

Action

MEMORANDUM

February 26, 2010

TO: County Council

FROM: Jeffrey L. Zyontz,  Legislative Attorney

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

The District Council reviewed Zoning Text Amendment No. 09-08 at worksessions held on February 9 and February 23, 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 were clarified to provide for amendments proposed by the applicant or by Planning Staff.
- 3) Standards were provided for Planning Board approved guidelines.
- 4) The method of determining transit proximity was revised to allow a project that had 75 percent of its land area in a single category to be classified in that category.
- 5) Because increased development in the CR zones increases the demand for housing in the Agricultural Reserve, the purchase of Building Lot Termination (BLT) easements was made a requirement for 5 percent of the incentive density for optional method projects; the provisions for the optional purchase of BLT easements above 5 percent of incentive density 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) The Council allowed outdoor automobile sales to be prohibited by municipalities.

The opinion includes these changes and adds a sentence concerning the Council's knowledge of the Zoning Ordinance Re-write and its intent to only apply CR zones by the specific recommendation of a master or sector plan.

All of the Council changes are highlighted in the attached ZTA. As directed, Staff made non-substantive editorial changes where appropriate. The line numbers in the attached ZTA are different from those in the February 23 draft, due to Council's changes.

New Issues

1) *Adding enhanced accessibility for disabled persons as a public benefit*

Councilmember Trachtenberg requests that the Council consider the following additional public benefit in the "Diversity of Activities and Uses" category (after line 989). The Planning Director agrees with this proposed amendment:

- (f) Enhanced Accessibility for the Disabled: Provision of dwelling units that satisfy American National Standards Institute A117.1 Residential Type A standards or units that satisfy an equivalent County standard.

The County requires compliance with Federal Housing Administration (FHA) guidelines for accessibility for all multi-family buildings and dwellings. Those standards, with respect to accessibility for disabled persons, mostly concern the minimum width of hallways, stairways, and doorways. All residential multi-family buildings and all units in those buildings must satisfy those standards.

The International Building Code Standards (ANSI A117.1) have HIGHER accessible standards for disabled persons. ANSI A117.1 has 3 residential standards: Type A standards are wheelchair based, Type B standards are identical in all major respects to the FHA guidelines, and Type C standards are for visually impaired persons. The Type A standards require larger kitchens and bathrooms for wheelchair turns and lower counter heights to accommodate wheelchair heights.

If this amendment is adopted, the Planning Board could then determine what percentage of TYPE A units would get how much of a density increase.

2) *Amending the provision that prohibits particular public benefits*

The Council agreed with the PHED Committee recommendation to prohibit density increases from community gardens, floor plate size, bio-retention and stormwater recharge, rainwater reuse, dark skies, or LEED ratings. The ZTA removed the description of those public benefits and added a provision that directly prohibits them.

Planning Staff is concerned that specifically prohibiting a public benefit may prohibit an allowed public benefit. Planning Staff fears that their guideline would not be able to **suggest that a vegetative area could be used as a community garden.** **Planning Staff suggested:**

- adding a more general statement (in 59-C-15.81 (d) Incentive Density Provisions, after line 913) that the Planning Board guidelines can only address the identified public benefits and the regulations cannot add more public benefit categories; and

- deleting the provision concerning specific prohibited criteria (lines 1067 to 1073).

Staff has no objection to the suggested changes.

This packet contains
ZTA 09-08 as amended

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Ordinance No:
Zoning Text Amendment No: 09-08
Concerning: Commercial/Residential (CR)
Zones - Establishment
Draft No. & Date: 8 - 2/23/10
Introduced: September 22, 2009
Public Hearing: October 27, 2009
Adopted:
Effective:

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

By: District Council at Request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

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

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

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

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

OPINION

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

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

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

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

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

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

The 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
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

PHED Recommended Revision	Reason(s) for the revision(s)	Alternative Considered
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
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

PHED Recommended Revision	Reason(s) for the revision(s)	Alternative Considered
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 and February 23, 2010 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee, except as follows:

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- 2) The process for modifying the binding elements or conditions of an approved sketch plan were clarified to provide for amendments proposed by the applicant or by Planning staff.
- 3) Standards were provided for Planning Board approved guidelines.
- 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) 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 combinations of
7 a sequence of ~~[[four]]~~ 4 factors: maximum total floor area ratio (FAR), maximum non-
8 residential FAR, maximum residential FAR, and maximum building height. These zones
9 are identified by a sequence of symbols: CR, C, R, and H, each followed by a number
10 where:

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

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

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

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

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

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

- 30 ~~[[2]]~~ (b) the lots are created by the same preliminary subdivision plan;
- 31 ~~[[3]]~~ (c) the maximum total density and non-residential and residential density limits
 32 apply to the entire development [[subject to the sketch plan and subdivision plan]],
 33 not to individual lots;
- 34 ~~[[4]]~~ (d) no building may exceed the maximum height set by the zone;
- 35 ~~[[5]]~~ (e) public benefits must be provided [[in proportion to any phased development
 36 on individual lots]] under the phasing element of an approved sketch plan; [[and]]
- 37 (f) the total maximum density of a lot or parcel zoned CR that is adjacent to or
 38 confronting one-family residentially zoned or agriculturally zoned lots or parcels
 39 may not be exceeded; and
- 40 ~~[[6]]~~ (g) the resulting development must conform to the design and land use
 41 objectives of the applicable master or sector plan and design guidelines.

42 **59-C-15.13.** The CR zones can only be applied when specifically recommended by an
 43 approved and adopted master or sector plan and only by the sectional map amendment
 44 [[in conformance with the zoning recommendations of an approved and adopted master
 45 or sector plan]] process.

46 Examples:

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

58
 59 **59-C-15.2. Description and Objectives of the CR Zones.**

60 The CR zones permit a mix of residential and non-residential uses at varying densities
 61 and heights. The zones promote economically, environmentally, and socially sustainable

62 development patterns where people can live, work, and have access to services and
 63 amenities while minimizing the need for automobile use. The application of the CR
 64 zones [[are]] is appropriate where ecological impacts can be moderated by co-locating
 65 housing, jobs, and services. The objectives of the CR zones are to:

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

79 **59-C-15.3. Definitions Specific to the CR Zones.**

80 The following words and phrases, as used in this Division, have the meaning indicated.

81 The definitions in Division 59-A-2 otherwise apply.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

131 **Transit proximity:** [[Level 1 proximity is based on the location of a project with
 132 access to an existing or planned Metrorail Station. Level 2 proximity is based on the
 133 location of a project with access to an existing or planned MARC Station, light rail
 134 station, or a stop along a transportation corridor with fixed route bus service where
 135 service intervals are no longer than 15 minutes during peak commute hours. A
 136 project adjacent to or confronting a transit station or stop shares a property line,
 137 easement line, or is only separated by a right-of-way from a transit station or stop. In
 138 addition to a project that is adjacent or confronting, a project is also considered to
 139 have access to a transit facility if all parcels and lots within the project's gross tract
 140 area have no more than 25 percent of their area farther than the applicable distance

141 from the transit station or stop and if not more than 10 percent of the residential units
 142 in the project are farther than the applicable distance from the station or stop. A
 143 planned transit station or stop must be funded for construction within the first 4 years
 144 of the Consolidated Transportation Program or the Capital Improvement Program. If
 145 a project qualifies for more than one transit proximity level, the project may only take
 146 incentive density for one of the qualifying benefits.]] Transit proximity is categorized
 147 in two levels: 1. proximity to an existing or planned Metrorail Station; 2. proximity
 148 to an existing or planned station or stop along a rail or bus line with a dedicated, fixed
 149 path.

150 **59-C-15.4. Methods of Development and Approval Procedures.**

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

152 **59-C-15.41. Standard Method.**

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

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

159 **59-C-15.42. Optional Method.**

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

- 168 [(a) Contents of a sketch plan:
- 169 1) justification statement for optional method development addressing the
- 170 requirements and standards of this Division, how the development will
- 171 further the objectives of the applicable master or sector plan, and how the
- 172 development will be more efficient and effective than the standard method
- 173 of development;
- 174 2) total FAR, conceptual uses and maximum densities per use;
- 175 3) building massing, height, public use and other open spaces, and the
- 176 relationship of proposed buildings to adjacent buildings;
- 177 4) general vehicular, pedestrian, and cyclist circulation and access;
- 178 5) table of proposed public benefits and incentive density requested for each
- 179 benefit; and
- 180 6) general phasing of structures, uses, public benefits, and site plans.
- 181 b) Procedure for a sketch plan:
- 182 1) Before filing a sketch plan application, an applicant must comply with the
- 183 provisions of Section 4 of the Manual for Development Review Procedures
- 184 for Montgomery County, as amended, that concern the following
- 185 procedures:
- 186 (a) notice;
- 187 (b) holding a public meeting; and
- 188 (c) posting the site of the submission.
- 189 2) The submittal, review procedure, and fees for a sketch plan are the same as a
- 190 pre-application submission under Section 50-33A(a), except that there is no
- 191 requirement to submit a preliminary subdivision plan within 90 days.
- 192 3) The Planning Board may require some elements of the sketch plan to be
- 193 binding on any subsequent site plans.]]
- 194 (a) A sketch plan application must contain:

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

223 a consent agenda item by the Planning Board on or before the 90-day
 224 hearing period expires. Notice of the extension request and
 225 recommendation by Staff must be posted no fewer than 10 days before the
 226 item's agenda date.

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

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

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

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

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

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

- 250 (4) The proposed public benefits and associated requested incentive density
 251 will further the objectives of the applicable master or sector plan and the
 252 objectives of the CR zones; and
- 253 (5) The general phasing of structures, uses, public benefits, and site plans is
 254 feasible and appropriate to the scale and characteristics of the project.
- 255 (d) During site plan review, the Planning Board may approve modifications to the
 256 binding elements or conditions of an approved sketch plan.
- 257 (1) If changes to a sketch plan are requested by the applicant, notice of the site
 258 plan application must identify those changes requested. The applicant has
 259 the burden of persuading the Planning Board that such changes should be
 260 approved.
- 261 (2) If other changes are recommended after the application is made, notice of
 262 the site plan hearing must identify changes requested.
- 263 (3) In acting to approve a sketch plan modification as part of site plan review,
 264 the Planning Board must make the findings required in Section 59-C-15.42
 265 (c) in addition to those required by Section 59-D-3.

266 **59-C-15.5. Land Uses.**

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

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

<u>(a) Agricultural</u>	
<u>Farm and country markets</u>	<u>P</u>
<u>Farm, limited to crops, vegetables, herbs, and ornamental plants</u>	<u>P</u>
<u>Nursery, horticultural – retail or wholesale</u>	<u>P</u>
<u>Seasonal outdoor sales</u>	<u>P</u>
<u>(b) Residential</u>	
<u>Dwellings</u>	<u>P</u>
<u>Group homes, small or large</u>	<u>P</u>

<u>Hospice care facilities</u>	<u>P</u>
<u>Housing and related facilities for senior adults or persons with disabilities</u>	<u>P</u>
<u>Life care facilities</u>	<u>P</u>
<u>Live/Work units</u>	<u>P</u>
<u>Personal living quarters</u>	<u>P</u>
(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>
(e) Industrial	
<u>Manufacturing and production, artisan</u>	<u>P</u>

<u>Manufacturing, compounding, processing, or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries, synthetic molecules, and projects resulting from biotechnical and biogenetic research and development</u>	<u>P</u>
<u>Manufacturing and assembly of medical, scientific, or technical instruments, devices, and equipment</u>	<u>P</u>
(f) Other	
<u>Accessory buildings and uses</u>	<u>P</u>
<u>Bus terminals, non-public</u>	<u>P</u>
<u>Parking garages, automobile</u>	<u>P</u>
<u>Public utility buildings, structures, and underground facilities</u>	<u>P</u>
<u>Radio and television broadcast studios</u>	<u>P</u>
<u>Rooftop mounted antennas and related unmanned equipment buildings, cabinets, or rooms</u>	<u>P</u>

273 **59-C-15.6. General Requirements.**

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

275 **59-C-15.61. Master Plan and Design Guidelines Conformance.**

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

279 **59-C-15.62. Priority Retail Street Frontages.**

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

285 [[a) on-street parallel parking, unless specifically denied by the agency maintaining the
 286 right-of-way;

287 b) majority of display windows and entrances arranged between zero and 45 degrees
 288 to the sidewalk;

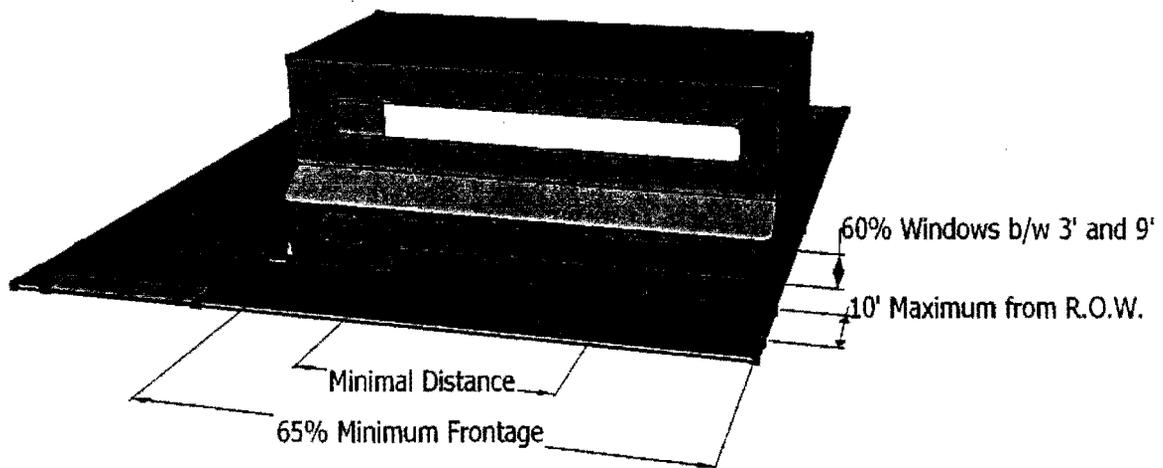
289 c) shop entrances spaced at minimal distances in order to activate the street;

290 d) building façade along at least 65 percent of the aggregate length of the front street
 291 right-of-way;

- 292 e) front building wall no farther than 10 feet from the public right-of-way or 5 feet if
 293 no public utility/improvement easement (PUE or PIE) is required; and
 294 f) windows or glass doors on 60 percent of the building façade between 3 and 9 feet
 295 above sidewalk grade.

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

300



301

Priority Retail Building Requirements Illustrative]]

302

303 **59-C-15.63. Streetscape.**

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

307 **59-C-15.64. Bicycle Parking Spaces and Commuter Shower/Change Facility.**

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

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

313

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

314 **59-C-15.65. Parking.**

315 (a) [[The maximum]]

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

322 (2) All projects that do not satisfy the requirements for transit proximity levels
 323 1 or 2 must meet the parking requirements established under Article 59-E,
 324 except that the number of parking spaces for general retail and restaurant
 325 uses in Subsection (a)(1) may be provided without a parking waiver.

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

[[Minimum]] Parking Requirements				
	Transit Proximity (Level 1 or 2)			
	¼ mile from transit	¼ to ½ mile from transit	½ mile to 1 mile from transit	>1 mile from transit
Non-residential: the <u>[[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>
Residential: the <u>[[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>

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

- 332 (c) Parking requirements must be met by any of the following:
- 333 (1) providing the spaces on site;
 - 334 (2) constructing publicly available on-street parking; or
 - 335 (3) participating in a parking lot district or entering into an agreement for
 336 shared parking spaces in a public or private facility within 1,000 feet of the
 337 subject lot, [[provided that]] if the off-site parking facility is not in an
 338 agricultural (Division 59-C-9), planned unit development (Division 59-C-
 339 7), or residential (Division 59-C-1) zone.

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

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

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

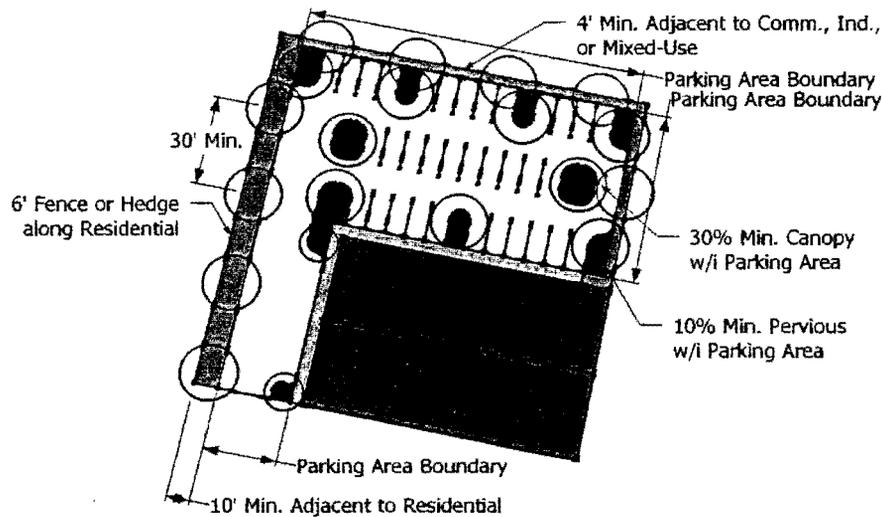
- 347 (1) a parking facility at or above grade must not be located between the street
348 and the main front wall of the building or the side wall of a building on a
349 corner lot [[: however,]] unless the Planning Board [[may approve a design
350 if it]] finds that [[the alternative design would provide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

371

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>

372

373



Surface Parking Landscape Requirements Illustrative

374

375

376

59-C-15.7. Development Standards.

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

59-C-15.71. Density.

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

382

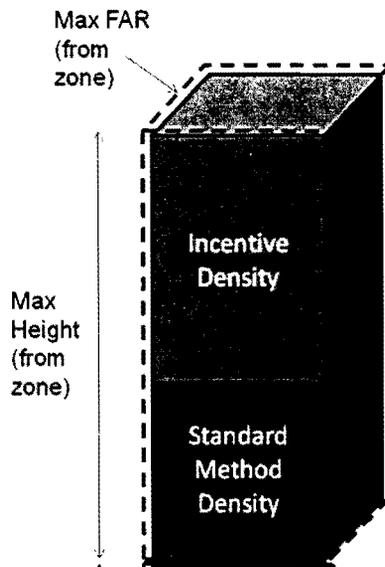
383 (b) The maximum total density and mix of maximum non-residential and residential
384 density for any project using the optional method of development is specified by
385 the zone. [[The difference between the standard method density and optional
386 method density is defined as “incentive density”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

388 **59-C-15.72. Height.**

389 (a) The maximum height for any building or structure in a standard method project is
390 40 feet.

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

393 [[



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

395 **59-C-15.73. Setbacks.**

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

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

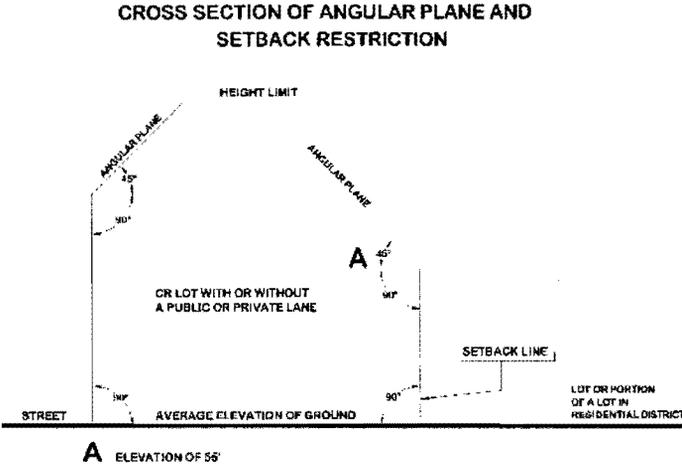
400 [[b]] (2) the building must not project beyond a 45 degree angular plane
401 projecting over the lot measured from a height of 55 feet at the setback
402

403 determined above, with the exception of those features exempt from height
404 and setback restrictions under Section 59-B-1.

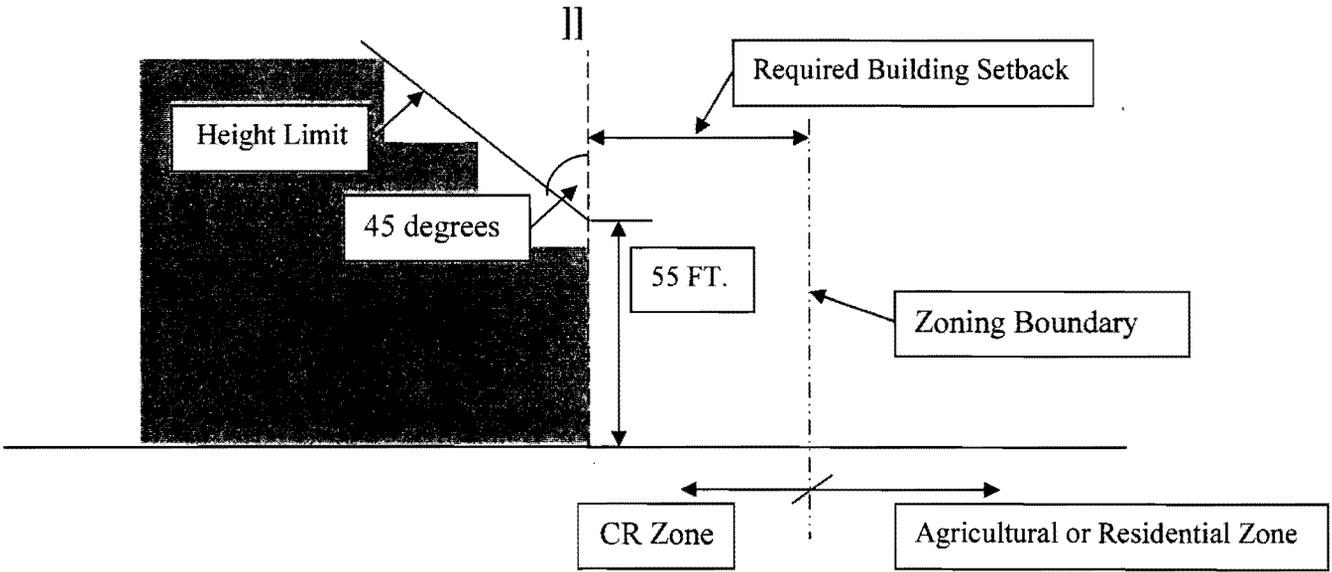
405 (b) The development of a new building in place of a building existing when the CR
406 zone is applied may be built to the pre-existing setbacks if the height of the new
407 building is not increased over that of the former building.

408

409 II



410
411



412
413

Angular Plan Setback Illustration

414

415 **59-C-15.74. Public Use Space.**

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

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

Minimum Required Public Use Space (% of net [[lot]]tract area)				
Acres (Gross)	Number of Existing and Planned Right-of-Way Frontages			
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4+</u>
<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>

423
 424 (c) Public use space must:

- 425 (1) be calculated on the net [[lot]] tract area [[of the site]] that was included in
 426 the sketch plan application;
 427 (2) be rounded to the next highest 100 square feet;
 428 (3) be easily and readily accessible to the public;
 429 (4) [[be placed under a public access easement in perpetuity]] be distributed
 430 within the entire tract area included in the sketch plan application; and
 431 (5) contain amenities such as seating options, shade, landscaping, or other
 432 similar public benefits.

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

- 436 (1) public use space improvements [[to an area equal in]] of an equal or greater
 437 size within ¼ mile of the subject site; or

438 (2) a payment in part or in full to the Public Amenity Fund[[, equal to the
439 average cost of required site improvements, added to the current square foot
440 market value of the area required as public use space]] under Section 59-D-
441 2.31.

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

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

446 (2) indicated on the approved sketch plan.

447 **59-C-15.75. Residential Amenity Space.**

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

450

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

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

455 (c) The amenity space requirement may be reduced by ½ for Workforce Housing
456 Units (WFHUs) located within a metro station policy area or if the minimum
457 public open space requirement is satisfied on site.
458

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

462 **59-C-15.8. Special Regulations for the Optional Method of Development**

463 **59-C-15.81. Incentive Density Provisions.**

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

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

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

474 c) The Planning Board may accept, reject, or modify a proposed incentive density or
475 modify the requested percentage above the minimum of incentive density
476 established up to the maximum established. Except for those benefits with
477 specific maximum standards, in approving incentive densities above the minimum,
478 the Planning Board must consider:

- 479 1) the size and configuration of the parcel;
- 480 2) the policy objectives and priorities of the applicable master or sector plan;
- 481 3) the applicable design guidelines;
- 482 4) the relationship of the site to adjacent properties;
- 483 5) the presence or lack of similar benefits nearby; and
- 484 6) quantitative and qualitative enhancements provided exceeding the
485 delineated minimum incentive density standards.

- 486 d) Public benefits that apply to 1 building in a multi-building project must be
- 487 weighted proportionally to the density of the applicable building compared to the
- 488 total density of the project
- 489 e) In addition to the public benefits set forth below, an applicant may propose other
- 490 public benefits that will further the goals and objectives of the applicable master or
- 491 sector plan for the purpose of obtaining an incentive density increase.
- 492 f) The Planning Board may grant no more than 30 percent of the total incentive
- 493 density for a project for the connectivity, design, diversity, or environment
- 494 incentive categories under (h) below or any public benefit approved under (e)
- 495 above.

496 Example: A development in a zone with a maximum FAR of 5.5 would base all public benefit

497 calculations on the incentive density of 5.0 FAR (5.5-0.5). Thus, being on a site adjacent to a metro

498 station would yield an automatic incentive density of 2.5 FAR (5.0 x 0.50), and full density would be

499 allowed by providing public benefits equal to an additional 50 percent.

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

[[h) Table of density incentives: Incentive Zoning Table			
Public Benefit	Percent of Incentive Density		Section Reference
	Minimum	Maximum	
<i>Transit Proximity</i>	See section reference		15.82
<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>]]

504

505 **[[59-C-15.82. Transit Proximity Incentives.]]**

506 [[A project on a site near transit encourages greater transit use and reduces vehicle miles
 507 traveled, congestion, and carbon emissions. The additional percent of incentive density
 508 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>

509]]

510

511 **[[59-C-15.83. Connectivity and Mobility Incentives.**

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

516 **[[59-C-15.831. Community Connectivity.**

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

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

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

529 **[[59-C-15.832 Community Garden.**

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

- 532 a) The minimum incentive density increase requires that the garden:
533 1) is located on the subject site or within 500 feet of the subject site;
534 2) provides all garden spaces with at least 12 inches of soil depth and access to
535 water; and
536 3) provides community garden space at a rate equivalent to 1 space per 20
537 dwelling units. Each space must be at least 16 square feet. At least 1 out of
538 each 10 spaces must be accessible under ADA standards.
- 539 b) The maximum increase requires additional features such as a composting facility,
540 additional garden space, seating areas, doubling as a green roof, or additional
541 accessible garden plots.]]

542 **[[59-C-15.833. Parking at the Minimum.**

- 543 a) The minimum incentive density increase requires that sites of 1 acre or more
544 provide on-site only the minimum required number of parking spaces.
- 545 b) The maximum increase requires that sites of less than 1 acre provide on-site only
546 the minimum required number of parking spaces.]]

547 **[[59-C-15.834. Pedestrian Through-Block Connections.**

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

- 550 a) The minimum incentive density increase for a pedestrian through-block
551 connection requires that:
- 552 1) the pedestrian connection must provide direct access between streets;
553 2) the pedestrian connection must be at least 15 feet in width;
554 3) at least 35 percent of the walls facing the interior pedestrian connection
555 below a height of 8 feet must have clear, unobstructed windows, unless the
556 Planning Board finds that an alternative design is at least equally safe;
557 4) the pedestrian connection must be open to the public between sunrise and
558 sunset and, where it leads to a transit facility or publicly-accessible parking

559 facility within ½ mile, for the hours of operation of the transit and/or
560 parking facility; and
561 5) retail uses fronting both a pedestrian connection and a street must maintain
562 operable doors from both unless not required by the Planning Board during
563 site plan review due to exceptional site circumstances.

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

565 1) direct connection to parks;

566 2) transit facilities;

567 3) public buildings;

568 4) pedestrian connection with accessible retail uses along a majority of its
569 length;

570 5) connections increased in width; or

571 6) public artworks integrated into the walk.]]

572 **[[59-C-15.835. Public Parking.**

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

576 b) The maximum increase requires providing public parking spaces, as required
577 above, in combination with additional improvements, such as constructing those
578 spaces underground or in a structure.]]

579 **[[59-C-15.836. Transit Access Improvement.**

580 a) The minimum incentive density increase for transit access improvements requires
581 that the improvements:

582 1) are located within 1/2 mile of the proposed development site or, in the case
583 of mobile transit improvements such as a bus shuttle, provide regular access
584 for passengers within 1/2 mile; and

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

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

589 **[[59-C-15.84. Diversity Incentives.]]**

590 **[[59-C-15.841. Adaptive Buildings.**

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

594 a) The minimum incentive density increase for an adaptive building requires that:
595 1) the floor to floor dimension must be at least 15 feet for all floors; and
596 2) the internal floor plan is based on a structural system allowing flexibility of
597 volumes divisible from 1 open floor plate to any number of parceled
598 volumes.

599 b) The maximum increase requires additional benefits such as that:
600 1) the structural system has additive capacity for any available density and
601 height that is not used by the building without demolition of the structure;
602 or
603 2) the internal layout is built to allow changes between residential, retail, and
604 office uses by minor modifications.]]

605 **[[59-C-15.842. Affordable Housing.**

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

609 b) Provision of MPDUs above the minimum required grants an incentive density
610 increase, providing the following standards are met:
611 1) the increase in density is calculated on the incentive density as required by
612 Chapter 25A;

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

616 Example: Provision of 14.5 percent MPDUs achieves an incentive density increase of 20 percent (25-A-
617 5(c) (3)). In the case of a CR4.5, that would equal 0.20 x 4.0 (the incentive density), which is 0.8 FAR.

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

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

622 **[[59-C-15.843. Care Center.**

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

629 **[[59-C-15.844. Community Facility.**

- 630 a) The minimum incentive density increase for a community facility that helps meet
631 the needs of residents and workers requires that the community facility:
 - 632 1) is recommended in the applicable master plan or sector plan; and
 - 633 2) is accepted for operation and use by an appropriate public agency,
634 community association, or nonprofit organization.
- 635 b) The maximum increase requires further benefits, such as an entrance to the facility
636 directly on the street, location of the building within 10 feet of a public sidewalk,
637 associated outdoor open space, or integration into an area with a residential FAR
638 of at least 2.0 (or at least 30 dwelling units per acre).]]

639 **[[59-C-15.845. Local Retail Preservation.**

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

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

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

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

646 **[[59-C-15.846. Unit Mix and Size.**

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

650 1) 7.5 percent as efficiency dwelling units;

651 2) 8 percent as one-bedroom dwelling units;

652 3) 8 percent as two-bedroom dwelling units; and

653 4) 5 percent as three-bedroom dwelling units.

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

656 1) 10 percent as efficiency dwelling units;

657 2) 10 percent as one-bedroom units;

658 3) 10 percent as two-bedroom units; and

659 4) 7.5 percent as three-bedroom units.]]

660 **[[59-C-15.85. Design Incentives.]]**

661 **[[59-C-15.851. Floor Plate Size.**

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

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

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

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

674 **[[59-C-15.852. Historic Resource Protection.**

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

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

683 **[[59-C-15.853. Parking Below Grade.**

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

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

689 **[[59-C-15.854. Podium/Tower Setback.**

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

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

695 **[[59-C-15.855. Public Art.**

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

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

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

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

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

705 1) achieve aesthetic excellence;

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

708 3) ensure public access and invite public participation;

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

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

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

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

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

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

720 1) the minimum fee is calculated on 1 percent of the development's projected
 721 cost;

722 2) the fee is paid to the Public Arts Trust Steering Committee;

- 723 3) the fee is used for installation, management, and maintenance of public art
724 at the discretion of the Public Arts Trust Steering Committee, with
725 preference given to the policy area where the proposed development is
726 located; and
- 727 4) the incentive density is equal to a 5 percent increase for every 1 percent of
728 projected development cost paid to the Public Arts Trust, up to 20 percent.]]

729 **[[59-C-15.856. Public Plaza/Open Space.**

730 Plazas are important public amenities and create interesting spaces and active gathering
731 areas.

- 732 a) The minimum incentive density increase for any plaza requires that:
- 733 1) the plaza is directly accessible to a street;
734 2) the plaza must be open to the public at least between sunrise and sunset;
735 3) no proposed loading or parking facilities should be visible below a height of
736 the fourth floor; and
- 737 4) the plaza must be in addition to any public use space required by the
738 development standards or other minimum open space requirement of this
739 Division.
- 740 b) The maximum increase requires that the above requirements are met, in addition to
741 the following:
- 742 1) the plaza's width must be at least 50 feet;
743 2) where the plaza is provided as part of a redevelopment, buildings facing the
744 plaza must be designed so that:
- 745 A) the walls of any non-residential floor area facing the plaza must have
746 windows on at least 60 percent of the façade below a height of 40
747 feet; and
- 748 B) the main entry to any dwelling units is from a wall facing the plaza;
749 and

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

752 **[[59-C-15.857. Streetscape, Off-Site.**

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

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

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

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

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

761 **[[59-C-15.858. Exceptional Design.**

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

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

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

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

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

775 e) uses design solutions to make compact/infill living, working, and shopping
776 environments pleasurable and desirable, for example, by retrofitting surface

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

783 **[[59-C-15.86. Environment Incentives.]]**

784 **[[59-C-15.861. Bio-retention and Stormwater Recharge.**

- 785 a) The minimum incentive density increase for the use of bio-retention and recharge
786 facilities requires that at least 25 percent of projected stormwater outfall for a 10-
787 year event be contained and recharged on site or within ¼ mile of the site.
788 b) The maximum increase requires that at least 50 percent of projected stormwater
789 for a 10-year event be contained and recharged.]]

790 **[[59-C-15.862. Conveyed Parkland.**

- 791 a) The minimum incentive density increase for land conveyed to the M-NCPPC for
792 inclusion in or provision of parkland, trail area, or other master-planned Parks' use
793 requires conveyance of at least of 15 percent of the gross lot area.
794 b) The maximum increase requires conveyance of at least 30 percent of the gross lot
795 area.]]

796 **[[59-C-15.863. Dark Skies.**

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

803 **[[59-C-15.864. Energy Efficiency and Generation.**

- 804 a) The minimum density incentive increase for the use of on-site renewable energy
805 generation requires that buildings must meet the minimum energy efficiency
806 standards of 17.5 percent for new buildings, 10.5 percent for existing buildings, or
807 generate at least 1.5 percent of their energy on-site.
- 808 b) The maximum increase requires additional benefits such as greater energy
809 efficiency and the generation of at least 2.5 percent of energy on-site.]]

810 **[[59-C-15.865. Green Walls**

- 811 a) The minimum incentive density increase for a green wall requires that it:
- 812 1) must be designed, installed, and maintained to cover at least 30 percent of
813 the area of a blank wall or parking garage facing a street or plaza; and
 - 814 2) must be found to add to the aesthetic quality and environmental
815 sustainability of the project.
- 816 b) The maximum increase requires additional benefits such as a greater percent of
817 coverage, southern or western exposure, the use of plants with varying flowering
818 seasons, or integration into an overall energy or environmental site design
819 program.]]

820 **[[59-C-15.866. LEED Rating.**

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

- 825 a) LEED Silver: 10 percent
- 826 b) LEED Gold: 20 percent
- 827 c) LEED Platinum: 30 percent]]

828 **[[59-C-15.867. Rainwater Reuse.**

- 829 a) The minimum incentive density increase for the collection of rainwater for on-site
830 irrigation, grey-water use, or filtration for re-use requires that a minimum of 25

831 percent of projected rainwater for a 10-year event be collected and used on-site or
832 within ¼ mile of the site.

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

835 **[[59-C-15.868. Transferable Development Rights.**

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

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

844 **[[59-C-15. 869. Tree Canopy.**

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

849 **[[59-C-15.8610. Vegetated Area.**

- 850 a) The minimum incentive density increase for a vegetated area requires that the
851 following criteria are met:
852 1) the area must be in addition to any required on-site open space or any
853 vegetated roof incentive;
854 2) the area must replace at least 5,000 square feet of impervious area;
855 3) the area provides at least 12 inches of soil depth; and
856 4) the area is planted with well-maintained vegetation.

857 b) The maximum increase requires additional benefits, such as larger area or greater
858 soil depth.]]

859 **[[59-C-15.8611. Vegetated Roof.**

860 a) The minimum incentive density increase for a vegetated roof requires that the:

- 861 1) vegetated roof must cover at least 33 percent of the roof of the building,
862 excluding any space occupied by mechanical equipment; and
863 2) soil or media depth must be at least 4 inches.

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

865 **[[59-C-15.87. Special Regulations for Purchase of Building Lot Termination (BLT)**
866 **Development Rights.**

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

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

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

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

- 881 (1) Master-planned major public facilities;
882 (2) Transit proximity for residents, workers, and patrons;
883 (3) Connectivity between uses and activities and mobility options;

- 884 (4) Diversity of uses and activities;
- 885 (5) Quality of building and site design;
- 886 (6) Protection and enhancement of the natural environment; and
- 887 (7) Advanced dedication of right-of-way.

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

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

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

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

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

- 904 (1) be consistent with the recommendations and objectives of the applicable
905 master or sector plan and the purpose of the CR zones;
- 906 (2) be in addition to any standards, requirements, or rules of incentive density
907 calculation included in this Division, but may not supersede those
908 provisions;
- 909 (3) allow any single feature of a project a density incentive from only 1 public
910 benefit; and

911 (4) include the criteria to determine when an early dedication of right-of-way
 912 qualifies for incentive density, and the amount of the incentive density
 913 permitted.

914 **59-C-15.82. Incentives for Master-Planned Major Public Facilities.**

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

922 **59-C-15.83. Incentives for Transit Proximity.**

923 In order to encourage greater use of transit, control sprawl, and reduce vehicle miles
 924 traveled, congestion, and carbon emissions, the Planning Board may approve incentive
 925 density for transit proximity under this section. The percentage of incentive density
 926 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>

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

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

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

937 **59-C-18.84. Incentives for Connectivity and Mobility.**

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

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

947 (b) Minimum Parking: Provision of the minimum required parking for projects of one
948 acre of gross tract area or more.

949 (c) Through-Block Connections: Safe and attractive pedestrian connections between
950 streets.

951 (d) Public Parking: Provision of up to the maximum number of parking spaces
952 allowed in the zone as public parking.

953 (e) Transit Access Improvement: Ensuring that access to transit facilities meets
954 County standards for handicapped accessibility.

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

959 **59-C-15.85. Incentives for Diversity of Uses and Activities.**

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

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

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

974 *Example: Provision of 14.5% MPDUs is awarded an incentive density of*
 975 *20% (see 25-A-5(c)(3)). In the case of a CR 4.5 zone that proposes 4.5*
 976 *FAR, that equals 0.20 x 4.0 (the incentive density), which is 0.8 FAR.*

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

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

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

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

- 986 (d) Small Business Retention: Provision of on-site space for small, neighborhood-
 987 oriented businesses.
- 988 (e) Dwelling Unit Mix: Provision of at least 7.5% efficiency units, 8% 1-bedroom
 989 units, 8% 2-bedroom units, and 5% 3-or-more bedroom units.

990 **59-C-15.86. Incentives for Quality Building and Site Design.**

991 High quality design is especially important in urban, integrated-use settings to ensure
 992 that buildings and uses are compatible with each other and adjacent communities and to
 993 provide a harmonious pattern of development. Due to the increased density of these
 994 settings, buildings tend to have high visibility. High quality design may help to attract
 995 residents and businesses to locate in these settings. Location, height, massing, façade
 996 treatments, and ornamentation of buildings affect sense of place, orientation, and the
 997 perception of comfort and convenience. The quality of the built environment affects
 998 light, shadow, wind, and noise, as well as the functional and economic value of property.
 999 In order to promote high quality design, the Planning Board may approve incentive
 1000 density of up to 30% to a project that provides at least 2 of the following public benefits:

- 1001 (a) Historic Resource Protection: Preservation and/or enhancement of a historic
 1002 resource indicated on the Master Plan for Historic Preservation in conformance
 1003 with a plan approved by the Historic Preservation Commission. A fee-in-lieu for a
 1004 specific preservation project may be paid to the Historic Preservation Division as
 1005 specified in the Guidelines for Public Benefits.
- 1006 (b) Structured Parking: Parking provided within a structure or below-grade.
- 1007 (c) Tower Setback: Setback of building by a minimum of 6 feet beyond the first floor
 1008 façade at a maximum height of 72 feet.
- 1009 (d) Public Art: Provision of public art must be reviewed for comment by the Public
 1010 Arts Trust Steering Committee. A fee-in-lieu may be paid to the Trust as specified
 1011 in the Guidelines for Public Benefits.
- 1012 (e) Public Open Space: Provision of open space in addition to the minimum required
 1013 by the zone. Public open space must be easily accessible to the public during

1014 business hours and/or at least from sunrise to sunset and must contain amenities
1015 such as seating, plantings, trash receptacles, kiosks, and water features.

1016 (f) Streetscape: Construction of off-site streetscape in addition the requirements of
1017 this division.

1018 (g) Exceptional Design: Building design that provides innovative solutions in
1019 response to the immediate context; creates a sense of place and serves as a
1020 landmark; enhances the public realm in a distinct and original manner; introduces
1021 new materials, forms, or building methods; uses design solutions to make compact
1022 infill development living, working, and shopping environments more pleasurable
1023 and desirable; and integrates low-impact development methods into the overall
1024 design of the site and building.

1025 **59-C-15.87. Incentives for Protection and Enhancement of the Natural**
1026 **Environment.**

1027 In order to combat sprawl and mitigate or reverse environmental problems such as heat
1028 from the built environment, inadequate carbon-sequestration, and pollution caused by
1029 reliance on the automobile, the Planning Board may approve a density increase up to
1030 30% for the public benefits in this Subsection :

1031 (a) CR zones require the purchase of BLT easements or payment to the Agricultural
1032 Land Preservation Fund for at least 5% but no more than 30% of the incentive
1033 density under the following conditions.

1034 (1) Any private BLT easement must be purchased in whole units; or

1035 (2) BLT payments must be made to the Agricultural Land Preservation Fund,
1036 based on the amount established by Executive Regulations under Chapter
1037 2B; if a fraction of a BLT easement is needed, a payment based on the gross
1038 square footage of incentive density must be made to the Agricultural Land
1039 Preservation Fund for at least the fraction of the BLT easement.

1040 (3) (A) For the first 5% of incentive density, each BLT easement purchase or
1041 payment allows 20,000 gross square feet of incentive density or a
1042 proportion thereof, allowed by a payment for a fraction of a BLT.

1043 (B) For the incentive density above 5%, each BLT easement purchase or
1044 payment allows 30,000 gross square feet of incentive density or a
1045 proportion thereof, allowed by a payment for a fraction of a BLT.

1046 (b) Energy Conservation and Generation: Provision of energy-efficiency that exceeds
1047 standards for the building type by 17.5% for new buildings or 10% for existing
1048 buildings, or provision of renewable energy generation facilities on-site or within
1049 ½ mile of the site for a minimum of 2.5% of the projected energy requirement.

1050 (c) Green Wall: Installation and maintenance of a vegetated wall that covers at least
1051 30% of any blank wall or parking garage façade visible from a public street or
1052 open space.

1053 (d) Tree Canopy: Coverage at 15 years of growth of at least 25% of the on-site open
1054 space.

1055 (e) Vegetated Area: Installation of plantings in a minimum of 12 inches of soil
1056 covering at least 5,000 square feet of previously impervious surfaces. This does
1057 not include vegetated roofs.

1058 (f) Vegetated Roof: Provision of a vegetated roof with a soil depth of at least 4 inches
1059 covering at least 33% of a building's roof, excluding space for mechanical
1060 equipment.

1061 **59-C-15.88. Advanced dedication of right of way.**

1062 When sketch plans or site plans are approved, the Planning Board may allow an
1063 incentive density not to exceed 30% for a prior dedication of rights-of-way for roadways,
1064 sidewalks, or bikeways recommended in the applicable master or sector plan, if the
1065 County or the State is responsible for constructing the facility on the right of way.

1066 **59-C-15.89. Prohibited incentive density criteria.**

1067 The Planning Board must not grant incentive density for:

- 1068 (a) Community gardens;
- 1069 (b) Floor plate size;
- 1070 (c) Bio-retention and stormwater recharge;
- 1071 (d) Rainwater reuse;
- 1072 (e) Lighting related to compliance to Dark Sky standards; and
- 1073 (f) Any LEED rating or LEED rating equivalent.

1074 **59-C-15.9. Existing Approvals.**

- 1075 (a) [[A]] One or more lawfully existing [[building]]buildings or [[structure]]structures
 1076 and the uses therein, which [[predates]] predate the applicable sectional map
 1077 amendment, [[is a]] are conforming [[structure]] structures or [[use]] uses, and
 1078 may be continued, renovated, repaired, or reconstructed to the same size and
 1079 configuration, or enlarged up to a total of 10 percent above the total existing floor
 1080 areas of all buildings and structures on site or 30,000 square feet, whichever is
 1081 less, and does not require a site plan. [[A larger addition requires]] Enlargements
 1082 in excess of the limitations in this Subsection will require compliance with the full
 1083 provisions of this Division.
- 1084 (b) A project that received an approved development plan under Division 59-D-1 or
 1085 schematic development plan under Division 59-H-2 before the enactment of the
 1086 CR zones may proceed under the binding elements of the development plan and
 1087 will thereafter be treated as a lawfully existing building, and may be renovated or
 1088 reconstructed under Subsection (a) above. Such development plans or schematic
 1089 development plans [[projects]] may be amended as allowed under Division 59-D-1
 1090 or 59-H-2[[,]] under the provisions of the previous zone; however, any
 1091 incremental increase in the total floor area [[or building height]] beyond that
 1092 allowed by Subsection (a) above or any incremental increase in building height

1093 greater than 15 feet requires, with respect to the incremental increase only, full
1094 compliance with the ~~[[full]]~~ provisions of this Division.

1095 (c) At the option of the owner, any portion of a project subject to an approved
1096 development plan or schematic development plan described in Subsection (b)
1097 above may be developed under this Division. The remainder of that project
1098 continues to be subject to the approved development plan or schematic
1099 development plan, under Subsections (a) and (b).

1100 ~~[[c]]~~(d) A project which has had a preliminary or site plan approved before the
1101 applicable sectional map amendment may be built or altered at any time, subject to
1102 either the full provisions of the previous zone or this division, at the option of the
1103 owner. If built under the previous approval, it will be treated as a lawfully
1104 existing building and may be renovated or reconstructed under Subsection (a)
1105 above. If built with an incremental increase over the previous approval, only that
1106 incremental increase must comply with this Division.

1107
1108 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the date of
1109 Council adoption.

1110
1111 This is a correct copy of Council action.

1112
1113 _____
1114 Linda M. Lauer, Clerk of the Council