


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:

- 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 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:

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

* * *

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

59-C-15.1. Zones Established.

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

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

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

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

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

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

- [[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.

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

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

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

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

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

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

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

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

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

Public Arts Trust Steering Committee: A committee of the Arts and Humanities 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

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

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

Two methods of development are available under the CR zones.

59-C-15.41. Standard Method.

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

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

59-C-15.42. Optional Method.

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

- (1) a justification statement that addresses how the project meets the requirements and standards of this Division for optional method development and describes how the development will further the objectives of the applicable master or sector plan;
 - (2) an illustrative plan or model that shows the maximum densities for residential and non-residential uses, massing, and heights of buildings; locations of public use and other open spaces; and the relationships between existing or proposed buildings on adjoining tracts;
 - (3) an illustrative diagram of proposed vehicular, pedestrian, and bicycle access, circulation, parking, and loading areas;
 - (4) a table of proposed public benefits and the incentive density requested for each; and
 - (5) the general phasing of structures, uses, public benefits, and site plan applications.
- (b) Procedure for a sketch plan:
- (1) Before filing a sketch plan application, an applicant must comply with the provisions of the Manual for Development Review Procedures, as amended, that concern the following:

 - (A) notice;
 - (B) posting the site of the application submittal; and
 - (C) holding a pre-submittal meeting.
 - (2) A public hearing must be held by the Planning Board on each sketch plan application no later than 90 days after the filing of an optional method development application, unless a request to extend this period is requested by the applicant, Planning Board staff, or other interested parties. A request for an extension must be granted if the Planning Board finds it not to constitute prejudice or undue hardship on any interested party. A recommendation regarding any request for extension must be acted upon as

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

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

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

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

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

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

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

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

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

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

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

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

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

59-C-15.5. Land Uses.

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

- Permitted Uses are designated by the letter “P” and are permitted subject to all applicable regulations.
- Special Exception Uses are designated by the letters “SE” and may be 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;

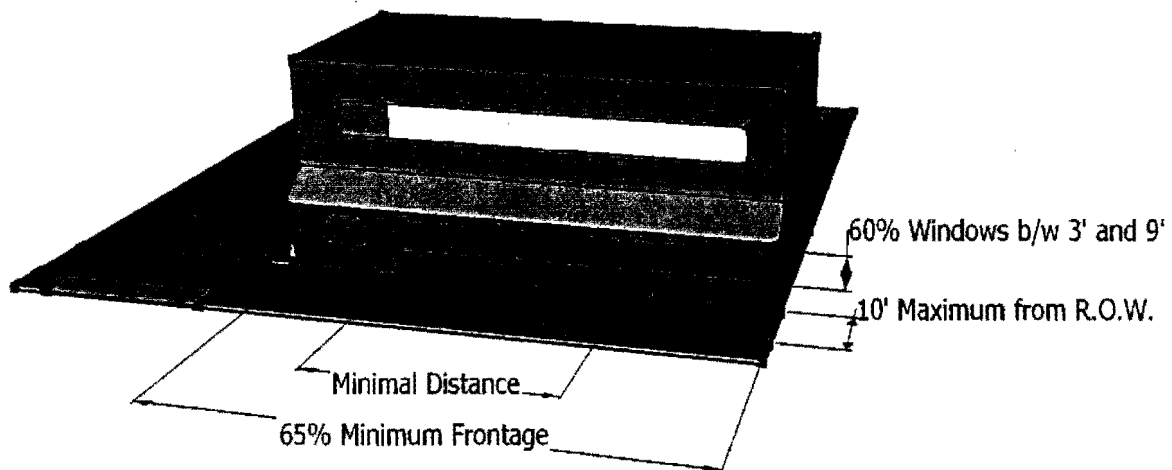
287 b) majority of display windows and entrances arranged between zero and 45 degrees
 288 to the sidewalk;

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;

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

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



Priority Retail Building Requirements Illustrative]]

59-C-15.63. Streetscape.

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

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

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

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]] Two bicycle parking spaces for the first 10,000 square feet plus one additional space for every additional 10,000 square feet, up to a maximum of 100 [[required]] spaces.</u>
<u>In a building with a total non-residential floor area of 100,000 square feet or greater.</u>	<u>[[One bicycle parking space per]] Two bicycle parking spaces for the first 10,000 square feet plus one additional space for every additional 10,000 square feet, up to a maximum of 100 [[required]] spaces. One shower/change facility for each gender available only to employees when the building is accessible.</u>

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.

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

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

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

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

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

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

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

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

- (1) a parking facility at or above grade must not be located between the street and the main front wall of the building or the side wall of a building on a corner lot [[; however,]] unless the Planning Board [[may approve a design if it]] finds that [[the alternative design would provide safer and more]] safe and efficient circulation would be better served by a different arrangement;
- (2) if a site is adjacent to an alley, the primary vehicular access to the parking facility must be from that alley; and
- (3) curb cuts must be kept to a minimum and shared by common ingress/egress easements whenever possible.

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

- (1) the driveway must not be located between the street and the main front wall of a building or the side wall of a building on a corner lot;
- (2) the drive-through service window must be located on the rear or side wall of the building; any service window on the side wall of a building must be permanently screened from any street; and
- (3) curb cuts to a street must be minimized to one drive aisle of no more than 20 feet in width for two-way traffic or two drive aisles each of no more than 10 feet in width for one-way traffic.

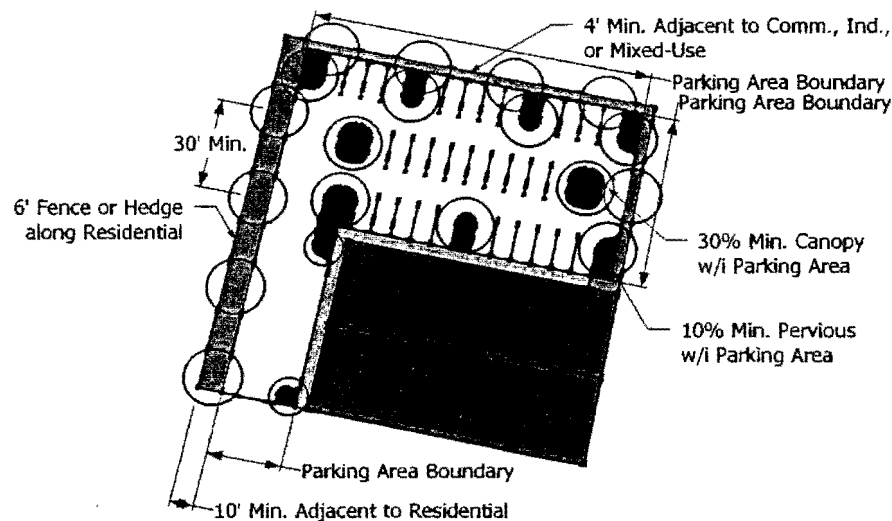
(g) [[Landscaping]] Except for areas used for internal driveway or sidewalk connections between lots or parcels that are not in residential (59-C-1) or agricultural (59-C-9) zones, landscaping for surface parking facilities must satisfy the following requirements:

371

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

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Surface Parking Landscape Requirements Illustrative

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59-C-15.7. Development Standards.

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

59-C-15.71. Density.

- (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.

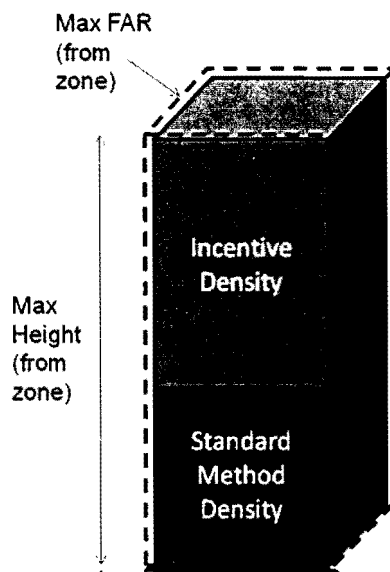
383 (b) The maximum total density and mix of maximum non-residential and residential
 384 density for any project using the optional method of development is specified by
 385 the zone. [[The difference between the standard method density and optional
 386 method density is defined as “incentive density” 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.**

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

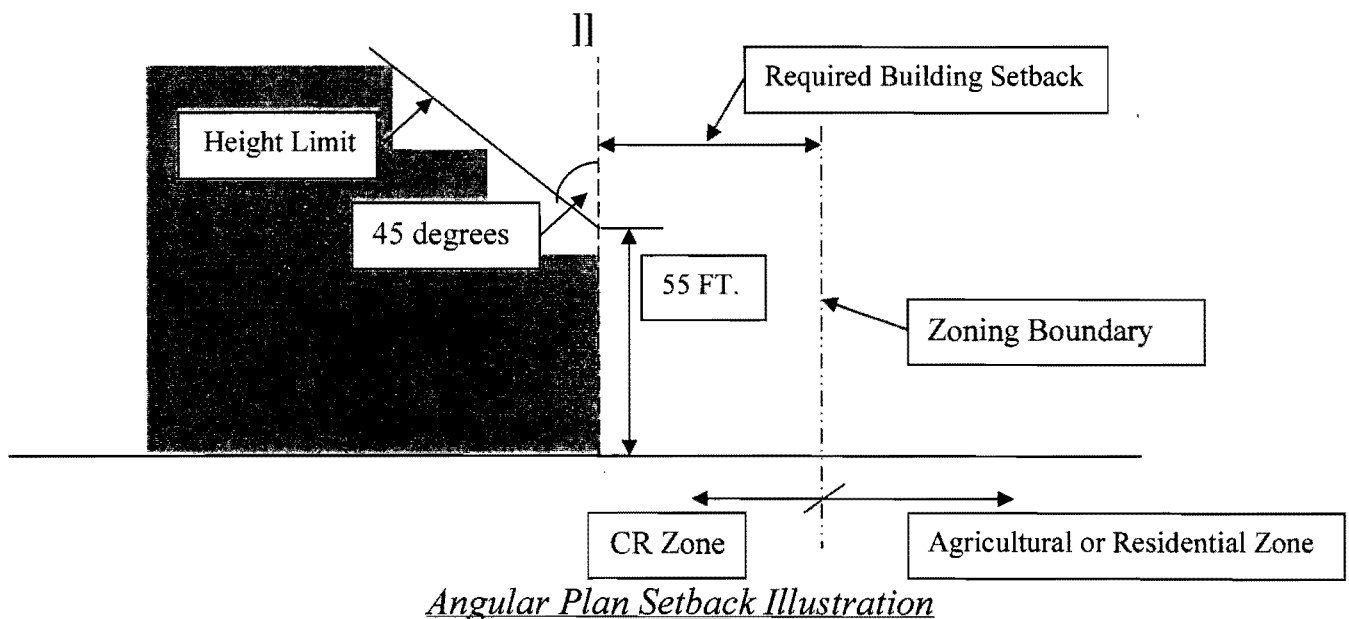
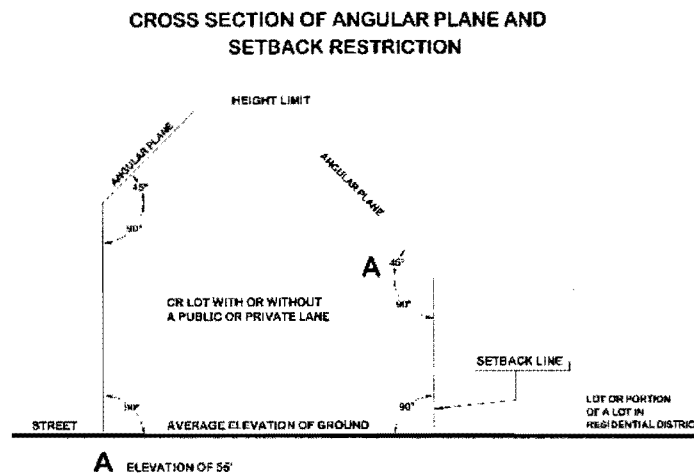
399 [[a]] (1) 25 feet or the setback required by the adjacent lot, whichever is
 400 greater; and

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

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

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

II



59-C-15.74. Public Use Space.

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

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

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>

(c) Public use space must:

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

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

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

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

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

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

(2) indicated on the approved sketch plan.

59-C-15.75. Residential Amenity Space.

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

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

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

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

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

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

59-C-15.81. Incentive Density Provisions.

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

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

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

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

- 1) the size and configuration of the parcel;
- 2) the policy objectives and priorities of the applicable master or sector plan;
- 3) the applicable design guidelines;
- 4) the relationship of the site to adjacent properties;
- 5) the presence or lack of similar benefits nearby; and
- 6) quantitative and qualitative enhancements provided exceeding the 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	
Transit Proximity	See section reference		15.82
Connectivity & Mobility			
Community Connectivity	10	20	15.831
Community Garden	5	10	15.832
Parking at the Minimum	10	20	15.833
Pedestrian Through-Block Connection	5	10	15.834
Public Parking	20	30	15.835
Transit Access Improvement	10	20	15.836
Diversity			

<u>Adaptive Buildings</u>	<u>15</u>	<u>30</u>	<u>15.841</u>
<u>Affordable Housing: MPDUs</u>	<u>See section reference</u>		<u>15.842</u>
<u>Affordable Housing: WFHUs</u>	<u>See section reference</u>		
<u>Care Center</u>	<u>10</u>	<u>20</u>	<u>15.843</u>
<u>Community Facility</u>	<u>10</u>	<u>20</u>	<u>15.844</u>
<u>Local Retail Preservation</u>	<u>10</u>	<u>20</u>	<u>15.845</u>
<u>Unit Mix and Size</u>	<u>5</u>	<u>10</u>	<u>15.846</u>
<u>Design</u>			
<u>Floor Plate Size</u>	<u>10</u>	<u>20</u>	<u>15.851</u>
<u>Historic Resource Protection</u>	<u>10</u>	<u>20</u>	<u>15.852</u>
<u>Parking Below Grade</u>	<u>10</u>	<u>20</u>	<u>15.853</u>
<u>Podium/Tower Setback</u>	<u>5</u>	<u>10</u>	<u>15.854</u>
<u>Public Art</u>	<u>10</u>	<u>20</u>	<u>15.855</u>
<u>Public Plaza/Open Space</u>	<u>5</u>	<u>10</u>	<u>15.856</u>
<u>Streetscape, Off-Site</u>	<u>5</u>	<u>10</u>	<u>15.857</u>
<u>Exceptional Design</u>	<u>10</u>	<u>20</u>	<u>15.858</u>
<u>Environment</u>			
<u>Bio-retention and Stormwater Recharge</u>	<u>5</u>	<u>10</u>	<u>15.861</u>
<u>Conveyed Parkland</u>	<u>10</u>	<u>20</u>	<u>15.862</u>
<u>Dark Skies</u>	<u>5</u>	<u>10</u>	<u>15.863</u>
<u>Energy Efficiency and Generation</u>	<u>10</u>	<u>20</u>	<u>15.864</u>
<u>Green Wall</u>	<u>5</u>	<u>10</u>	<u>15.865</u>
<u>LEED Rating</u>	<u>10</u>	<u>30</u>	<u>15.866</u>
<u>Rainwater Reuse</u>	<u>5</u>	<u>10</u>	<u>15.867</u>
<u>Transferable Development Rights</u>	<u>10</u>	<u>30</u>	<u>15.868</u>
<u>Tree Canopy</u>	<u>10</u>	<u>20</u>	<u>15.869</u>
<u>Vegetated Area</u>	<u>5</u>	<u>10</u>	<u>15.8610</u>
<u>Vegetated Roof</u>	<u>10</u>	<u>20</u>	<u>15.8611]]</u>

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

facility within ½ mile, for the hours of operation of the transit and/or parking facility; and

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

b) The maximum increase requires additional benefits such as:

1) direct connection to parks;

2) transit facilities;

3) public buildings;

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

5) connections increased in width; or

6) public artworks integrated into the walk.]]

[[59-C-15.835. Public Parking.

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

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

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

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

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

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;

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

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

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

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

[[59-C-15.843. Care Center.

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

[[59-C-15.844. Community Facility.

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

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

Preservation of locally-owned small businesses on site is eligible for incentive density as 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

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

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

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

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

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

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

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

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

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

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

b) The maximum increase requires that the tower setback be at or below 50 feet and 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;

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

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

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

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

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

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

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

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

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

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

[[59-C-15.858. Exceptional Design.

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

- a) provides innovative solutions in response to the architectural context and surrounding landscape, for example, by rotating floor plates for views or reconciling offset street-walls;
- b) creates a sense of place that will serve as a landmark in the community, for example, by creating a distinguishing element that is visible from an important view or at a gateway to an area;
- c) enhances the public realm in a distinct and original manner, for example, by using existing materials and forms in new ways to provide continuity and contrast;
- d) adds to the diversity of the built realm within the community, for example, by introducing new materials, building methods, or design styles;
- e) uses design solutions to make compact/infill living, working, and shopping environments pleasurable and desirable, for example, by retrofitting surface

parking lots and single-use retail malls or creating multi-use, pedestrian-
dominated realms in previous auto-oriented areas; and

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

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

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

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

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

[[59-C-15.862. Conveyed Parkland.

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

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

[[59-C-15.863. Dark Skies.

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

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

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

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

[[59-C-15.865. Green Walls

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

[[59-C-15.866. LEED Rating.

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

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

[[59-C-15.867. Rainwater Reuse.

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

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

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

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

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

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

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

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

[[59-C-15.8610. Vegetated Area.

- a) The minimum incentive density increase for a vegetated area requires that the following criteria are met:
 - 1) the area must be in addition to any required on-site open space or any vegetated roof incentive;
 - 2) the area must replace at least 5,000 square feet of impervious area;
 - 3) the area provides at least 12 inches of soil depth; and
 - 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;

(4) Diversity of uses and activities;

(5) Quality of building and site design;

(6) Protection and enhancement of the natural environment; and

(7) Advanced dedication of right-of-way.

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

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

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

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

(3) The size and configuration of the tract;

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

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

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

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

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

(1) be consistent with the recommendations and objectives of the applicable master or sector plan and the purpose of the CR zones;

(2) be in addition to any standards, requirements, or rules of incentive density calculation included in this Division, but may not supersede those provisions;

(3) allow any single feature of a project a density incentive from only 1 public benefit; and

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

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

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

59-C-15.83. Incentives for Transit Proximity.

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

<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>

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

- 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

59-C-15.89. Prohibited incentive density criteria.

The Planning Board must not grant incentive density for:

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

59-C-15.9. Existing Approvals.

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

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

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

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

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

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council