

Ordinance No: 16-44
Zoning Text Amendment No: 09-08
Concerning: Commercial/Residential
(CR) Zones - Establishment
Draft No. & Date: 9 - 3/02/10
Introduced: September 22, 2009
Public Hearing: October 27, 2009
Adopted: March 2, 2010
Effective: March 22, 2010

**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 general support for ZTA 09-08 but had some concerns about the ZTA that were discussed during worksessions, including 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.

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 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, both before and after the introduction of ZTA 09-08, on July 27, 2009 and on 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 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	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	Creating a density incentive for small retail spaces instead would be more easily enforced	
Revise the definition of recreation	Simplifies the allowable land uses	
Add definitions of renovation and reconstruction	This clarification was requested by the City of Takoma Park	
Revise the definition of transit proximity (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	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	The sketch plan should be the starting point for subsequent applications	
Defined sketch plan process	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 (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	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	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	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	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	The visual objections to service windows can be mitigated with screening	
Delete the landscaping requirement for internal streets and sidewalks	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)	Buildings less than 10,000 sq. ft. are too small to invoke the optional method of development process	
Allow for retaining existing setbacks	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	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	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	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	The relative difference of transit ridership for dedicated transitways 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	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	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 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)	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	The CR zones should not invalidate approved plans or the conforming status of existing structures; only non-grandfathered increments should be subject to the standards of the CR zone	Provide grandfathering for additions of 30,000 square feet without any FAR limit

The District Council reviewed Zoning Text Amendment No. 09-08 at worksessions held on February 9, February 23, and March 2, 2010 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee, except as follows:

- 1) Although density may be averaged between different CR zones, the density of a lot or parcel adjoining or confronting one-family residentially zoned or agriculturally zoned lots or parcels may not be increased.
- 2) The process for modifying the binding elements or conditions of an approved sketch plan was clarified to provide for amendments proposed by the applicant or by Planning staff.
- 3) Standards were provided for Planning Board approved guidelines. The standards include a provision so that guidelines could only address the listed public benefits and may not add more public benefit categories.
- 4) The method of determining transit proximity was revised to allow a project that was at least 75 percent of its land area in a single category to be classified in that category.
- 5) Because increased development increases the demand for housing in the Agricultural Preserve, the purchase of Building Lot Termination (BLT) easements was made a requirement for optional method projects; the provisions for the optional purchase of BLT easements were modified to make the option more attractive to applicants.
- 6) In order to address transportation issues, 2 public benefits were added for dedication of rights-of-way in advance of a sketch plan application and for a binding trip mitigation agreement.
- 7) In order to address the need for wheelchair accessible dwellings, the Council added a public benefit for the voluntary provision of such housing.
- 8) The Council allowed outdoor automobile sales to be prohibited by municipalities.

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.

The Council was aware of the Zoning Ordinance Re-write project and it intends to apply CR zones only by the specific recommendations of a master plan or sector plan.

ORDINANCE

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

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

2 * * *

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

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

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

- 11 (a) the number following the symbol “CR”- is the maximum total FAR;
12 (b) the number following the symbol “C” is the maximum non-residential 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
15 feet.

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

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

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

- 28 **59-C-15.121.** Permitted density may be averaged over 2 or more directly abutting
 29 or confronting lots in [[the same]] one or more CR [[zone]] zones, provided that:
- 30 [[1]] (a) the lots are subject to the same sketch plan;
 31 [[2]] (b) the lots are created by the same preliminary subdivision plan;
 32 [[3]] (c) the maximum total density and non-residential and residential density
 33 limits apply to the entire development [[subject to the sketch plan and
 34 subdivision plan]], not to individual lots;
 35 [[4]] (d) no building may exceed the maximum height set by the zone;
 36 [[5]] (e) public benefits must be provided [[in proportion to any phased
 37 development on individual lots]] under the phasing element of an approved
 38 sketch plan; [[and]]
 39 (f) the total maximum density of a lot or parcel zoned CR that is adjacent to or
 40 confronting one-family residentially zoned or agriculturally zoned lots or
 41 parcels may not be exceeded; and
 42 [[6]] (g) the resulting development must conform to the design and land use
 43 objectives of the applicable master or sector plan and design guidelines.
- 44 **59-C-15.13.** The CR zones can only be applied when specifically recommended by
 45 an approved and adopted master or sector plan and only by the sectional map
 46 amendment [[in conformance with the zoning recommendations of an approved
 47 and adopted master or sector plan]] process.

48
 49 *Examples:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

110 **Live/Work unit:** Buildings or spaces within buildings that are used jointly for
111 [[commercial]] non-residential and residential purposes where the residential

112 use of the space [[is]] may be secondary or accessory to the primary use as a
113 place of work.

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

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

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

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

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

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

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

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

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

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

162 **59-C-15.4. Methods of Development and Approval Procedures.**

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

164 **59-C-15.41. Standard Method.**

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

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

171 **59-C-15.42. Optional Method.**

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

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

- 181 1) justification statement for optional method development addressing
 182 the requirements and standards of this Division, how the development
 183 will further the objectives of the applicable master or sector plan, and
 184 how the development will be more efficient and effective than the
 185 standard method of development;
 186 2) total FAR, conceptual uses and maximum densities per use;
 187 3) building massing, height, public use and other open spaces, and the
 188 relationship of proposed buildings to adjacent buildings;
 189 4) general vehicular, pedestrian, and cyclist circulation and access;

- 190 5) table of proposed public benefits and incentive density requested for
191 each benefit; and
- 192 6) general phasing of structures, uses, public benefits, and site plans.
- 193 b) Procedure for a sketch plan:
- 194 1) Before filing a sketch plan application, an applicant must comply
195 with the provisions of Section 4 of the Manual for Development
196 Review Procedures for Montgomery County, as amended, that
197 concern the following procedures:
- 198 (a) notice;
- 199 (b) holding a public meeting; and
- 200 (c) posting the site of the submission.
- 201 2) The submittal, review procedure, and fees for a sketch plan are the
202 same as a pre-application submission under Section 50-33A(a),
203 except that there is no requirement to submit a preliminary
204 subdivision plan within 90 days.
- 205 3) The Planning Board may require some elements of the sketch plan to
206 be binding on any subsequent site plans.]]
- 207 (a) A sketch plan application must contain:
- 208 (1) a justification statement that addresses how the project meets the
209 requirements and standards of this Division for optional method
210 development and describes how the development will further the
211 objectives of the applicable master or sector plan;
- 212 (2) an illustrative plan or model that shows the maximum densities for
213 residential and non-residential uses, massing, and heights of
214 buildings; locations of public use and other open spaces; and the

215 relationships between existing or proposed buildings on adjoining
216 tracts;

217 (3) an illustrative diagram of proposed vehicular, pedestrian, and bicycle
218 access, circulation, parking, and loading areas;

219 (4) a table of proposed public benefits and the incentive density
220 requested for each; and

221 (5) the general phasing of structures, uses, public benefits, and site plan
222 applications.

223 (b) Procedure for a sketch plan:

224 (1) Before filing a sketch plan application, an applicant must comply
225 with the provisions of the Manual for Development Review
226 Procedures, as amended, that concern the following:

227 (A) notice;

228 (B) posting the site of the application submittal; and

229 (C) holding a pre-submittal meeting.

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

- 241 (3) No fewer than 10 days before the public hearing on a sketch plan,
242 Planning Board staff must submit its analysis of the application,
243 including its findings, comments, and recommendations with respect
244 to the requirements and standards of this division and any other
245 matters that may assist the Planning Board in reaching its decision on
246 the application. This staff report must be included in the record of the
247 public hearing.
- 248 (4) The Planning Board must act within 30 days after the close of the
249 record of the public hearing, by majority vote of those present and
250 voting based upon the hearing record, to:
- 251 (A) approve;
252 (B) approve subject to modifications, conditions, or binding
253 elements; or
254 (C) disapprove.
- 255 (c) In approving a sketch plan, the Planning Board must find that the following
256 elements are appropriate in concept and appropriate for further detailed
257 review at site plan:
- 258 (1) The plan: (A) meets the requirements and standards of this Division;
259 (B) will further the objectives of the applicable master or sector plan;
260 and (C) will provide more efficient and effective development of the
261 site than the standard method of development;
- 262 (2) The proposed building massing and height and public use and other
263 open spaces are located and scaled to achieve compatible
264 relationships with each other and with existing and proposed
265 buildings and open space adjacent to the site and with adjacent
266 communities;

- 267 (3) The general vehicular, pedestrian, and bicyclist access, circulation,
268 parking, and loading areas are adequate, safe, and efficient;
269 (4) The proposed public benefits and associated requested incentive
270 density will further the objectives of the applicable master or sector
271 plan and the objectives of the CR zones; and
272 (5) The general phasing of structures, uses, public benefits, and site plans
273 is feasible and appropriate to the scale and characteristics of the
274 project.

275 (d) During site plan review, the Planning Board may approve modifications to
276 the binding elements or conditions of an approved sketch plan.

277 (1) If changes to a sketch plan are requested by the applicant, notice of
278 the site plan application must identify those changes requested. The
279 applicant has the burden of persuading the Planning Board that such
280 changes should be approved.

281 (2) If other changes are recommended after the application is made,
282 notice of the site plan hearing must identify changes requested.

283 (3) In acting to approve a sketch plan modification as part of site plan
284 review, the Planning Board must make the findings required in
285 Section 59-C-15.42 (c) in addition to those required by Section 59-D-
286 3.

287 **59-C-15.5. Land Uses.**

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

289 - Permitted Uses are designated by the letter “P” and are permitted
290 subject to all applicable regulations.

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

(a) Agricultural	
<u>Farm and country markets</u>	<u>P</u>
<u>Farm, limited to crops, vegetables, herbs, and ornamental plants</u>	<u>P</u>
<u>Nursery, horticultural – retail or wholesale</u>	<u>P</u>
<u>Seasonal outdoor sales</u>	<u>P</u>
(b) Residential	
<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>
(c) Commercial Sales and Service	
<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>Automobile sales, outdoors (except where a municipality prohibits the use within its jurisdiction by resolution)</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>
(c) 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>

294

295 **59-C-15.6. General Requirements.**296 Development in the CR zone must comply with the following requirements.297 **59-C-15.61. Master Plan and Design Guidelines Conformance.**

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

301 **59-C-15.62. Priority Retail Street Frontages.**

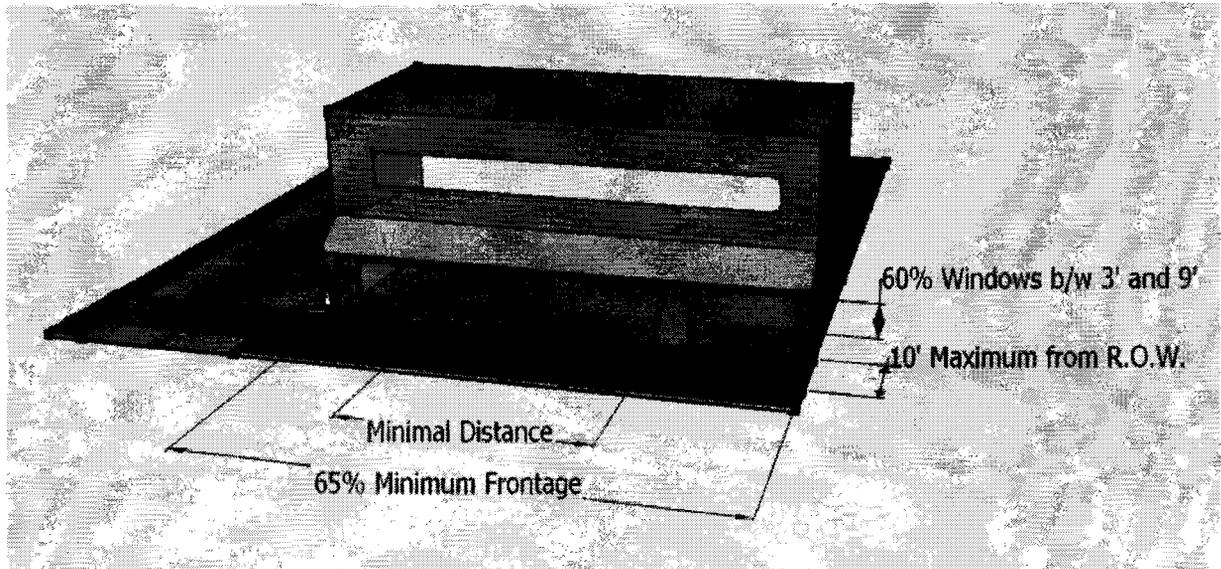
302 Development that requires a site plan and is located on a street identified as a
303 priority retail street frontage in the applicable master plan, sector plan, or design
304 guidelines must [[provide the following:]] be developed in a manner that is
305 consistent with the recommendations and objectives of the applicable plan and

306 address any applicable design guidelines approved by the Planning Board that
307 implement the applicable plan.

- 308 [(a) on-street parallel parking, unless specifically denied by the agency
309 maintaining the right-of-way;
- 310 b) majority of display windows and entrances arranged between zero and 45
311 degrees to the sidewalk;
- 312 c) shop entrances spaced at minimal distances in order to activate the street;
- 313 d) building façade along at least 65 percent of the aggregate length of the front
314 street right-of-way;
- 315 e) front building wall no farther than 10 feet from the public right-of-way or 5
316 feet if no public utility/improvement easement (PUE or PIE) is required; and
- 317 f) windows or glass doors on 60 percent of the building façade between 3 and
318 9 feet above sidewalk grade.

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

323



Priority Retail Building Requirements Illustrative]]

324

325

326

327 **59-C-15.63. Streetscape.**

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

331 **59-C-15.64. Bicycle Parking Spaces and Commuter Shower/Change Facility.**

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

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

337

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

<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>
<i>Non-Residential</i>	
<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>	[[One bicycle parking space per]] <u>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>	[[One bicycle parking space per]] <u>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>

338

339 **59-C-15.65. Parking.**

340 (a) ~~[[The maximum]]~~

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

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

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

357

[[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>

358

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

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

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

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

372

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

378

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

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

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

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

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

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

396 (2) the drive-through service window must be located on the rear or side
 397 wall of the building; any service window on the side wall of a
 398 building must be permanently screened from any street; and

399 (3) curb cuts to a street must be minimized to one drive aisle of no more
 400 than 20 feet in width for two-way traffic or two drive aisles each of
 401 no more than 10 feet in width for one-way traffic.

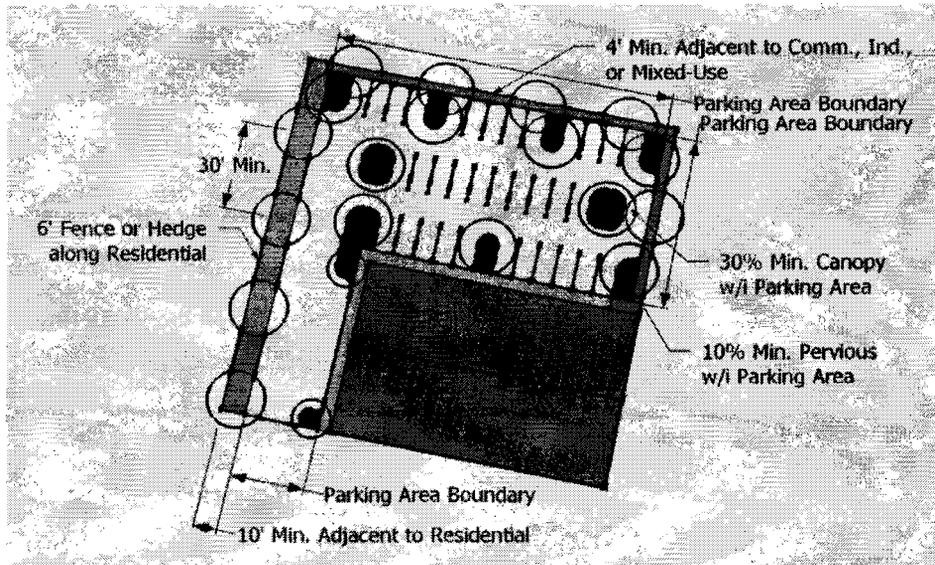
402 (g) [[Landscaping]] Except for areas used for internal driveway or sidewalk
 403 connections between lots or parcels that are not in residential (59-C-1) or
 404 agricultural (59-C-9) zones, landscaping for surface parking facilities must
 405 satisfy the following requirements:

406

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

407

408



Surface Parking Landscape Requirements Illustrative

409

410

411

412 **59-C-15.7. Development Standards.**

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

414 **59-C-15.71. Density.**

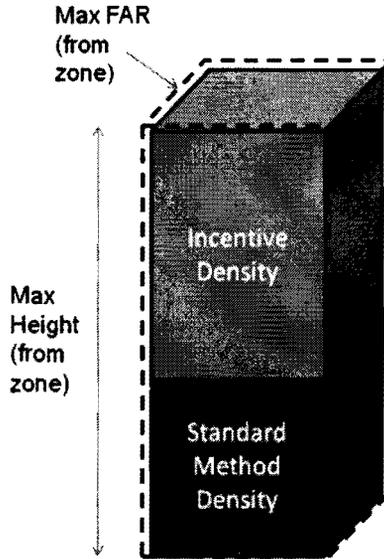
415 (a) The maximum density for any standard method project is the greater of 0.5
416 FAR or 10,000 square feet of gross floor area. Any single land use or any
417 combination of land uses allowed in the zone may achieve the maximum
418 density.

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

424 **59-C-15.72. Height.**

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

427 (b) The maximum height for any building or structure in an optional method
428 project is determined by the zone.
429



430 *Incentive Density Illustration (with maximum FAR)*

431
432
433 **59-C-15.73. Setbacks.**

434 (a) A building must not be any closer to a lot line shared with a lot or
435 parcel in an agricultural (Division 59-C-9) or residential (Division 59-C-1)
436 zone than:

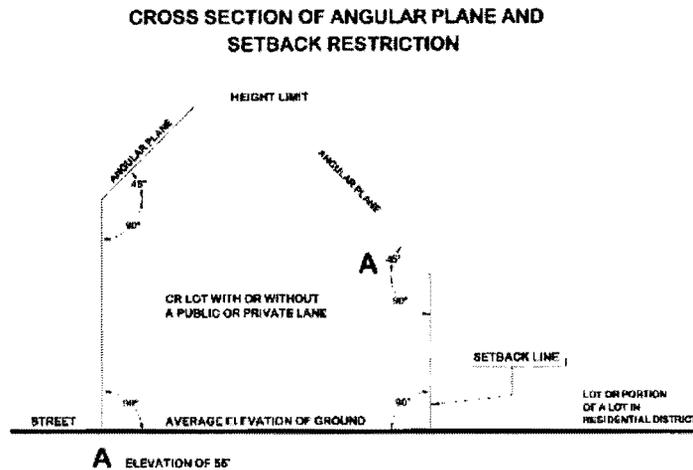
437 (1) 25 feet or the setback required by the adjacent lot, whichever is
438 greater; and

439 (2) the building must not project beyond a 45 degree angular plane
440 projecting over the lot measured from a height of 55 feet at the
441 setback determined above, with the exception of those features
442 exempt from height and setback restrictions under Section 59-B-1.

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

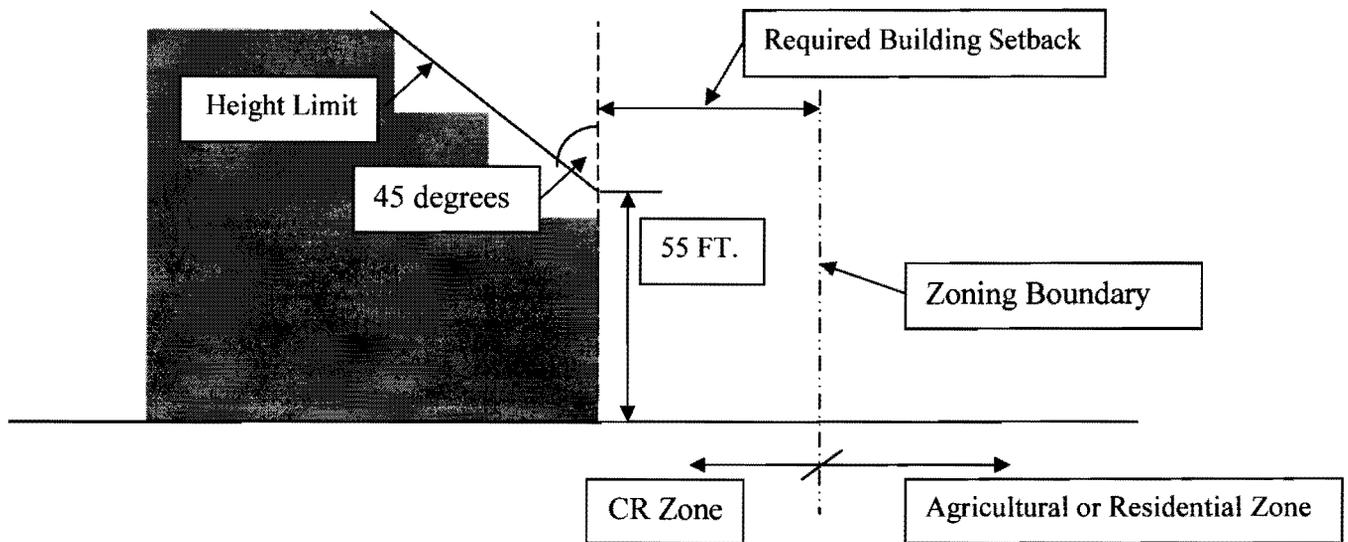
446

447 ||



448
449
450

A ELEVATION OF 55'
Angular Plan Setback Illustration]]



451
452

Angular Plan Setback Illustration

453

454 **59-C-15.74. Public Use Space.**

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

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

461

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+
<u>< ½</u>	<u>0</u>	<u>0</u>	<u>[[4]]0%</u>	<u>[[6]]5%</u>
<u>½ - 1.00</u>	<u>0</u>	<u>[[4]]0%</u>	<u>[[6]]5%</u>	<u>[[8]]10%</u>
<u>1.01 - 3.00</u>	<u>[[4]]0%</u>	<u>[[6]]5%</u>	<u>[[8]]10%</u>	<u>10%</u>
<u>3.01 - 6.00</u>	<u>[[6]]5%</u>	<u>[[8]]10%</u>	<u>10%</u>	<u>10%</u>
<u>6.01 +</u>	<u>[[8]]10%</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>

462

463 (c) Public use space must:

- 464 (1) be calculated on the net ~~lot~~ tract area ~~of the site~~ that was
 465 included in the sketch plan application;
 466 (2) be rounded to the next highest 100 square feet;
 467 (3) be easily and readily accessible to the public;
 468 (4) [[be placed under a public access easement in perpetuity]] be
 469 distributed within the entire tract area included in the sketch plan
 470 application; and
 471 (5) contain amenities such as seating options, shade, landscaping, or
 472 other similar public benefits.

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

- 476 (1) public use space improvements ~~to an area equal in~~ of an equal or
 477 greater size within ¼ mile of the subject site; or
 478 (2) a payment in part or in full to the Public Amenity Fund~~,~~ equal to the
 479 average cost of required site improvements, added to the current

480 square foot market value of the area required as public use space]]
 481 under Section 59-D-2.31.

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

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

489 **59-C-15.75. Residential Amenity Space.**

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

Required Residential Amenity Space	
Type of Amenity Space	Area of Amenity Space
<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>

493
 494 (b) The amenity space is not required for Moderately Priced Dwelling Units
 495 (MPDUs) on a site within a metro station policy area or where the Planning
 496 Board finds that there is adequate recreation and open space within a ½ mile
 497 radius of the subject site.

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

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

504 **59-C-15.8. Special Regulations for the Optional Method of Development**

505 **59-C-15.81. Incentive Density Provisions.**

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

510 [(a) The incentive density approved for each proposed public benefit is
511 calculated as a percentage of the total incentive density, which is the
512 incremental difference between the standard method maximum FAR (0.5)
513 and the proposed project FAR up to the maximum FAR allowed by the
514 zone.

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

517 c) The Planning Board may accept, reject, or modify a proposed incentive
518 density or modify the requested percentage above the minimum of incentive
519 density established up to the maximum established. Except for those
520 benefits with specific maximum standards, in approving incentive densities
521 above the minimum, the Planning Board must consider:

- 522 1) the size and configuration of the parcel;
- 523 2) the policy objectives and priorities of the applicable master or sector
524 plan;
- 525 3) the applicable design guidelines;
- 526 4) the relationship of the site to adjacent properties;

- 527 5) the presence or lack of similar benefits nearby; and
 528 6) quantitative and qualitative enhancements provided exceeding the
 529 delineated minimum incentive density standards.
 530 d) Public benefits that apply to 1 building in a multi-building project must be
 531 weighted proportionally to the density of the applicable building compared
 532 to the total density of the project
 533 e) In addition to the public benefits set forth below, an applicant may propose
 534 other public benefits that will further the goals and objectives of the
 535 applicable master or sector plan for the purpose of obtaining an incentive
 536 density increase.
 537 f) The Planning Board may grant no more than 30 percent of the total
 538 incentive density for a project for the connectivity, design, diversity, or
 539 environment incentive categories under (h) below or any public benefit
 540 approved under (e) above.

541
 542 Example: A development in a zone with a maximum FAR of 5.5 would base all public benefit
 543 calculations on the incentive density of 5.0 FAR (5.5-0.5). Thus, being on a site adjacent to a
 544 metro station would yield an automatic incentive density of 2.5 FAR (5.0 x 0.50), and full
 545 density would be allowed by providing public benefits equal to an additional 50 percent.

- 546
 547 g) Provision for inspections, maintenance, and enforcement of public benefits
 548 provided in return for incentive density must be established in a Site Plan
 549 Enforcement Agreement approved by the Department of Permitting Services
 550 and by resolution of the Planning Board before the certification of a site
 551 plan.]]

[[h] Table of density incentives: Incentive Zoning Table			
Public Benefit	Percent of Incentive Density		Section Reference
	Minimum	Maximum	

<i>Transit Proximity</i>	<i>See section reference</i>		<i>15.82</i>
<i>Connectivity & Mobility</i>			
<u>Community Connectivity</u>	<u>10</u>	<u>20</u>	<u>15.831</u>
<u>Community Garden</u>	<u>5</u>	<u>10</u>	<u>15.832</u>
<u>Parking at the Minimum</u>	<u>10</u>	<u>20</u>	<u>15.833</u>
<u>Pedestrian Through-Block Connection</u>	<u>5</u>	<u>10</u>	<u>15.834</u>
<u>Public Parking</u>	<u>20</u>	<u>30</u>	<u>15.835</u>
<u>Transit Access Improvement</u>	<u>10</u>	<u>20</u>	<u>15.836</u>
<i>Diversity</i>			
<u>Adaptive Buildings</u>	<u>15</u>	<u>30</u>	<u>15.841</u>
<u>Affordable Housing: MPDUs</u>	<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>
<i>Design</i>			
<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>
<i>Environment</i>			
<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>]]

552

553 **[[59-C-15.82. Transit Proximity Incentives.]]**

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

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

557

558 **[[59-C-15.83. Connectivity and Mobility Incentives.**

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

563 **[[59-C-15.831. Community Connectivity.**

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

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

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

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

577 **[[59-C-15.832 Community Garden.**

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

581 a) The minimum incentive density increase requires that the garden:
582 1) is located on the subject site or within 500 feet of the subject site;
583 2) provides all garden spaces with at least 12 inches of soil depth and
584 access to water; and
585 3) provides community garden space at a rate equivalent to 1 space per
586 20 dwelling units. Each space must be at least 16 square feet. At least
587 1 out of each 10 spaces must be accessible under ADA standards.

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

591 **[[59-C-15.833. Parking at the Minimum.**

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

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

596 **[[59-C-15.834. Pedestrian Through-Block Connections.**

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

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

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

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

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

607 4) the pedestrian connection must be open to the public between sunrise
608 and sunset and, where it leads to a transit facility or publicly-
609 accessible parking facility within ½ mile, for the hours of operation of
610 the transit and/or parking facility; and

611 5) retail uses fronting both a pedestrian connection and a street must
612 maintain operable doors from both unless not required by the
613 Planning Board during site plan review due to exceptional site
614 circumstances.

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

616 1) direct connection to parks;

617 2) transit facilities;

618 3) public buildings;

- 619 4) pedestrian connection with accessible retail uses along a majority of
- 620 its length;
- 621 5) connections increased in width; or
- 622 6) public artworks integrated into the walk.]]

623 **[[59-C-15.835. Public Parking.**

- 624 a) The minimum increase requires providing on-site the difference between the
- 625 minimum number of required parking spaces and the maximum number of
- 626 allowed parking spaces as publicly accessible spaces for free or at a market
- 627 rate.
- 628 b) The maximum increase requires providing public parking spaces, as
- 629 required above, in combination with additional improvements, such as
- 630 constructing those spaces underground or in a structure.]]

631 **[[59-C-15.836. Transit Access Improvement.**

- 632 a) The minimum incentive density increase for transit access improvements
- 633 requires that the improvements:
- 634 1) are located within 1/2 mile of the proposed development site or, in the
- 635 case of mobile transit improvements such as a bus shuttle, provide
- 636 regular access for passengers within 1/2 mile; and
- 637 2) are built to ADA accessibility standards as amended.
- 638 b) The maximum increase requires additional benefits such as closer access,
- 639 new access easements, connecting walkways, mezzanines, seating areas,
- 640 structures for wind/rain protection, or concourse areas.]]

641 **[[59-C-15.84. Diversity Incentives.]]**

642 **[[59-C-15.841. Adaptive Buildings.**

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

646 a) The minimum incentive density increase for an adaptive building requires
647 that:

648 1) the floor to floor dimension must be at least 15 feet for all floors; and
649 2) the internal floor plan is based on a structural system allowing
650 flexibility of volumes divisible from 1 open floor plate to any number
651 of parceled volumes.

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

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

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

658 **[[59-C-15.842. Affordable Housing.**

659 a) All residential development must comply with the requirements of
660 [[Chapters]]Chapter 25A and 25B for the provision of Moderately Priced
661 Dwelling Units (MPDUs) and Workforce Housing Units (WFHUs).

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

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

666 2) the MPDUs must be reasonably distributed throughout the project;
667 and

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

670 Example: Provision of 14.5 percent MPDUs achieves an incentive density increase of 20 percent
 671 (25-A-5(c) (3)). In the case of a CR4.5, that would equal 0.20 x 4.0 (the incentive density),
 672 which is 0.8 FAR.

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

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

677 **[[59-C-15.843. Care Center.**

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

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

685 **[[59-C-15.844. Community Facility.**

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

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

692 b) The maximum increase requires further benefits, such as an entrance to the
 693 facility directly on the street, location of the building within 10 feet of a
 694 public sidewalk, associated outdoor open space, or integration into an area

695 with a residential FAR of at least 2.0 (or at least 30 dwelling units per
696 acre).]]

697 **[[59-C-15.845. Local Retail Preservation.**

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

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

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

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

704 **[[59-C-15.846. Unit Mix and Size.**

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

708 1) 7.5 percent as efficiency dwelling units;

709 2) 8 percent as one-bedroom dwelling units;

710 3) 8 percent as two-bedroom dwelling units; and

711 4) 5 percent as three-bedroom dwelling units.

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

714 1) 10 percent as efficiency dwelling units;

715 2) 10 percent as one-bedroom units;

716 3) 10 percent as two-bedroom units; and

717 4) 7.5 percent as three-bedroom units.]]

718 **[[59-C-15.85. Design Incentives.]]**

719 **[[59-C-15.851. Floor Plate Size.**

- 720 a) The minimum incentive density increase for the provision of floor plate
721 restrictions requires that:
- 722 1) the floor area of any floor above a height of 120 feet does not exceed
723 10,000 square feet for residential uses or 19,000 square feet for non-
724 residential uses, or 12,000 square feet for mixed-uses (if not more
725 than 60 percent of a mixed-use floor is used for any single use); and
- 726 2) the exterior of the building facing any street or public open space has
727 at least 60 percent glass on the floors with the reduced floor plate.
- 728 b) The maximum increase requires additional benefits, such as providing the
729 reduced floor plates in conjunction with the Exceptional Design factor,
730 providing smaller floor plates, combining this incentive with the tower
731 setback, providing a larger percentage of glass, or integrating sustainable
732 technologies into the architecture.]]

733 **[[59-C-15.852. Historic Resource Protection.**

- 734 a) The minimum incentive density increase for the preservation of a historic
735 resource designated in the Master Plan for Historic Preservation requires
736 that a preservation strategy for the resource is approved by the Planning
737 Board as part of the site plan enforcement agreement and that a historic area
738 work permit is issued by the Historic Preservation Commission.
- 739 b) The maximum increase requires that other benefits are provided, such as
740 interpretive signs/exhibits, integration and construction of context-
741 appropriate landscapes and settings, or protection of important viewsheds.]]

742 **[[59-C-15.853. Parking Below Grade.**

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

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

748 **[[59-C-15.854. Podium/Tower Setback.**

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

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

754 **[[59-C-15.855. Public Art.**

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

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

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

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

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

764 1) achieve aesthetic excellence;

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

767 3) ensure public access and invite public participation;

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

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

- 772 6) encourage a rich variety of arts including permanent, temporary
773 (revolving), and event programming;
774 7) increase public understanding and enjoyment of art through
775 interpretive information and/or programmed events; and
776 8) achieve a collection of commissioned art that is unique and
777 contributes in a positive way to the identity of the community.
778 c) A fee instead of public art may be accepted for incentive density as follows:
779 1) the minimum fee is calculated on 1 percent of the development's
780 projected cost;
781 2) the fee is paid to the Public Arts Trust Steering Committee;
782 3) the fee is used for installation, management, and maintenance of
783 public art at the discretion of the Public Arts Trust Steering
784 Committee, with preference given to the policy area where the
785 proposed development is located; and
786 4) the incentive density is equal to a 5 percent increase for every 1
787 percent of projected development cost paid to the Public Arts Trust,
788 up to 20 percent.]]

789 **[[59-C-15.856. Public Plaza/Open Space.**

790 Plazas are important public amenities and create interesting spaces and active
791 gathering areas.

- 792 a) The minimum incentive density increase for any plaza requires that:
793 1) the plaza is directly accessible to a street;
794 2) the plaza must be open to the public at least between sunrise and
795 sunset;
796 3) no proposed loading or parking facilities should be visible below a
797 height of the fourth floor; and

798 4) the plaza must be in addition to any public use space required by the
799 development standards or other minimum open space requirement of
800 this Division.

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

803 1) the plaza's width must be at least 50 feet;

804 2) where the plaza is provided as part of a redevelopment, buildings
805 facing the plaza must be designed so that:

806 A) the walls of any non-residential floor area facing the plaza must
807 have windows on at least 60 percent of the façade below a
808 height of 40 feet; and

809 B) the main entry to any dwelling units is from a wall facing the
810 plaza; and

811 3) the plaza should contain seating, trash receptacles, landscaping, and
812 other amenities such as water features, kiosks, and passive recreation
813 areas.]]

814 **[[59-C-15.857. Streetscape, Off-Site.**

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

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

819 1) the improvements must be located within 1/2 mile of the subject site;
820 and

821 2) the improvements are equal to 18 percent of the net lot.

822 b) The maximum increase requires that the improvements be equal to at least
823 36 percent of the net lot area.]]

824 **[[59-C-15.858. Exceptional Design.**

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

- 828 a) provides innovative solutions in response to the architectural context and
829 surrounding landscape, for example, by rotating floor plates for views or
830 reconciling offset street-walls;
- 831 b) creates a sense of place that will serve as a landmark in the community, for
832 example, by creating a distinguishing element that is visible from an
833 important view or at a gateway to an area;
- 834 c) enhances the public realm in a distinct and original manner, for example, by
835 using existing materials and forms in new ways to provide continuity and
836 contrast;
- 837 d) adds to the diversity of the built realm within the community, for example,
838 by introducing new materials, building methods, or design styles;
- 839 e) uses design solutions to make compact/infill living, working, and shopping
840 environments pleasurable and desirable, for example, by retrofitting surface
841 parking lots and single-use retail malls or creating multi-use, pedestrian-
842 dominated realms in previous auto-oriented areas; and
- 843 f) integrates environmentally sustainable solutions, for example, by using
844 stormwater management facilities that incorporate best management
845 practices in an apparent and observable way or integrating passive solar
846 features into the visible structure of a building or site.]]

847 **[[59-C-15.86. Environment Incentives.]]**

848 **[[59-C-15.861. Bio-retention and Stormwater Recharge.**

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

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

855 **[[59-C-15.862. Conveyed Parkland.**

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

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

862 **[[59-C-15.863. Dark Skies.**

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

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

869 **[[59-C-15.864. Energy Efficiency and Generation.**

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

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

876 **[[59-C-15.865. Green Walls**

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

- 878 1) must be designed, installed, and maintained to cover at least 30
879 percent of the area of a blank wall or parking garage facing a street or
880 plaza; and
881 2) must be found to add to the aesthetic quality and environmental
882 sustainability of the project.

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

887 **[[59-C-15.866. LEED Rating.**

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

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

- 893 a) LEED Silver: 10 percent
894 b) LEED Gold: 20 percent
895 c) LEED Platinum: 30 percent]]

896 **[[59-C-15.867. Rainwater Reuse.**

897 a) The minimum incentive density increase for the collection of rainwater for
898 on-site irrigation, grey-water use, or filtration for re-use requires that a

899 minimum of 25 percent of projected rainwater for a 10-year event be
900 collected and used on-site or within ¼ mile of the site.

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

903 **[[59-C-15.868. Transferable Development Rights.**

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

906 a) the purchase must be executed and recorded before approval of a record
907 plat;

908 b) the use of this incentive must be for development on land recommended as a
909 TDR receiving area in the appropriate master or sector plan;

910 c) TDRs must be purchased in increments of 10; and

911 d) the incentive density increase is equal to 10 percent for every 10 TDRs
912 purchased, up to 30 percent.]]

913 **[[59-C-15. 869. Tree Canopy.**

914 a) The minimum incentive density increase for the provision of tree canopy
915 requires coverage of at least 25 percent of the on-site open space at 15 years
916 growth.

917 b) The maximum increase requires coverage of at least 50 percent of the on-
918 site open space at 15 years growth.]]

919 **[[59-C-15.8610. Vegetated Area.**

920 a) The minimum incentive density increase for a vegetated area requires that
921 the following criteria are met:

922 1) the area must be in addition to any required on-site open space or any
923 vegetated roof incentive;

924 2) the area must replace at least 5,000 square feet of impervious area;

- 925 3) the area provides at least 12 inches of soil depth; and
- 926 4) the area is planted with well-maintained vegetation.
- 927 b) The maximum increase requires additional benefits, such as larger area or
- 928 greater soil depth.]]

929 **[[59-C-15.8611. Vegetated Roof.**

- 930 a) The minimum incentive density increase for a vegetated roof requires that
- 931 the:
- 932 1) vegetated roof must cover at least 33 percent of the roof of the
- 933 building, excluding any space occupied by mechanical equipment;
- 934 and
- 935 2) soil or media depth must be at least 4 inches.
- 936 b) The maximum increase requires coverage of at least 60 percent of the roof
- 937 area.]]

938 **[[59-C-15.87. Special Regulations for Purchase of Building Lot Termination**

939 **(BLT) Development Rights.**

- 940 a) A development under the Optional Method must purchase building lot
- 941 termination (BLT) easements under Chapter 2B, or a contribution must be
- 942 made to the Agricultural Land Preservation Fund under Chapter 2B equal to
- 943 12.5 percent of the incentive density floor area using the following formula:
- 944 1) one BLT easement is required for each 9,000 square feet of
- 945 residential floor area;
- 946 2) one BLT easement is required for every 7,500 square feet of non-
- 947 residential floor area.
- 948 b) When a BLT easement cannot be purchased or the amount of floor area
- 949 attributed to a building lot termination easement is a fraction of the floor
- 950 area equivalent, payment must be made to the Agricultural Land

951 Preservation Fund according to the rate set annually by executive
952 regulation.]]

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

- 955 (1) Master-planned major public facilities;
- 956 (2) Transit proximity for residents, workers, and patrons;
- 957 (3) Connectivity between uses and activities and mobility options;
- 958 (4) Diversity of uses and activities;
- 959 (5) Quality of building and site design;
- 960 (6) Protection and enhancement of the natural environment; and
- 961 (7) Advanced dedication of right-of-way.

962 Sections 59-C-15.82 through 59-C-15.88 indicate the types of public
963 benefits that may be accepted in each of these categories.

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

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

975 (c) Any incentive density increase approved by the Planning Board for an
 976 optional method of development application must satisfy Subsection 59-C-
 977 15.87(a).

978 (d) The Planning Board must adopt, publish, and maintain guidelines that detail
 979 the standards and requirements for public benefits that may be provided for
 980 incentive density. The guidelines must:

- 981 (1) be consistent with the recommendations and objectives of the
 982 applicable master or sector plan and the purpose of the CR zones;
 983 (2) be in addition to any standards, requirements, or rules of incentive
 984 density calculation included in this Division, but may not supersede
 985 those provisions;
 986 (3) allow any single feature of a project a density incentive from only 1
 987 public benefit;
 988 (4) only address the public benefits listed in Sections 59-C-15.82 through
 989 59-C-15.88 and must not add a public benefit category; and
 990 (5) include the criteria to determine when an early dedication of right-of-
 991 way qualifies for incentive density, and the amount of the incentive
 992 density permitted.

993 **59-C-15.82. Incentives for Master-Planned Major Public Facilities.**

994 Major public facilities such as schools, libraries, recreation centers, urban parks,
 995 and county service centers provide public services at convenient locations, centers
 996 for community meetings, and civic events. Because of their significance in place-
 997 making, the Planning Board may approve incentive density of up to 70 percent for
 998 the conveyance of a site and/or construction of a major public facility that is
 999 designated on a master plan or sector plan and is accepted for use and operation by
 1000 the appropriate public agency, community association, or nonprofit organization.

1001 **59-C-15.83. Incentives for Transit Proximity.**

1002 In order to encourage greater use of transit, control sprawl, and reduce vehicle
 1003 miles traveled, congestion, and carbon emissions, the Planning Board may approve
 1004 incentive density for transit proximity under this section. The percentage of
 1005 incentive density 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>

1007

1008 (a) A project is adjacent to or confronting a transit station or stop if it shares a
 1009 property line, easement line, or is separated only by a right-of-way from an
 1010 existing or planned transit station or stop and 100 percent of the gross tract
 1011 area submitted in a single sketch plan application is within ¼ mile of the
 1012 transit portal.

1013 (b) (1) For all other projects to qualify for incentive density availability at
 1014 the other distances, at least 75 percent of the gross tract area in a
 1015 single sketch plan application must be within the range for which the
 1016 incentive is proposed.

1017 (2) The incentive density for projects less than 75 percent of the gross
 1018 tract in 1 distance range must be calculated as the weighted average
 1019 of the percentage of area in each range.

1020 **59-C-15.84. Incentives for Connectivity and Mobility.**

1021 In order to enhance connectivity between uses and amenities and increase mobility
 1022 options; encourage non-automotive travel for short and multi-purpose trips as well
 1023 as for commuting; facilitate social and commercial interaction; provide
 1024 opportunities for healthier living; and stimulate local businesses, the Planning
 1025 Board may approve incentive density of up to 30% for a project that provides at
 1026 least 2 of the following public benefits:

- 1027 (a) Neighborhood Services: Safe and direct pedestrian access to 10 different
 1028 retail services on site or within ¼ mile, of which at least 4 have a maximum
 1029 retail bay floor area of 5,000 square feet.
- 1030 (b) Minimum Parking: Provision of the minimum required parking for projects
 1031 of one acre of gross tract area or more.
- 1032 (c) Through-Block Connections: Safe and attractive pedestrian connections
 1033 between streets.
- 1034 (d) Public Parking: Provision of up to the maximum number of parking spaces
 1035 allowed in the zone as public parking.
- 1036 (e) Transit Access Improvement: Ensuring that access to transit facilities meets
 1037 County standards for handicapped accessibility.
- 1038 (f) Trip Mitigation: A binding and verifiable Traffic Mitigation Agreement to
 1039 reduce the number of weekday morning and evening peak hour trips
 1040 attributable to the site in excess of any other regulatory requirement; the
 1041 agreement must result in a non-auto driver mode share of at least 50% for
 1042 trips attributable to the site.

1043 **59-C-15.85. Incentives for Diversity of Uses and Activities.**

1044 In order to increase the variety and mixture of land uses, types of housing,
 1045 economic diversity, and community activities; contribute to development of a
 1046 more efficient and sustainable community; reduce the necessity for automobile

1047 use; and facilitate healthier lifestyles and social interaction, the Planning Board
1048 may approve incentive density of up to 30% for a project that provides affordable
1049 housing or a public facility, as described below, or at least 2 of the other following
1050 public benefits:

1051 (a) Affordable Housing: All residential development must comply with the
1052 requirements of Chapter 25A for the provision of Moderately Priced
1053 Dwelling Units (MPDUs) and may provide Workforce Housing Units
1054 (WFHUs) under Chapter 25B.

1055 (1) MPDU Incentive Density: Provision of MPDUs above the minimum
1056 required is calculated on the total number of dwelling units as
1057 required by Chapter 25A, and the percent of incentive density
1058 increase is based on the proposed FAR for the entire project.

1059 *Example: Provision of 14.5% MPDUs is awarded an incentive density of 20%*
1060 *(see 25-A-5(c)(3)). In the case of a CR 4.5 zone that proposes 4.5 FAR, that*
1061 *equals 0.20 x 4.0 (the incentive density), which is 0.8 FAR.*

1062 (2) WFHU Incentive Density: Provision of WFHUs is calculated at the
1063 following rate: 2 times the percentage of units provided as WFHUs.

1064 *Example: Provision of 5% WFHUs is awarded incentive density of 10%;*
1065 *provision of 12% WFHUs is awarded incentive density of 24%.*

1066 (b) Adaptive Buildings: Provision of buildings with minimum floor-to-floor
1067 heights of at least 15 feet on any floor that meets grade and 12 feet on all
1068 other floors. Internal structural systems must be able to accommodate
1069 various types of use with only minor modifications.

1070 (c) Care Centers: Child or adult day care facilities.

- 1071 (d) Small Business Retention: Provision of on-site space for small,
 1072 neighborhood-oriented businesses.
- 1073 (e) Dwelling Unit Mix: Provision of at least 7.5% efficiency units, 8% 1-
 1074 bedroom units, 8% 2-bedroom units, and 5% 3-or-more bedroom units.
- 1075 (f) Enhanced Accessibility for the Disabled: Provision of dwelling units that
 1076 satisfy American National Standards Institute A117.1 Residential Type A
 1077 standards or units that satisfy an equivalent County standard.

1078 **59-C-15.86. Incentives for Quality Building and Site Design.**

1079 High quality design is especially important in urban, integrated-use settings to
 1080 ensure that buildings and uses are compatible with each other and adjacent
 1081 communities and to provide a harmonious pattern of development. Due to the
 1082 increased density of these settings, buildings tend to have high visibility. High
 1083 quality design may help to attract residents and businesses to locate in these
 1084 settings. Location, height, massing, façade treatments, and ornamentation of
 1085 buildings affect sense of place, orientation, and the perception of comfort and
 1086 convenience. The quality of the built environment affects light, shadow, wind,
 1087 and noise, as well as the functional and economic value of property. In order to
 1088 promote high quality design, the Planning Board may approve incentive density of
 1089 up to 30% to a project that provides at least 2 of the following public benefits:

- 1090 (a) Historic Resource Protection: Preservation and/or enhancement of a
 1091 historic resource indicated on the Master Plan for Historic Preservation in
 1092 conformance with a plan approved by the Historic Preservation
 1093 Commission. A fee-in-lieu for a specific preservation project may be paid
 1094 to the Historic Preservation Division as specified in the Guidelines for
 1095 Public Benefits.
- 1096 (b) Structured Parking: Parking provided within a structure or below-grade.

- 1097 (c) Tower Setback: Setback of building by a minimum of 6 feet beyond the
1098 first floor façade at a maximum height of 72 feet.
- 1099 (d) Public Art: Provision of public art must be reviewed for comment by the
1100 Public Arts Trust Steering Committee. A fee-in-lieu may be paid to the
1101 Trust as specified in the Guidelines for Public Benefits.
- 1102 (e) Public Open Space: Provision of open space in addition to the minimum
1103 required by the zone. Public open space must be easily accessible to the
1104 public during business hours and/or at least from sunrise to sunset and must
1105 contain amenities such as seating, plantings, trash receptacles, kiosks, and
1106 water features.
- 1107 (f) Streetscape: Construction of off-site streetscape in addition the
1108 requirements of this division.
- 1109 (g) Exceptional Design: Building design that provides innovative solutions in
1110 response to the immediate context; creates a sense of place and serves as a
1111 landmark; enhances the public realm in a distinct and original manner;
1112 introduces new materials, forms, or building methods; uses design solutions
1113 to make compact infill development living, working, and shopping
1114 environments more pleasurable and desirable; and integrates low-impact
1115 development methods into the overall design of the site and building.

1116 **59-C-15.87. Incentives for Protection and Enhancement of the Natural**
1117 **Environment.**

1118 In order to combat sprawl and mitigate or reverse environmental problems such as
1119 heat from the built environment, inadequate carbon-sequestration, and pollution
1120 caused by reliance on the automobile, the Planning Board may approve a density
1121 increase up to 30% for the public benefits in this Subsection:

- 1122 (a) CR zones require the purchase of BLT easements or payment to the
1123 Agricultural Land Preservation Fund for at least 5% but no more than 30%
1124 of the incentive density under the following conditions.
- 1125 (1) Any private BLT easement must be purchased in whole units; or
1126 (2) BLT payments must be made to the Agricultural Land Preservation
1127 Fund, based on the amount established by Executive Regulations
1128 under Chapter 2B; if a fraction of a BLT easement is needed, a
1129 payment based on the gross square footage of incentive density must
1130 be made to the Agricultural Land Preservation Fund for at least the
1131 fraction of the BLT easement.
- 1132 (3) (A) For the first 5% of incentive density, each BLT easement
1133 purchase or payment allows 20,000 gross square feet of
1134 incentive density or a proportion thereof, allowed by a payment
1135 for a fraction of a BLT.
- 1136 (B) For the incentive density above 5%, each BLT easement
1137 purchase or payment allows 30,000 gross square feet of
1138 incentive density or a proportion thereof, allowed by a payment
1139 for a fraction of a BLT.
- 1140 (b) Energy Conservation and Generation: Provision of energy-efficiency that
1141 exceeds standards for the building type by 17.5% for new buildings or 10%
1142 for existing buildings, or provision of renewable energy generation facilities
1143 on-site or within ½ mile of the site for a minimum of 2.5% of the projected
1144 energy requirement.
- 1145 (c) Green Wall: Installation and maintenance of a vegetated wall that covers at
1146 least 30% of any blank wall or parking garage façade visible from a public
1147 street or open space.

1148 (d) Tree Canopy: Coverage at 15 years of growth of at least 25% of the on-site
1149 open space.

1150 (e) Vegetated Area: Installation of plantings in a minimum of 12 inches of soil
1151 covering at least 5,000 square feet of previously impervious surfaces. This
1152 does not include vegetated roofs.

1153 (f) Vegetated Roof: Provision of a vegetated roof with a soil depth of at least 4
1154 inches covering at least 33% of a building's roof, excluding space for
1155 mechanical equipment.

1156 **59-C-15.88. Advanced dedication of right-of-way.**

1157 When sketch plans or site plans are approved, the Planning Board may allow an
1158 incentive density not to exceed 30% for a prior dedication of rights-of-way for
1159 roadways, sidewalks, or bikeways recommended in the applicable master or sector
1160 plan, if the County or the State is responsible for constructing the facility on the
1161 right-of-way.

1162 **59-C-15.9. Existing Approvals.**

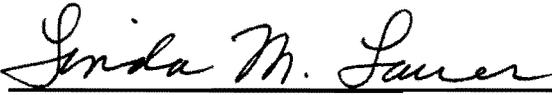
1163 (a) [[A]] One or more lawfully existing [[building]]buildings or
1164 [[structure]]structures and the uses therein, which [[predates]] predate the
1165 applicable sectional map amendment, [[is a]] are conforming [[structure]]
1166 structures or [[use]] uses, and may be continued, renovated, repaired, or
1167 reconstructed to the same size and configuration, or enlarged up to a total of
1168 10 percent above the total existing floor areas of all buildings and structures
1169 on site or 30,000 square feet, whichever is less, and does not require a site
1170 plan. [[A larger addition requires]] Enlargements in excess of the
1171 limitations in this Subsection will require compliance with the full
1172 provisions of this Division.

- 1173 (b) A project that received an approved development plan under Division 59-D-
 1174 1 or schematic development plan under Division 59-H-2 before the
 1175 enactment of the CR zones may proceed under the binding elements of the
 1176 development plan and will thereafter be treated as a lawfully existing
 1177 building, and may be renovated or reconstructed under Subsection (a)
 1178 above. Such development plans or schematic development plans
 1179 [[projects]] may be amended as allowed under Division 59-D-1 or 59-H-
 1180 2[[,]] under the provisions of the previous zone; however, any incremental
 1181 increase in the total floor area [[or building height]] beyond that allowed by
 1182 Subsection (a) above or any incremental increase in building height greater
 1183 than 15 feet requires, with respect to the incremental increase only, full
 1184 compliance with the [[full]] provisions of this Division.
- 1185 (c) At the option of the owner, any portion of a project subject to an approved
 1186 development plan or schematic development plan described in Subsection
 1187 (b) above may be developed under this Division. The remainder of that
 1188 project continues to be subject to the approved development plan or
 1189 schematic development plan, under Subsections (a) and (b).
- 1190 (d) A project which has had a preliminary or site plan approved before the
 1191 applicable sectional map amendment may be built or altered at any time,
 1192 subject to either the full provisions of the previous zone or this division, at
 1193 the option of the owner. If built under the previous approval, it will be
 1194 treated as a lawfully existing building and may be renovated or
 1195 reconstructed under Subsection (a) above. If built with an incremental
 1196 increase over the previous approval, only that incremental increase must
 1197 comply with this Division.

1198

1199 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the date of
1200 Council adoption.

1201
1202 This is a correct copy of Council action.

1203
1204 A handwritten signature in cursive script that reads "Linda M. Lauer". The signature is written in black ink and is positioned above a solid horizontal line that serves as a baseline for the signature.

1205 Linda M. Lauer, Clerk of the Council