on 1 percent of the development's projected
710 cost;
- 711 2) the fee is paid to the Public Arts Trust Steering Committee;
- 712 3) the fee is used for installation, management, and maintenance of public art
713 at the discretion of the Public Arts Trust Steering Committee, with
714 preference given to the policy area where the proposed development is
715 located; and

716 4) the incentive density is equal to a 5 percent increase for every 1 percent of
717 projected development cost paid to the Public Arts Trust, up to 20 percent.]]

718 **[[59-C-15.856. Public Plaza/Open Space.**

719 Plazas are important public amenities and create interesting spaces and active gathering
720 areas.

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

- 722 1) the plaza is directly accessible to a street;
723 2) the plaza must be open to the public at least between sunrise and sunset;
724 3) no proposed loading or parking facilities should be visible below a height of
725 the fourth floor; and
726 4) the plaza must be in addition to any public use space required by the
727 development standards or other minimum open space requirement of this
728 Division.

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

- 731 1) the plaza's width must be at least 50 feet;
732 2) where the plaza is provided as part of a redevelopment, buildings facing the
733 plaza must be designed so that:
734 A) the walls of any non-residential floor area facing the plaza must have
735 windows on at least 60 percent of the façade below a height of 40
736 feet; and
737 B) the main entry to any dwelling units is from a wall facing the plaza;
738 and
739 3) the plaza should contain seating, trash receptacles, landscaping, and other
740 amenities such as water features, kiosks, and passive recreation areas.]]

741 **[[59-C-15.857. Streetscape, Off-Site.**

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

744 a) The minimum incentive density increase for streetscape improvements requires
745 that the following criteria are met:

- 746 1) the improvements must be located within 1/2 mile of the subject site; and
747 2) the improvements are equal to 18 percent of the net lot.

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

750 **[[59-C-15.858. Exceptional Design.**

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

- 754 a) provides innovative solutions in response to the architectural context and
755 surrounding landscape, for example, by rotating floor plates for views or
756 reconciling offset street-walls;
- 757 b) creates a sense of place that will serve as a landmark in the community, for
758 example, by creating a distinguishing element that is visible from an important
759 view or at a gateway to an area;
- 760 c) enhances the public realm in a distinct and original manner, for example, by using
761 existing materials and forms in new ways to provide continuity and contrast;
- 762 d) adds to the diversity of the built realm within the community, for example, by
763 introducing new materials, building methods, or design styles;
- 764 e) uses design solutions to make compact/infill living, working, and shopping
765 environments pleasurable and desirable, for example, by retrofitting surface
766 parking lots and single-use retail malls or creating multi-use, pedestrian-
767 dominated realms in previous auto-oriented areas; and

768 f) integrates environmentally sustainable solutions, for example, by using stormwater
769 management facilities that incorporate best management practices in an apparent
770 and observable way or integrating passive solar features into the visible structure
771 of a building or site.]]

772 **[[59-C-15.86. Environment Incentives.]]**

773 **[[59-C-15.861. Bio-retention and Stormwater Recharge.**

774 a) The minimum incentive density increase for the use of bio-retention and recharge
775 facilities requires that at least 25 percent of projected stormwater outfall for a 10-
776 year event be contained and recharged on site or within ¼ mile of the site.

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

779 **[[59-C-15.862. Conveyed Parkland.**

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

783 b) The maximum increase requires conveyance of at least 30 percent of the gross lot
784 area.]]

785 **[[59-C-15.863. Dark Skies.**

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

789 b) The maximum increase requires that the exterior lighting plan be integrated into an
790 energy efficiency plan for the entire project submitted and approved by the
791 Planning Board with a site plan application.]]

792 **[[59-C-15.864. Energy Efficiency and Generation.**

793 a) The minimum density incentive increase for the use of on-site renewable energy
794 generation requires that buildings must meet the minimum energy efficiency

795 standards of 17.5 percent for new buildings, 10.5 percent for existing buildings, or
796 generate at least 1.5 percent of their energy on-site.

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

799 **[[59-C-15.865. Green Walls**

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

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

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

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

809 **[[59-C-15.866. LEED Rating.**

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

814 a) LEED Silver: 10 percent

815 b) LEED Gold: 20 percent

816 c) LEED Platinum: 30 percent]]

817 **[[59-C-15.867. Rainwater Reuse.**

818 a) The minimum incentive density increase for the collection of rainwater for on-site
819 irrigation, grey-water use, or filtration for re-use requires that a minimum of 25
820 percent of projected rainwater for a 10-year event be collected and used on-site or
821 within ¼ mile of the site.

822 b) The maximum increase requires that at least 50 percent of projected rainwater for
823 a 10-year event be collected and used.]]

824 **[[59-C-15.868. Transferable Development Rights.**

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

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

833 **[[59-C-15. 869. Tree Canopy.**

- 834 a) The minimum incentive density increase for the provision of tree canopy requires
835 coverage of at least 25 percent of the on-site open space at 15 years growth.
836 b) The maximum increase requires coverage of at least 50 percent of the on-site open
837 space at 15 years growth.]]

838 **[[59-C-15.8610. Vegetated Area.**

- 839 a) The minimum incentive density increase for a vegetated area requires that the
840 following criteria are met:
841 1) the area must be in addition to any required on-site open space or any
842 vegetated roof incentive;
843 2) the area must replace at least 5,000 square feet of impervious area;
844 3) the area provides at least 12 inches of soil depth; and
845 4) the area is planted with well-maintained vegetation.
846 b) The maximum increase requires additional benefits, such as larger area or greater
847 soil depth.]]

848 **[[59-C-15.8611. Vegetated Roof.**

- 849 a) The minimum incentive density increase for a vegetated roof requires that the:
850 1) vegetated roof must cover at least 33 percent of the roof of the building,
851 excluding any space occupied by mechanical equipment; and
852 2) soil or media depth must be at least 4 inches.

853 b) The maximum increase requires coverage of at least 60 percent of the roof area.]]

854 **[[59-C-15.87. Special Regulations for Purchase of Building Lot Termination (BLT)**
855 **Development Rights.**

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

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

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

868 (a) Public benefits must be provided that enhance or contribute to the objectives of
869 the CR zone in the following categories:

- 870 (1) Master-planned major public facilities;
871 (2) Transit proximity for residents, workers, and patrons;
872 (2) Connectivity between uses and activities and mobility options;
873 (3) Diversity of uses and activities;
874 (4) Quality of building and site design; and
875 (5) Protection and enhancement of the natural environment.

876 Sections 59-C-15.82 through 59-C-15.87 indicate the types of public benefits that
877 may be accepted in each of these categories.

878 (b) In approving any incentive density based on the provision of public benefits, the
879 Planning Board must consider:

880 (1) The policy objectives and priorities of the applicable master or sector plan;

881 (2) Any applicable design guidelines and any adopted public benefit standards
882 and guidelines;

883 (3) The size and configuration of the tract;

884 (4) The relationship of the site to adjacent properties;

885 (5) The presence or lack of similar public benefits nearby; and

886 (6) Enhancements that increase public access to or enjoyment of the benefit.

887 The Planning Board must adopt, publish, and maintain guidelines that detail the
888 standards and requirements for public benefits that may be provided for incentive
889 density. These guidelines are in addition to and do not supersede any standards,
890 requirements, prohibited incentive density criteria, or rules of incentive density
891 calculation included in this Division.

892 **59-C-15.82. Incentives for Master-Planned Major Public Facilities.**

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

900 **59-C-15.83. Incentives for Transit Proximity.**

901 In order to encourage greater use of transit, control sprawl, and reduce vehicle miles
902 traveled, congestion, and carbon emissions, the Planning Board may approve incentive

903 density for transit proximity under this section. The percentage of incentive density
 904 awarded to a project for transit proximity is as follows:

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

- 905 (a) A project is adjacent to or confronting a transit station or stop if it shares a
 906 property line, easement line, or is separated only by a right-of-way from an
 907 existing or planned transit station or stop and 100 percent of the gross tract area
 908 submitted in a single sketch plan application is within ¼ mile of the transit portal.
 909 (b) The appropriate incentive density applies to the gross land area of the project
 910 within each distance category.

911 **59-C-18.84. Incentives for Connectivity and Mobility.**

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

- 918 (a) Neighborhood Services: Safe and direct pedestrian access to 10 different retail
 919 services on site or within ¼ mile, of which at least 4 have a maximum retail bay
 920 floor area of 5,000 square feet.
 921 (b) Minimum Parking: Provision of the minimum required parking for projects of one
 922 acre of gross tract area or more.
 923 (c) Through-Block Connections: Safe and attractive pedestrian connections between
 924 streets.

- 925 (d) Public Parking: Provision of up to the maximum number of parking spaces
926 allowed in the zone as public parking.
- 927 (e) Transit Access Improvement: Ensuring that access to transit facilities meets
928 County standards for handicapped accessibility.

929 **59-C-15.85. Incentives for Diversity of Uses and Activities.**

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

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

940 (1) MPDU Incentive Density: Provision of MPDUs above the minimum
941 required is calculated on the total number of dwelling units as required by
942 Chapter 25A, and the percent of incentive density increase is based on the
943 proposed FAR for the entire project.

944 *Example: Provision of 14.5% MPDUs is awarded an incentive density of*
945 *20% (see 25-A-5(c)(3)). In the case of a CR 4.5 zone that proposes 4.5*
946 *FAR, that equals 0.20 x 4.0 (the incentive density), which is 0.8 FAR.*

947 (2) WFHU Incentive Density: Provision of WFHUs is calculated at the
948 following rate: 2 times the percentage of units provided as WFHUs.

949 *Example: Provision of 5% WFHUs is awarded incentive density of 10%;*
950 *provision of 12% WFHUs is awarded incentive density of 24%.*

- 951 (b) Adaptive Buildings: Provision of buildings with minimum floor-to-floor heights
952 of at least 15 feet on any floor that meets grade and 12 feet on all other floors.
953 Internal structural systems must be able to accommodate various types of use with
954 only minor modifications.
- 955 (c) Care Centers: Child or adult day care facilities.
- 956 (d) Small Business Retention: Provision of on-site space for small, neighborhood-
957 oriented businesses.
- 958 (e) Dwelling Unit Mix: Provision of at least 7.5% efficiency units, 8% 1-bedroom
959 units, 8% 2-bedroom units, and 5% 3-or-more bedroom units.

960 **59-C-15.86. Incentives for Quality Building and Site Design.**

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

- 972 (a) Historic Resource Protection: Preservation and/or enhancement of a historic
973 resource indicated on the Master Plan for Historic Preservation in conformance
974 with a plan approved by the Historic Preservation Commission. A fee-in-lieu for a
975 specific preservation project may be paid to the Historic Preservation Division as
976 specified in the Guidelines for Public Benefits.
- 977 (b) Structured Parking: Parking provided within a structure or below-grade.

- 978 (c) Tower Setback: Setback of building by a minimum of 6 feet beyond the first floor
979 façade at a maximum height of 72 feet.
- 980 (d) Public Art: Provision of public art must be reviewed for comment by the Public
981 Arts Trust Steering Committee. A fee-in-lieu may be paid to the Trust as specified
982 in the Guidelines for Public Benefits.
- 983 (e) Public Open Space: Provision of open space in addition to the minimum required
984 by the zone. Public open space must be easily accessible to the public during
985 business hours and/or at least from sunrise to sunset and must contain amenities
986 such as seating, plantings, trash receptacles, kiosks, and water features.
- 987 (f) Streetscape: Construction of off-site streetscape in addition the requirements of
988 this division.
- 989 (g) Exceptional Design: Building design that provides innovative solutions in
990 response to the immediate context; creates a sense of place and serves as a
991 landmark; enhances the public realm in a distinct and original manner; introduces
992 new materials, forms, or building methods; uses design solutions to make compact
993 infill development living, working, and shopping environments more pleasurable
994 and desirable; and integrates low-impact development methods into the overall
995 design of the site and building.

996 **59-C-15.87. Incentives for Protection and Enhancement of the Natural**
997 **Environment.**

998 In order to combat sprawl and mitigate or reverse environmental problems such as lack
999 of groundwater recharge, inadequate carbon-sequestration, and pollution caused by
1000 reliance on the automobile, the Planning Board may approve incentive density of up to
1001 50% for certain projects that purchase building lot terminations, as described below, or at
1002 least two of the other following public benefits:

- 1003 (a) Building Lot Termination (BLT): The Planning Board may approve incentive
1004 density for the purchase of Building Lot Termination easements or for payment to

1005 the Agricultural Land Preservation Fund in an amount set regularly by Executive
1006 Regulation under Chapter 2B, subject to the following conditions:

- 1007 (1) BLT easement purchases must be in whole units;
1008 (2) BLT payments may be in fractional units;
1009 (3) Each BLT easement purchase or payment allows 20,000 gross square feet of
1010 incentive density; and
1011 (4) The Planning Board may grant up to 20% of total incentive density for sites
1012 greater than ½ acre and up to 50% of the total incentive density for sites ½
1013 acre or smaller.

1014 (b) Energy Conservation and Generation: Provision of energy-efficiency that exceeds
1015 standards for the building type by 17.5% for new buildings or 10% for existing
1016 buildings, or provision of renewable energy generation facilities on-site or within
1017 ½ mile of the site for a minimum of 2.5% of the projected energy requirement.

1018 (c) Green Wall: Installation and maintenance of a vegetated wall that covers at least
1019 30% of any blank wall or parking garage façade visible from a public street or
1020 open space.

1021 (d) Tree Canopy: Coverage at 15 years of growth of at least 25% of the on-site open
1022 space.

1023 (e) Vegetated Area: Installation of plantings in a minimum of 12 inches of soil
1024 covering at least 5,000 square feet of previously impervious surfaces. This does
1025 not include vegetated roofs.

1026 (f) Vegetated Roof: Provision of a vegetated roof with a soil depth of at least 4 inches
1027 covering at least 33% of a building's roof, excluding space for mechanical
1028 equipment.

1029 **59-C-15.88. Prohibited incentive density criteria.**

1030 The Planning Board must not grant incentive density for:

1031 (a) Community gardens;

1032 (b) Floor plate size;

- 1033 (c) Bio-retention and stormwater recharge;
- 1034 (d) Rainwater reuse;
- 1035 (e) Lighting related to compliance to Dark Sky standards; and
- 1036 (f) Any LEED rating or LEED rating equivalent.

1037 **59-C-15.9. Existing Approvals.**

- 1038 (a) [[A]] One or more lawfully existing [[building]] buildings or [[structure]] structures
- 1039 and the uses therein, which [[predates]] predate the applicable sectional map
- 1040 amendment, [[is a]] are conforming [[structure]] structures or [[use]] uses, and
- 1041 may be continued, renovated, repaired, or reconstructed to the same size and
- 1042 configuration, or enlarged up to a total of 10 percent above the total existing floor
- 1043 areas of all buildings and structures on site or 30,000 square feet, whichever is
- 1044 less, and does not require a site plan. [[A larger addition requires]] Enlargements
- 1045 in excess of the limitations in this Subsection will require compliance with the full
- 1046 provisions of this Division.
- 1047 (b) A project that received an approved development plan under Division 59-D-1 or
- 1048 schematic development plan under Division 59-H-2 before the enactment of the
- 1049 CR zones may proceed under the binding elements of the development plan and
- 1050 will thereafter be treated as a lawfully existing building, and may be renovated or
- 1051 reconstructed under Subsection (a) above. Such development plans or schematic
- 1052 development plans [[projects]] may be amended as allowed under Division 59-D-1
- 1053 or 59-H-2[[,]] under the provisions of the previous zone; however, any
- 1054 incremental increase in the total floor area [[or building height]] beyond that
- 1055 allowed by Subsection (a) above or any incremental increase in building height
- 1056 greater than 15 feet requires, with respect to the incremental increase only, full
- 1057 compliance with the [[full]] provisions of this Division.
- 1058 (c) At the option of the owner, any portion of a project subject to an approved
- 1059 development plan or schematic development plan described in Subsection (b)

1060 above may be developed under this Division. The remainder of that project
1061 continues to be subject to the approved development plan or schematic
1062 development plan, under Subsections (a) and (b).

1063 ~~[[c]]~~(d) A project which has had a preliminary or site plan approved before the
1064 applicable sectional map amendment may be built or altered at any time, subject to
1065 either the full provisions of the previous zone or this division, at the option of the
1066 owner. If built under the previous approval, it will be treated as a lawfully
1067 existing building and may be renovated or reconstructed under Subsection (a)
1068 above. If built with an incremental increase over the previous approval, only that
1069 incremental increase must comply with this Division.

1070
1071 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the date of
1072 Council adoption.

1073
1074 This is a correct copy of Council action.

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1076 _____
1077 Linda M. Lauer, Clerk of the Council

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

2
3 **59-C-15.1. Zones Established.**

4
5 **59-C-15.11.** The Commercial/Residential (CR) zones are established as combinations of a
6 sequence of 4 factors: maximum total floor area ratio (FAR), maximum non-residential FAR,
7 maximum residential FAR, and maximum building height. These zones are identified by a
8 sequence of symbols: CR, C, R, and H, each followed by a number where:

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

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

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

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

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

- 27 a) the lots are subject to the same sketch plan;
28 b) the lots are created by the same preliminary subdivision plan;
29 c) the maximum total density and non-residential and residential density limits apply to the
30 entire development, not to individual lots;
31 d) no building may exceed the maximum height set by the zone;
32 e) public benefits must be provided under the phasing element of an approved sketch plan;
33 and
34 f) the resulting development must conform to the design and land use objectives of the
35 applicable master or sector plan and design guidelines
36

37 **59-C-15.13.** The CR zones can only be applied when specifically recommended by an approved and
38 adopted master or sector plan and only by the sectional map amendment process.

39 *Examples:*

- 40 • An area zoned CR-2.0, C1.0, R1.0, H80 allows a total FAR of 2.0, with maximum non-
41 residential and residential FARs of 1.0, thereby requiring an equal mix of uses to obtain the total
42 FAR allowed. The height for any building in this zone is limited to 80 feet.
43 • An area zoned CR-6.0, C3.0, R5.0, H200 allows a residential FAR of up to 5.0, a non-residential
44 FAR of up to 3.0, and a mix of the two uses could yield a total FAR of 6.0. This combination
45 allows for flexibility in the market and shifts in the surrounding context. The height for any
46 building in this zone is limited to 200 feet.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

105 **Transit proximity:** Transit proximity is categorized in two levels: 1. proximity to an existing or
106 planned Metrorail Station; 2. proximity to an existing or planned station or stop along a rail or bus
107 line with a dedicated, fixed path.

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109 **59-C-15.4. Methods of Development and Approval Procedures.**

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

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113 **59-C-15.41. Standard Method.**

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

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

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121 **59-C-15.42. Optional Method.**

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123 Optional method development must comply with the general requirements and development standards of
124 the CR zones and must provide public benefits under Section 59-C-15.8 to obtain greater density and
125 height than allowed under the standard method of development. A sketch plan and site plan are required
126 for any development using the optional method. A sketch plan must be filed under the provisions below;
127 a site plan must be filed under Division 59-D-3. Any required preliminary subdivision plan must not be
128 submitted before a sketch plan is submitted.

129 a) A sketch plan application must contain:

- 130 1) a justification statement that addresses how the project meets the requirements and
131 standards of this Division for optional method development and describes how the
132 development will further the objectives of the applicable master or sector plan;
133 2) an illustrative plan or model that shows the maximum densities for residential and non-
134 residential uses, massing, and heights of buildings; locations of public use and other open
135 spaces; and the relationships between existing or proposed buildings on adjoining tracts;
136 3) an illustrative diagram of proposed vehicular, pedestrian, and bicycle access, circulation,
137 parking, and loading areas;
138 4) a table of proposed public benefits and the incentive density requested for each; and
139 5) the general phasing of structures, uses, public benefits, and site plan applications.

140 b) Procedure for a sketch plan:

- 141 1) Before filing a sketch plan application, an applicant must comply with the provisions of
142 the Manual for Development Review Procedures, as amended, that concern the following:
143 A) notice;
144 B) posting the site of the application submittal; and
145 C) holding a pre-submittal meeting.
- 146 2) A public hearing must be held by the Planning Board on each sketch plan application no
147 later than 90 days after the filing of an optional method development application, unless a
148 request to extend this period is requested by the applicant, Planning Board staff, or other
149 interested parties. A request for an extension must be granted if the Planning Board finds
150 it not to constitute prejudice or undue hardship on any interested party. A
151 recommendation regarding any request for extension must be acted upon as a consent
152 agenda item by the Planning Board on or before the 90-day hearing period expires.
153 Notice of the extension request and recommendation by Staff must be posted no fewer
154 than 10 days before the item's agenda date.
- 155 3) No fewer than 10 days before the public hearing on a sketch plan, Planning Board staff
156 must submit its analysis of the application, including its findings, comments, and
157 recommendations with respect to the requirements and standards of this division and any
158 other matters that may assist the Planning Board in reaching its decision on the
159 application. This staff report must be included in the record of the public hearing.
- 160 4) The Planning Board must act within 30 days after the close of the record of the public
161 hearing, by majority vote of those present and voting based upon the hearing record, to
162 approve, approve subject to modifications, conditions, or binding elements, or
163 disapprove.
- 164 c) In approving a sketch plan, the Planning Board must find that the following elements are
165 appropriate in concept and appropriate for further detailed review at site plan:
 - 166 1) The plan: A) meets the requirements and standards of this Division; B) will further the
167 objectives of the applicable master or sector plan; and C) will provide more efficient and
168 effective development of the site than the standard method of development;
 - 169 2) The proposed building massing and height and public use and other open spaces are
170 located and scaled to achieve compatible relationships with each other and with existing
171 and proposed buildings and open space adjacent to the site and with adjacent
172 communities;
 - 173 3) The general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading
174 areas are adequate, safe, and efficient;
 - 175 4) The proposed public benefits and associated requested incentive density will further the
176 objectives of the applicable master or sector plan and the objectives of the CR zones; and
 - 177 5) The general phasing of structures, uses, public benefits, and site plans is feasible and
178 appropriate to the scale and characteristics of the project.
- 179 d) The Planning Board may approve changes or modification of its findings regarding a sketch plan
180 at the time of site plan review. Any inconsistency between the approved sketch plan and the
181 proposed site plan must be identified in the site plan staff report submitted to the Planning Board.

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183 **59-C-15.5. Land Uses.**

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

- 186 - *Permitted Uses* are designated by the letter "P" and are permitted subject to all applicable
187 regulations.

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- *Special Exception Uses* are designated by the letters “SE” and may be authorized as special exceptions under Article 59-G.

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

Parks and playgrounds, private	P
Private clubs and service organizations	P
Publicly owned or publicly operated uses	P
Religious institutions	P
e) Industrial	
Manufacturing and production, artisan	P
Manufacturing, compounding, processing, or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries, synthetic molecules, and projects resulting from biotechnical and biogenetic research and development	P
Manufacturing and assembly of medical, scientific, or technical instruments, devices, and equipment	P
f) Other	
Accessory buildings and uses	P
Bus terminals, non-public	P
Parking garages, automobile	P
Public utility buildings, structures, and underground facilities	P
Radio and television broadcast studios	P
Rooftop mounted antennas and related unmanned equipment buildings, cabinets, or rooms	P

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59-C-15.6. General Requirements.

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

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

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

59-C-15.62. Priority Retail Street Frontages.

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

59-C-15.63. Streetscape.

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

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

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

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

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59-C-15.65. Parking.

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

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

240 The appropriate parking rates apply to the gross floor area within each distance category.

- 241 c) Parking requirements must be met by any of the following:
- 242 1) providing the spaces on site;
 - 243 2) constructing publicly available on-street parking; or
 - 244 3) participating in a parking lot district or entering into an agreement for shared
 - 245 parking spaces in a public or private facility within 1,000 feet of the subject lot, if
 - 246 the off-site parking facility is not in an agricultural (Division 59-C-9), planned
 - 247 unit development (Division 59-C-7), or residential (Division 59-C-1) zone.
- 248 d) Every “car-share” space provided reduces the total number of required spaces by 6
- 249 spaces for non-residential use or 3 spaces for residential use.

250 *Example:* A non-residential site requiring at least 100 spaces under Article 59-E would be required to

251 provide a maximum of 100 spaces on site. If that site was within ¼ to ½ mile of a transit station, the

252 minimum requirement for parking would be 40 spaces (100 x 0.40 = 40). If 2 car-share spaces were

253 provided, that requirement would be 28 for non-residential use or 34 for residential use.

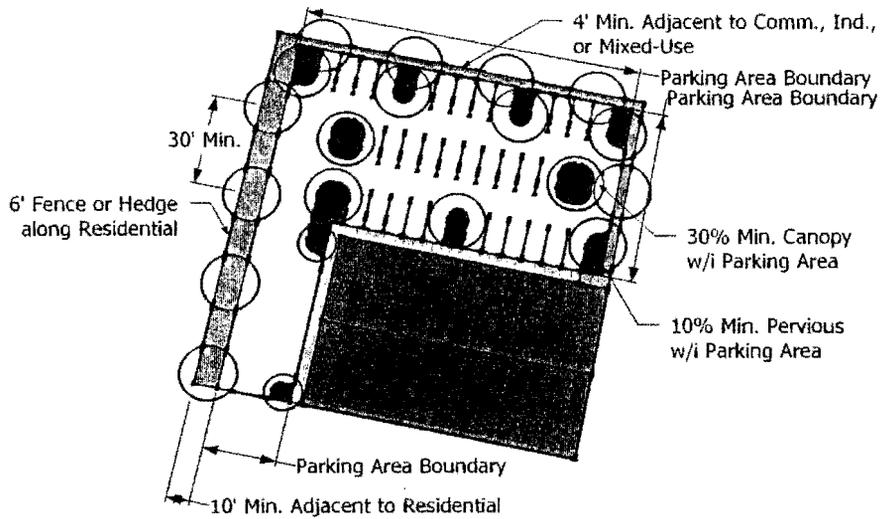
- 254 e) The design of surface parking facilities must comply with the following:
- 255 1) a parking facility at or above grade must not be located between the street and the
 - 256 main front wall of the building or the side wall of a building on a corner lot unless
 - 257 the Planning Board finds that safe and efficient circulation would be better served
 - 258 by a different arrangement;
 - 259 2) if a site is adjacent to an alley, the primary vehicular access to the parking facility
 - 260 must be from that alley; and
 - 261 3) curb cuts must be kept to a minimum and shared by common ingress/egress
 - 262 easements whenever possible.
- 263 f) The design of parking facilities with drive-through services must comply with the
- 264 following; however, the Planning Board may approve a design if it finds that the
- 265 alternative design would provide safer and more efficient circulation:
- 266 1) the driveway must not be located between the street and the main front wall of a
 - 267 building or the side wall of a building on a corner lot;
 - 268 2) the drive-through service window must be located on the rear or side wall of the
 - 269 building; any service window on the side wall of a building must be permanently
 - 270 screened from any street; and
 - 271 3) curb cuts to a street must be minimized to one drive aisle of no more than 20 feet
 - 272 in width for two-way traffic or two drive aisles each of no more than 10 feet in
 - 273 width for one-way traffic.

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- g) Except for areas used for internal driveway or sidewalk connections between lots or parcels that are not in residential (59-C-1) or agricultural (59-C-9) zones, landscaping for surface parking facilities must satisfy the following requirements:

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

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Surface Parking Landscape Requirements Illustrative

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59-C-15.7. Development Standards.

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

59-C-15.71. Density.

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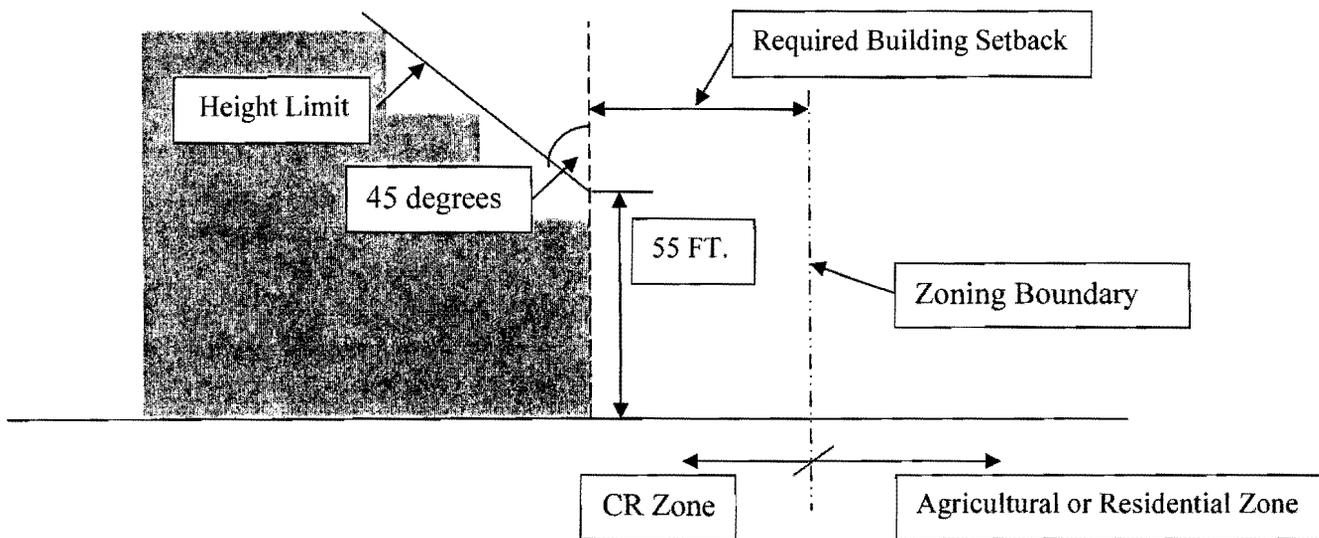
- a) The maximum density for any standard method project is the greater of 0.5 FAR or 10,000 square feet of gross floor area. Any single land use or any combination of land uses allowed in the zone may achieve the maximum density.
- b) The maximum total density and mix of maximum non-residential and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

59-C-15.72. Height.

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

59-C-15.73. Setbacks.

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



Angular Plan Setback Illustration

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59-C-15.74. Public Use Space.

- a) Public use space is not required for any standard method project that does not require a site plan. If a site plan is required for the proposed project, then the minimum public use space is 10 percent of the project's net land area.

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- b) Projects using the optional method of development must provide public use space as follows:

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

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- c) Public use space must:

- 1) be calculated on the net tract area that was included in the sketch plan application;
- 2) be rounded to the next highest 100 square feet;
- 3) be easily and readily accessible to the public;
- 4) be distributed within the entire tract area included in the sketch plan application; and
- 5) contain amenities such as seating options, shade, landscaping, or other similar public benefits.

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- d) Instead of providing on-site public use space, for any site of 3 acres or less, a development may propose the following alternatives, subject to Planning Board approval:

- 1) public use space improvements of an equal or greater size within ¼ mile of the subject site; or
- 2) a payment in part or in full to the Public Amenity Fund under Section 59-D-2.31.

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- e) A development on a site larger than 3 acres may only provide off-site public use space in order to provide master-planned open space improvements, or a payment under Subsection (d)(2), for an area of equal or greater size required on site that is:

- 1) located within the same master plan area as the proposed development; and
- 2) indicated on the approved sketch plan.

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59-C-15.75. Residential Amenity Space.

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

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

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- 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 above the standard method maximums, consistent with the applicable master or sector plan, up to the maximum permitted by the zone.

- a) Public benefits must be provided that enhance or contribute to the objectives of the CR zone in the following categories:

- 1) Master-planned major public facilities;
- 2) Transit proximity for residents, workers, and patrons;
- 2) Connectivity between uses and activities and mobility options;
- 3) Diversity of uses and activities;
- 4) Quality of building and site design; and
- 5) Protection and enhancement of the natural environment.

Sections 59-C-15.82 through 59-C-15.87 indicate the types of public benefits that may be accepted in each of these categories.

- 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.

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 are in addition to and do not supersede any standards, requirements, prohibited incentive density criteria, or rules of incentive density calculation included in this Division.

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.

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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 and 1 mile	20%	15%

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- 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) The appropriate incentive density applies to the gross land area of the project within each distance category.

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59-C-18.84. 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:

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- 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.

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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 two of the other following public benefits:

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- 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.

- 443 1) MPDU Incentive Density: Provision of MPDUs above the minimum required is
 444 calculated on the total number of dwelling units as required by Chapter 25A, and
 445 the percent of incentive density increase is based on the proposed FAR for the
 446 entire project.

447 *Example: Provision of 14.5% MPDUs is awarded an incentive density of 20% (see 25-A-*
 448 *5(c)(3)). In the case of a CR 4.5 zone that proposes 4.5 FAR, that equals 0.20 x 4.0 (the*
 449 *incentive density), which is 0.8 FAR.*

- 450 2) WFHU Incentive Density: Provision of WFHUs is calculated at the following
 451 rate: 2 times the percentage of units provided as WFHUs.

452 *Example: Provision of 5% WFHUs is awarded incentive density of 10%; provision of*
 453 *12% WFHUs is awarded incentive density of 24%.*

- 454 b) Adaptive Buildings: Provision of buildings with minimum floor-to-floor heights of at least 15
 455 feet on any floor that meets grade and 12 feet on all other floors. Internal structural systems must
 456 be able to accommodate various types of use with only minor modifications.
 457 c) Care Centers: Child or adult day care facilities.
 458 d) Small Business Retention: Provision of on-site space for small, neighborhood-oriented
 459 businesses.
 460 e) Dwelling Unit Mix: Provision of at least 7.5% efficiency units, 8% 1-bedroom units, 8% 2-
 461 bedroom units, and 5% 3-or-more bedroom units.
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463 **59-C-15.86. Incentives for Quality Building and Site Design.**

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 465 High quality design is especially important in urban, integrated-use settings to ensure that buildings
 466 and uses are compatible with each other and adjacent communities and to provide a harmonious
 467 pattern of development. Due to the increased density of these settings, buildings tend to have high
 468 visibility. High quality design may help to attract residents and businesses to locate in these settings.
 469 Location, height, massing, façade treatments, and ornamentation of buildings affect sense of place,
 470 orientation, and the perception of comfort and convenience. The quality of the built environment
 471 affects light, shadow, wind, and noise, as well as the functional and economic value of property. In
 472 order to promote high quality design, the Planning Board may approve incentive density of up to
 473 30% to a project that provides at least two of the following public benefits:

- 474 a) Historic Resource Protection: Preservation and/or enhancement of a historic resource indicated
 475 on the Master Plan for Historic Preservation in conformance with a plan approved by the Historic
 476 Preservation Commission. A fee-in-lieu for a specific preservation project may be paid to the
 477 Historic Preservation Division as specified in the Guidelines for Public Benefits.
 478 b) Structured Parking: Parking provided within a structure or below-grade.
 479 c) Tower Setback: Setback of building by a minimum of 6 feet beyond the first floor façade at a
 480 maximum height of 72 feet.
 481 d) Public Art: Provision of public art must be reviewed for comment by the Public Arts Trust
 482 Steering Committee. A fee-in-lieu may be paid to the Trust as specified in the Guidelines for
 483 Public Benefits.
 484 e) Public Open Space: Provision of open space in addition to the minimum required by the zone.
 485 Public open space must be easily accessible to the public during business hours and/or at least
 486 from sunrise to sunset and must contain amenities such as seating, plantings, trash receptacles,
 487 kiosks, and water features.
 488 f) Streetscape: Construction of off-site streetscape in addition the requirements of this division.

- 489 g) **Exceptional Design:** Building design that provides innovative solutions in response to the
 490 immediate context; creates a sense of place and serves as a landmark; enhances the public realm
 491 in a distinct and original manner; introduces new materials, forms, or building methods; uses
 492 design solutions to make compact infill development living, working, and shopping
 493 environments more pleasurable and desirable; and integrates low-impact development methods
 494 into the overall design of the site and building.
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496 **59-C-15.87. Incentives for Protection and Enhancement of the Natural Environment.**

498 In order to combat sprawl and mitigate or reverse environmental problems such as lack of
 499 groundwater recharge, inadequate carbon-sequestration, and pollution caused by reliance on the
 500 automobile, the Planning Board may approve incentive density of up to 50% for certain projects that
 501 purchase building lot terminations, as described below, or at least two of the other following public
 502 benefits:

- 503 a) **Building Lot Termination (BLT):** The Planning Board may approve incentive density for the
 504 purchase of Building Lot Termination easements or for payment to the Agricultural Land
 505 Preservation Fund in an amount set regularly by Executive Regulation under Chapter 2B, subject
 506 to the following conditions:
 507 1) BLT easement purchases must be in whole units;
 508 2) BLT payments may be in fractional units;
 509 3) Each BLT easement purchase or payment allows 20,000 gross square feet of incentive
 510 density; and
 511 4) The Planning Board may grant up to 20% of total incentive density for sites greater than
 512 ½ acre and up to 50% of the total incentive density for sites ½ acre or smaller.
 513 b) **Energy Conservation and Generation:** Provision of energy-efficiency that exceeds standards for
 514 the building type by 17.5% for new buildings or 10% for existing buildings, or provision of
 515 renewable energy generation facilities on-site or within ½ mile of the site for a minimum of 2.5%
 516 of the projected energy requirement.
 517 c) **Green Wall:** Installation and maintenance of a vegetated wall that covers at least 30% of any
 518 blank wall or parking garage façade visible from a public street or open space.
 519 d) **Tree Canopy:** Coverage at 15 years of growth of at least 25% of the on-site open space.
 520 e) **Vegetated Area:** Installation of plantings in a minimum of 12 inches of soil covering at least
 521 5,000 square feet of previously impervious surfaces. This does not include vegetated roofs.
 522 f) **Vegetated Roof:** Provision of a vegetated roof with a soil depth of at least 4 inches covering at
 523 least 33% of a building’s roof, excluding space for mechanical equipment.
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525 **59-C-15.88. Prohibited incentive density criteria.**

526 The Planning Board must not grant incentive density for:

- 527 a) Community gardens;
 528 b) Floor plate size;
 529 c) Bio-retention and stormwater recharge;
 530 d) Rainwater reuse;
 531 e) Lighting related to compliance to Dark Sky standards; and
 532 f) Any LEED rating or LEED rating equivalent.
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534 **59-C-15.9. Existing Approvals.**
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- 537 a) One or more lawfully existing buildings or structures and the uses therein, which predate the
538 applicable sectional map amendment, are conforming structures or uses, and may be continued,
539 renovated, repaired, or reconstructed to the same size and configuration, or enlarged up to a total
540 of 10 percent above the total existing floor areas of all buildings and structures on site or 30,000
541 square feet, whichever is less, and does not require a site plan. Enlargements in excess of the
542 limitations in this Subsection will require compliance with the full provisions of this Division.
- 543 b) A project that received an approved development plan under Division 59-D-1 or schematic
544 development plan under Division 59-H-2 before the enactment of the CR zones may proceed
545 under the binding elements of the development plan and will thereafter be treated as a lawfully
546 existing building, and may be renovated or reconstructed under Subsection (a) above. Such
547 development plans or schematic development plans may be amended as allowed under Division
548 59-D-1 or 59-H-2 under the provisions of the previous zone; however, any incremental increase
549 in the total floor area beyond that allowed by Subsection (a) above or any incremental increase in
550 building height greater than 15 feet requires, with respect to the incremental increase only, full
551 compliance with the provisions of this Division.
- 552 c) At the option of the owner, any portion of a project subject to an approved development plan or
553 schematic development plan described in Subsection (b) above may be developed under this
554 Division. The remainder of that project continues to be subject to the approved development
555 plan or schematic development plan, under Subsections (a) and (b).
- 556 d) A project which has had a preliminary or site plan approved before the applicable sectional map
557 amendment may be built or altered at any time, subject to either the full provisions of the
558 previous zone or this division, at the option of the owner. If built under the previous approval, it
559 will be treated as a lawfully existing building and may be renovated or reconstructed under
560 Subsection (a) above. If built with an incremental increase over the previous approval, only that
561 incremental increase must comply with this Division.