

Ordinance No: 17-09  
Zoning Text Amendment No: 11-01  
Concerning: Commercial/Residential  
zones – Neighborhood  
and Town zones  
Draft No. & Date: 9 – 10/11/11  
Introduced: April 12, 2011  
Public Hearing: May 17, 2011  
Adopted: October 11, 2011  
Effective: October 31, 2011

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

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By: Council President Ervin at Request of the Planning Board

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

- **establish** the Commercial/Residential Neighborhood (CRN) and Commercial/Residential Town (CRT) zones; and
- generally amend the Commercial/Residential zones.

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

DIVISION 59-C-15      “COMMERCIAL/RESIDENTIAL [(CR)] ZONES”

**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. 11-01 was introduced on April 12, 2011 by Council President Ervin, at the request of the Planning Board.

The initial Planning Board Draft Kensington Sector Plan proposed using CR zones to implement the Plan. The Planning, Housing, and Economic Development Committee did not believe that CR zones were appropriate because of the burdens it placed on development. The Committee asked the Planning Board to develop zones more appropriate for Kensington, Takoma/Langley, and Wheaton. The Planning Board responded with a request to introduce ZTA 11-01 on March 11, 2011. In the Planning Board's opinion, ZTA 11-01 has 3 functions:

- (1) establish new Commercial/Residential Neighborhood (CRN) zones;
- (2) establish new Commercial/Residential Town (CRT) zones; and
- (3) enact various amendments to the Commercial/Residential (CR) zones, some related to integrating the new CRN and CRT zones, and some representing improvements and clarifications resulting from experience with the CR zones since their adoption.

The Commercial/Residential Neighborhood (CRN) and Commercial/Residential Town (CRT) zones were developed for areas where there are smaller properties, lower densities, and more challenging economic conditions. The new zones are structured like the current CR zones; the total floor area ratio (FAR), the residential FAR, the non-residential FAR, and the maximum building height are identified with each zone. One zoning series is needed for areas where existing commercial zones are located next to single-family residential neighborhoods. Another zoning series is needed for areas where requiring too many public benefits might impede redevelopment. The allowed land uses and development standards vary with each zone. The CRN zones would have the most limited land uses of the 3 commercial/residential zones. Optional method development would not be allowed in CRN zones.

The Montgomery County Planning Board, in its letter to the Council dated May 13, 2011, recommended that the text amendment be approved with amendments to the provisions for parking requirements in the CRN and CRT zones, sketch plan amendments during the site plan approval process, and the definition of transit proximity. The Board's recommendations were based on testimony from its hearing and its deliberations thereafter.

The County Council held a public hearing on May 17, 2011 to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The PHED Committee took a hard look at the Planning Board's recommendations. It recommended strengthening the role of master plans; maintaining the current role of design guidelines; clarifying the sketch plan process as recommended by the Planning Board; amending the parking provisions as recommended by the Planning Board; protecting neighborhoods by limiting land uses in CRN zones; increased incentives for MPDUs above the minimum required;

adding a provision for retaining existing buildings; and allowing a shorter list of public benefits for projects zoned CR or CRT after the approval of ZTA 11-01.

The shorter list of public benefits deleted environmental and some design provisions and amended transit-related public benefits. A majority of the Committee believed that much of the deleted public benefits could be required elements of a development for which additional density should not be granted. A majority of the Committee also believed that a reduced list of public benefits would focus on more important benefits, such as affordable housing. The detailed recommendation of the Committee is identified in the staff memorandum to the Council for its October 4, 2011. This opinion incorporates that memorandum by reference.

On September 19, 2011, the Committee recommended the approval of ZTA 11-01, with amendments identified in the October 4, 2011 staff memorandum to the Council. The Committee's recommendation was developed after the Committee held previous worksessions on June 13, June 22, June 23, June 27, June 30, July 11, July 14, and July 18, 2011.

The District Council reviewed Zoning Text Amendment No.11-01 at worksessions held on September 27, October 4, and October 11, 2011. After a review of the Committee's recommendations and deliberations on the testimony received, the Council agreed with most of the recommendations of the Planning, Housing, and Economic Development Committee; however, the Council did not agree with the Committee's recommendations concerning the definition of transit proximity and the list of public benefits. The Council agreed with Councilmember Floreen's substitute amendment to accomplish that objective.

The Council agreed with the Planning Board's May 13, 2011 recommendation for the definition of transit proximity and the treatment of development that satisfies the definition. The Council believed that it is in the public interest to make it easier to develop nearest transit than to develop further from transit. A recommendation to delete the benefits for a project located between ½ mile and 1 mile from transit was not approved.

The Council agreed with the Committee's recommendations for increased public benefit points for affordable housing and new public benefits for retaining existing buildings, but added the 5 new public benefits recommended by the Planning Board:

- 1) way-finding signage;
- 2) live/work units;
- 3) architectural elevations;
- 4) habitat preservation/restoration; and
- 5) cool roofs.

In the Council's opinion, the increased list of benefits added the flexibility needed in softer markets. It also avoided the need to have one set of public benefit rules in White Flint and the Shady Grove Science Corridor and a different set of rule outside of those areas. On October 4 and October 11, 2011, the Council made 9 changes to the ZTA as amended by Councilmember Floreen. The Council:

- 1) allowed teen centers as a public benefit and defined teen centers;
- 2) allowed “clinics” as a “limited” use in CRN zones;
- 3) allowed public benefit points for neighborhood services, only if the applicant is providing small retail space in an area where retail choices do not exist, with a grandfathering provision for sketch plans approved before October 11, 2011;
- 4) allowed fewer public benefit points for small lots and properties zoned at lower density;
- 5) required that optional method projects substantially conform to Planning Board approved design guidelines;
- 6) lowered the maximum total density, residential density, non-residential density, and height in CRN zones;
- 7) clarified the triggers for site plan review;
- 8) excluded land zoned residential or agricultural, but used for commercial, industrial, or utility uses, from setback, density averaging, and land use protections;
- 9) allowed staff to make editorial changes.

The Council was particularly concerned that CRN zones may replace CT zones. CT zoning sometimes has lower heights, lower density, and restrictive land uses enforced by binding covenants. Expanding the allowable range of options will help the Council to implement master plans. The Council approved master or sector plan would still guide the zone applied.

There are 3 provisions in ZTA 11-01 that protect one-family zoned and agriculturally zoned properties. Projects may not average density in a manner that exceeds the density of the zone abutting the protected zones. Projects that include limited land uses are required to get site plan approval. Setbacks are specified. The Council wants to protect single-family communities and farmland. The reason for protection no longer exists when the neighboring property is zoned for residential or agricultural purposes but the land use is non-residential (commercial, industrial, or utility use).

ZTA 11-01 as recommended by the Planning Board included 20 public benefit categories, with a maximum number of public benefit points that could be awarded by the Planning Board. In addition, the Planning Board recommended 14 public benefits that had a minimum number of points designated but no maximum number of points. The Council determined that, to make the appropriate delegation of authority, upper bounds for public benefit points were in order for all public benefit categories.

The Council was also satisfied that ZTA 11-01 includes provisions to allow the Planning Board to disapprove a project if the package of public benefits does not sufficiently conform to the master plan and public needs created by the development. The Planning Board Chair agreed that the ZTA will be administered using that discretion.

The Council did not change the applicability provisions as submitted by the Planning Board. The Council wanted to retain the opportunity to apply the zones after a full examination in a master plan, without being constrained by strict standards. The Council retained the provision that only allowed the application of the CR, CRN, and CRT zones by the specific recommendation of a

master plan. In doing so, the Council did not intend to prejudge if that provision might be retained or amended when it considers a rewritten zoning ordinance.

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. 11-01 will be approved as amended.

#### *ORDINANCE*

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

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

2 \* \* \*

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

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

6 **59-C-15.11.** [The Commercial/Residential (CR) zones are established as  
7 combinations of a sequence of 4 factors: maximum total floor area ratio (FAR),  
8 maximum non-residential FAR, maximum residential FAR, and maximum  
9 building height.]

10 (a) There are 3 commercial/residential classifications with variable uses,  
11 density and height limits, general requirements, development standards, and  
12 public benefit requirements to respond to different settings. These zone  
13 classifications are:

14 (1) CR Neighborhood (CRN);

15 (2) CR Town (CRT); and

16 (3) CR (CR).

17 (b) [These zones are identified by] Each CRN, CRT, or CR zone classification  
18 is followed by a number and a sequence of 3 additional symbols: [CR,] C,  
19 R, and H, each followed by a number where:

20 [(a)](1) the number following the [symbol “CR”-] CRN, CRT, or CR is  
21 the maximum total FAR;

22 [(b)](2) the number following the [symbol] “C” is the maximum non-  
23 residential FAR;

24 [(c)](3) the number following the [symbol] “R” is the maximum  
25 residential FAR; and

26 [(d)](4) the number following the [symbol] “H” is the maximum  
27 building height in feet.

- 28 (c) The Commercial/Residential zones must be applied on the zoning map that  
 29 will show, for each property classified:  
 30 (1) the commercial/residential classification; and  
 31 (2) the 4 standards (total, non-residential, and residential densities and  
 32 building height).  
 33 (d) This Division uses examples and illustrations to demonstrate the intent of  
 34 the CR zones. [The] These examples [in this Division] and illustrations do  
 35 not add, delete, or modify any provision of this Division. [Examples are  
 36 provided only to demonstrate particular applications of the provisions in the  
 37 Division. Examples are not intended to limit the provisions.]

38 **59-C-15.12. Density and height allocation.**

39 **59-C-15.121. Density and height limits.**

- 40 (a) Each [[unique sequence of]] CRN, CRT, or CR[[,]] classification and  
 41 unique sequence of C, R, and H is established as a zone under the following  
 42 limits:

<u>Category</u>	<u>Maximum Total FAR</u>	<u>Maximum C or R FAR</u>	<u>Maximum H</u>
<u>CRN</u>	<u>[[0.5]] 0.25 to 1.5</u>	<u>[[.25]] 0 to 1.5</u>	<u>[[40]] 25 to 65</u>
<u>CRT</u>	<u>0.5 to 4.0</u>	<u>0.25 to 3.5</u>	<u>40 to 150</u>
<u>CR</u>	<u>0.5 to 8.0</u>	<u>0.25 to 7.5</u>	<u>40 to 300</u>

- 44  
 45 (b) Zones may be established and mapped at densities in increments of 0.25 and  
 46 heights in increments of 5 feet, within the ranges indicated in the table.

47  
 48 Example: Under the provisions of Sections (a) and (b) above, the CRN zones may  
 49 establish maximum total densities of 0.25, 0.5, 0.75, 1.0, 1.25, or 1.5 FAR, and  
 50 maximum heights of 25, 30, 35, 40, 45, 50, 55, 60, or 65. The range of densities

51 and heights from which the various CRN zones can be established and mapped  
 52 provides guidance to the Planning Board's recommendation and to the Council  
 53 when [[applying]] applying a particular zone. Once the zone is approved on a  
 54 zoning map, it allows a [[developer]] property owner to build at any height and  
 55 density up to the maximum. For example, a property owner whose land is zoned  
 56 at CRN-1.0 C-0.5 R-1.0 H-45 could elect to build at a 1.0 FAR with a height of 35  
 57 feet or 0.75 FAR and 42 feet, or any other combination up to 1.0 FAR and 45 feet.

- 58
- 59 [(a) the maximum total FAR must be established as an increment of 0.25 from  
 60 0.5 up to 8.0;
- 61 (b) the maximum non-residential and residential FAR must be established as an  
 62 increment of 0.25 from 0.25 up to 7.5; and
- 63 (c) the maximum height must be established as an increment of 5 feet up to 100  
 64 feet and an increment of 10 feet from 100 feet up to 300 feet.]

65 **[59-C-15.121]59-C-15.122. Density averaging.**

66 Permitted density may be averaged over 2 or more directly abutting or confronting  
 67 lots or parcels in one or more CRN, CRT, or CR zones, provided that:

- 68 (a) the lots or parcels are subject to the same site plan or sketch plan; however,  
 69 if a sketch plan is required, density averaging must be shown on the sketch  
 70 plan;
- 71 (b) the lots or parcels are created by the same preliminary subdivision plan or  
 72 satisfy a phasing plan established by an approved sketch plan;
- 73 (c) the maximum total [density and][[.]] non-residential and residential density  
 74 limits apply to the entire development, not to individual lots or parcels;
- 75 (d) no building may exceed the maximum height set by the zone;



- 76 (e) [public benefits must be provided under the phasing element of an approved  
 77 sketch plan] uses are subject to the provisions of the property's zone  
 78 classification;
- 79 (f) the total allowed maximum density [of] on a lot or parcel [zoned CR] that is  
 80 adjacent to or confronting [one-family residentially zoned or agriculturally  
 81 zoned lots or parcels] a lot or parcel in a one-family residential zone or an  
 82 agricultural zone, that is not improved with a commercial, industrial, or  
 83 utility use, may not [be exceeded] exceed that allowed by the lot or parcel's  
 84 commercial/residential zone; and
- 85 (g) [the resulting development must conform to the design and land use  
 86 objectives of the applicable master or sector plan and design guidelines.]  
 87 public benefits must be provided under the phasing element of an approved  
 88 sketch plan.

89 **59-C-15.13. Applicability.**

90 The CRN, CRT, and CR zones can only be applied when specifically  
 91 recommended by an approved and adopted master or sector plan and only by [the]  
 92 sectional map amendment [process].

94 *Examples:*

- 95 • An area zoned [CR-2.0] [[CRN1.5, C1.0, R1.0, [H80] H45]] CRN-1.5 C-1.0 R-1.0 H-45  
 96 allows a total FAR [of 2.0] up to 1.5, with maximum non-residential and residential  
 97 FARs of 1.0, thereby requiring [an equal] a mix of uses to obtain the total FAR allowed.  
 98 The height for any building in this zone is limited to [80] 45 feet.
- 99 • An area zoned [[CR-]6.0, C3.0, R5.0, H200]] CR-6.0 C-3.0 R-5.0 H-200 allows [a  
 100 residential FAR of up to 5.0,] a non-residential FAR [of] up to 3.0, a residential FAR up  
 101 to 5.0, and a mix of the two uses could yield a total FAR of 6.0. This combination allows  
 102 for flexibility in the market and shifts in the surrounding context. The height for any  
 103 building in this zone is limited to 200 feet.
- 104 • An area zoned [CR-4.0] [[CRT3.5, [C4.0] C3.5, [R4.0] R3.5, [H160] H100]] CRT-3.5 C-  
 105 3.5 R-3.5 H-100 allows complete flexibility in the mix of uses, including buildings with  
 106 no mix, because the maximum allowed non-residential and residential FARs are both

equivalent to the total maximum FAR allowed. The height for any building in this zone is limited to [160] 100 feet.

**59-C-15.2. Description and objectives of the CR zones.**

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

The objectives of the CRN, CRT, and CR zones are to:

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

134 **59-C-15.3. Definitions specific to the CR zones.**

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

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

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

143 **Day care facilities and centers:** facilities and centers that provide daytime care  
144 for children and/or adults, including: child [[daycare]] day care facility (family  
145 day care, group day care, child day care center, teen center); [[daycare]] day  
146 care facility for not more than 4 senior adults and persons with disabilities; and  
147 day care facility for senior adults and persons with disabilities.

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

150 **Limits of Disturbance:** an area on a certified site plan within which all  
151 construction work must occur.

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

155 **Manufacturing and production, artisan:** The manufacture and production of  
156 commercial goods by a skilled manual worker or craftsman, such as jewelry,  
157 metalwork, cabinetry, stained glass, textiles, ceramics, or hand-made food  
158 products; however, it does not include any activity which causes noise, odor, or  
159 vibration to be detectable on a neighboring property.

- 160 **Public Arts Trust Steering Committee:** A committee of the Arts and  
161 Humanities Council that allocates funds from the Public Arts Trust.
- 162 **Public owned or operated uses:** Activities that are located on land owned by or  
163 leased and developed or operated by a local, county, state, or federal body or  
164 agency.
- 165 **Recreational facilities, participatory:** Facilities used for sports or recreation.
- 166 **Reconstruction:** Building the same or less floor area on or within the footprint of  
167 a demolished or partially demolished building.
- 168 **Renovation:** An interior or exterior alteration that does not affect a building's  
169 footprint.
- 170 **Seasonal Outdoor Sales:** A lot or parcel where a use or product is offered  
171 annually for a limited period of time during the same calendar period each year.  
172 The availability or demand for the use or product is related to the calendar  
173 period, such as Christmas trees, pumpkin patches, or corn mazes.
- 174 **Teen Center:** A supervised building, or a supervised area of a building, which  
175 provides a facility for the social, recreational, or educational use of children  
176 between the ages of 12 and 18. At least 80 percent of the facility's hours of  
177 operation must be for the use of teenagers.
- 178 **Tenant Footprint:** The horizontal area measured within the exterior walls for the  
179 ground floor of the main structure allocated to each non-residential tenant or  
180 owner-occupant.
- 181 **Transit proximity:** Transit proximity is categorized in two levels: 1. proximity  
182 to an existing or master planned Metrorail Station; 2. proximity to an existing  
183 or master planned station or stop along a rail or bus line with a dedicated, fixed  
184 path. All distances for transit proximity are measured from the nearest transit  
185 station entrance or bus stop entrance. [[To qualify as a planned station or stop ,

186 the station or stop must have funds appropriated in the relevant Capital  
 187 Improvement Program.]]

188 **59-C-15.4. Methods of development and approval procedures.**

189 [Two methods of development are available under the CR zones] The CRN zones  
 190 allow development only under the standard method. The CRT and CR zones  
 191 allow development under the standard method and may allow development under  
 192 the optional method.

193 **59-C-15.41. Standard Method.**

194 Standard method development [must comply with the general requirements and  
 195 development standards of the CR zones] is allowed under the following  
 196 requirements.

197 (a) In the CRN zones, the maximum total, non-residential, and residential  
 198 densities and maximum building height for any property are shown on the  
 199 zoning map.

200 (b) In the CRT and CR zones, the maximum standard method density is the  
 201 lesser of the density shown on the zoning map or:

202

<b>Category</b>	<b>Maximum Total Density</b>
CRT	The greater of 1.0 FAR or 10,000 gross square feet of floor area.
CR	The greater of 0.5 FAR or 10,000 gross square feet of floor area.

203

204 (c) A site plan approval under Division 59-D-3 is required for a standard  
 205 method development [project] only if the development:

206 [(a)] (1) is a Limited Use;

207 (2) [the] [[includes a gross floor area [exceeds] exceeding 10,000 square  
 208 feet;]] [or] is located in a CRN zone and results in 10,000 square feet

- 209 or more of floor area, including any existing floor area, except where  
 210 Section 59-C-15.9(a) applies;  
 211 (3) is located in a CRT or CR zone and results in 10,000 square feet or  
 212 more of floor area in addition to any floor area existing when the CRT  
 213 or CR zone was applied, except where Section 59-C-15.9(a) applies;  
 214 (4) includes a building height exceeding 40 feet; [[or]]  
 215 [(b)] ~~[(4)]~~ (5) [any building or group of buildings contains] includes 10 or  
 216 more dwelling units; or  
 217 (6) includes a drive-through facility.

218 **59-C-15.42. Optional method.**

219 Optional method development [must comply with the general requirements and  
 220 development standards of the CR zones and must provide public benefits under  
 221 Section 59-C-15.8 to obtain greater density and height than allowed under the  
 222 standard method of development. A sketch plan and site plan are required for any  
 223 development using the optional method. A sketch plan must be filed under the  
 224 provisions below; a site plan must be filed under Division 59-D-3. Any required  
 225 preliminary subdivision plan must not be submitted before a sketch plan is  
 226 submitted] is allowed under the following requirements.

- 227 (a) The maximum total, non-residential, and residential densities and building  
 228 height for any property are set by the zone shown on the zoning map.  
 229 (b) A sketch plan must be submitted under Section 59-C-15.43.  
 230 (c) Site plan(s) must be submitted under Division 59-D-3.  
 231 (d) Public benefits must be provided under Section 59-C-15.8.

232 **59-C-15.43. Sketch plan.**

233 Any optional method development in the CRT and CR zones requires an approved  
 234 sketch plan. Any required preliminary plan of subdivision or site plan may [[not ]]

235 be submitted ~~[[before a sketch plan has been approved]]~~ when a sketch plan is  
236 submitted, or any time thereafter.

237 (a) A sketch plan application must contain:

238 (1) a justification statement that addresses how the project meets the  
239 requirements and standards of this Division [for optional method  
240 development] and describes how the development will further the  
241 objectives of the applicable master or sector plan;

242 (2) [an] illustrative [plan] plans [or model that shows] showing:

243 (A) [the maximum densities for residential and non-residential  
244 uses, massing, and heights of buildings] building densities,  
245 massing, heights, and the anticipated mix of uses;

246 (B) locations of public use and other open spaces;

247 (C) pedestrian, bicycle, and vehicular circulation, parking, and  
248 loading; and

249 (D) [the] relationships between existing or proposed adjacent  
250 buildings [on adjoining tracts] and rights-of-way;

251 (3) [an illustrative diagram of proposed vehicular, pedestrian, and bicycle  
252 access, circulation, parking, and loading areas;

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

255 ~~[(5)]~~(4) [the] a general phasing outline of structures, uses, rights-of-  
256 way, sidewalks, dedications, public benefits, and future preliminary  
257 and site plan applications.

258 (b) Procedure for a sketch plan:

- 259 (1) Before filing a sketch plan application, an applicant must comply  
260 with the provisions of the Manual for Development Review  
261 Procedures, as amended, that concern the following:  
262 (A) notice;  
263 (B) posting the site of the application submittal; and  
264 (C) holding a pre-submittal meeting.
- 265 (2) A public hearing must be held by the Planning Board on each sketch  
266 plan application no later than 90 days after the filing of an optional  
267 method development application, unless a request to extend this  
268 period is requested by the applicant, Planning Board staff, or other  
269 interested parties. A request for an extension must be granted if the  
270 Planning Board finds it not to constitute prejudice or undue hardship  
271 on any interested party. A recommendation regarding any request for  
272 extension must be acted upon [as a consent agenda item] by the  
273 Planning Board on or before the 90-day hearing period expires.  
274 Notice of the extension request and recommendation by Staff must be  
275 posted no fewer than 10 days before the item's agenda date.
- 276 (3) No fewer than 10 days before the public hearing on a sketch plan,  
277 Planning Board staff must submit its analysis of the application,  
278 including its findings, comments, and recommendations with respect  
279 to the requirements and standards of this [[division]] Division and  
280 any other matters that may assist the Planning Board in reaching its  
281 decision on the application. This staff report must be included in the  
282 record of the public hearing.



- 283 (4) The Planning Board must act within 30 days after the close of the  
 284 record of the public hearing, by majority vote of those present and  
 285 voting based upon the hearing record, to:
- 286 (A) approve;
- 287 (B) approve subject to modifications, conditions, or binding  
 288 elements; or
- 289 (C) disapprove.
- 290 (c) In approving a sketch plan, the Planning Board must find that the following  
 291 elements are appropriate in concept and appropriate for further detailed  
 292 review at site plan. The sketch plan must:
- 293 (1) [The plan: (A) meets the] meet the objectives, general requirements,  
 294 and standards of this Division;
- 295 (2) [(B) will further] further the recommendations and objectives of the  
 296 applicable master or sector plan; [ and (C) will provide more efficient  
 297 and effective development of the site than the standard method of  
 298 development;]
- 299 [(2)](3) [The proposed building massing and height and public use and  
 300 other open spaces are located and scaled to achieve] achieve  
 301 compatible internal and external relationships [with each other and  
 302 with] between existing and proposed nearby buildings, [and] open  
 303 space [adjacent to the site and with adjacent communities], and uses;
- 304 [(3)](4) [The] provide satisfactory general vehicular, pedestrian, and  
 305 bicyclist access, circulation, parking, and loading [areas are adequate,  
 306 safe, and efficient];
- 307 [(4)](5) [The proposed] propose an outline of public benefits [and  
 308 associated] that supports the requested incentive density [will further

309 the objectives of the applicable master or sector plan and the  
 310 objectives of the CR zones]; and

311 ~~[(5)](6)~~ [The general] establish a feasible and appropriate provisional  
 312 phasing [of] plan for all structures, uses, rights-of-way, sidewalks,  
 313 dedications, public benefits, and future preliminary and site [plans is  
 314 feasible and appropriate to the scale and characteristics of the project]  
 315 plan applications.

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

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

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

324 (3) In acting to approve a sketch plan modification as part of site plan  
 325 review, the Planning Board must make the findings required in  
 326 Section 59-C-15.42(c) in addition to those required by Section 59-D-  
 327 3]] amendments to the binding elements of an approved sketch plan.

328 (1) Amendments to the binding elements may be approved, if such  
 329 amendments are:

330 (A) requested by the applicant;

331 (B) recommended by the Planning Board staff and agreed to by the  
 332 applicant; or

333 (C) made by the Planning Board, based on a staff recommendation  
 334 or on its own initiative, if the Board finds that a change in the

335 relevant facts and circumstances since sketch plan approval  
 336 demonstrates that the binding element either is not consistent  
 337 with the applicable master or sector plan or does not meet the  
 338 requirements of the zone.

339 (2) Notice of proposed amendments to the binding elements must be  
 340 identified in the site plan application if requested by the applicant, or  
 341 in the final notice of the site plan hearing if recommended by  
 342 Planning Board staff and agreed to by the applicant.

343 (3) For any amendments to the binding elements, the Planning Board  
 344 must make the applicable findings under Section 59-C-15.43(c), in  
 345 addition to the findings necessary to approve a site plan under Section  
 346 59-D-3.

347 **59-C-15.5. Land uses.**

348 No use is allowed in the CRN, CRT, or CR zones except as indicated below:

- 349 - *Permitted Uses* are designated by the letter “P” and are permitted  
 350 subject to all applicable regulations.
- 351 - Limited Uses are designated by the letter “L” and are permitted  
 352 subject to all applicable regulations and the additional restrictions  
 353 under Section 59-C-15.51.
- 354 - *Special Exception Uses* are designated by the letters “SE” and may be  
 355 authorized as special exceptions under Article 59-G.

356

Use	CRN	CRT	CR
<b>(a) Agricultural (non-residential)</b>			
Farm and country markets	<u>L</u>	<u>P</u>	P
Farm, limited to crops, vegetables, herbs, and ornamental plants	<u>P</u>	<u>P</u>	P
Nursery, horticultural – retail or wholesale		<u>P</u>	P
Seasonal outdoor sales	<u>P</u>	<u>P</u>	P
<b>(b) Residential</b>			

<b>Use</b>	<b>CRN</b>	<b>CRT</b>	<b>CR</b>
Dwellings	<u>P</u>	<u>P</u>	<u>P</u>
Group homes, small [or large]	<u>P</u>	<u>P</u>	<u>P</u>
Group homes, large	<u>L</u>	<u>P</u>	<u>P</u>
Hospice care facilities	<u>L</u>	<u>P</u>	<u>P</u>
Housing and related facilities for senior adults or persons with disabilities	<u>P</u>	<u>P</u>	<u>P</u>
Life care facilities	<u>P</u>	<u>P</u>	<u>P</u>
Live/Work units	<u>P</u>	<u>P</u>	<u>P</u>
Personal living quarters	<u>P</u>	<u>P</u>	<u>P</u>
<b>(c) Commercial Sales and Service (non-residential)</b>			
Advanced technology and biotechnology		<u>P</u>	<u>P</u>
Ambulance or rescue squads, private	<u>[[L]]</u>	<u>L</u>	<u>P</u>
Animal boarding places	<u>SE</u>	<u>SE</u>	<u>SE</u>
Automobile filling stations		<u>SE</u>	<u>SE</u>
Automobile rental services, excluding storage of vehicles and supplies	<u>P</u>	<u>P</u>	<u>P</u>
Automobile rental services, including storage of vehicles and supplies		<u>L</u>	<u>L</u>
Automobile repair and services		<u>L</u>	<u>P</u>
Automobile sales, indoors	<u>[[L]]</u>	<u>L</u>	<u>P</u>
Automobile sales, outdoors [(except where a municipality prohibits the use within its jurisdiction by resolution)]		<u>L</u>	<u>P</u>
Clinic	<u>L</u>	<u>P</u>	<u>P</u>
Conference centers		<u>P</u>	<u>P</u>
Eating and drinking establishments	<u>L</u>	<u>P</u>	<u>P</u>
Health clubs and gyms	<u>L</u>	<u>P</u>	<u>P</u>
Home occupations, major	<u>SE</u>	<u>SE</u>	<u>SE</u>
Home occupations, registered and no-impact	<u>P</u>	<u>P</u>	<u>P</u>
Hotels and motels	<u>[[L]]</u>	<u>P</u>	<u>P</u>
Laboratories		<u>P</u>	<u>P</u>
Dry cleaning and laundry pick-up stations	<u>P</u>	<u>P</u>	<u>P</u>
<u>Dry Cleaner / Laundry Under 3,000 square feet GFA</u>		<u>P</u>	<u>P</u>
Offices, general	<u>P</u>	<u>P</u>	<u>P</u>
Recreational facilities, participatory	<u>[[L]]</u> <u>SE</u>	<u>P</u>	<u>P</u>
Research, development, and related activities		<u>P</u>	<u>P</u>
Retail trades, businesses, and services of a general commercial nature <u>with each tenant footprint up to 5,000[[sf]] square feet</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Retail trades, businesses, and services of a general commercial nature with each tenant footprint between 5,000[[sf]] square feet and 15,000[[sf]] square feet</u>	<u>L</u>	<u>P</u>	<u>P</u>
<u>Retail trades, businesses, and services of a general commercial nature with each tenant footprint between 15,000[[sf]] square feet and 60,000[[sf]] square feet</u>		<u>P</u>	<u>P</u>

<b>Use</b>	<b>CRN</b>	<b>CRT</b>	<b>CR</b>
<u>Retail trades, businesses, and services of a general commercial nature with each tenant footprint over 60,000[sf] square feet</u>		<u>L</u>	<u>P</u>
Self-storage facilities		<u>SE</u>	<u>SE</u>
<u>Veterinary hospitals and offices with boarding facilities</u>	<u>SE</u>	<u>L</u>	<u>P</u>
<u>Veterinary hospitals and offices without boarding facilities</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Warehousing, not including self-storage, less than 10,000 square feet</u>		<u>P</u>	<u>P</u>
<b>(d) Institutional &amp; Civic (non-residential)</b>			
Charitable and philanthropic institutions	<u>[[L]]</u> <u>P</u>	<u>P</u>	<u>P</u>
Cultural institutions <u>less than or equal to 5,000 square feet GFA</u>	<u>[[L]]</u> <u>P</u>	<u>P</u>	<u>P</u>
<u>Cultural institutions greater than 5,000 square feet GFA</u>		<u>P</u>	<u>P</u>
<u>Day care facilities and centers with over 30 users</u>	<u>L</u>	<u>L</u>	<u>P</u>
<u>Day care facilities and centers with up to 30 users</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Educational institutions, private</u>	<u>L</u>	<u>P</u>	<u>P</u>
Hospitals		<u>P</u>	<u>P</u>
Parks and playgrounds, private	<u>P</u>	<u>P</u>	<u>P</u>
Private clubs and service organizations	<u>L</u>	<u>P</u>	<u>P</u>
Publicly owned or publicly operated uses	<u>P</u>	<u>P</u>	<u>P</u>
Religious institutions	<u>P</u>	<u>P</u>	<u>P</u>
<b>(e) Industrial (non-residential)</b>			
Manufacturing and production, artisan	<u>P</u>	<u>P</u>	<u>P</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>L</u>	<u>P</u>
Manufacturing and assembly of medical, scientific, or technical instruments, devices, and equipment		<u>L</u>	<u>P</u>
<b>(f) Other (non-residential)</b>			
Accessory buildings and uses	<u>P</u>	<u>P</u>	<u>P</u>
Bus terminals, non-public		<u>P</u>	<u>P</u>
Parking garages, automobile		<u>P</u>	<u>P</u>
Public utility buildings, structures, and underground facilities	<u>P</u>	<u>P</u>	<u>P</u>
Radio and television broadcast studios		<u>P</u>	<u>P</u>
Rooftop mounted antennas and related unmanned equipment buildings, cabinets, or rooms	<u>P</u>	<u>P</u>	<u>P</u>

357

358 **59-C-15.51. Limited Uses.**359 **59-C-15.511. Applicability.** Uses designated by an “L” in the land use table are360 Limited Uses and must comply with the requirements of this Section if they are on361 properties that are:

362 (a) [[Located]] located adjacent to a property in a one-family residential or  
363 agricultural zone that is not improved with a commercial, industrial, or  
364 utility use; or

365 (b) [[Separated]] separated from such a property only by the right-of-way of a  
366 primary, secondary, or tertiary residential street.

367 Where these circumstances do not apply, the use is considered a permitted use, and  
368 Section [[59-C-15.41(c)(1)]] 59-C-15.512 does not apply.

369 **59-C-15.512. Requirements of Limited Uses.**

370 Development applications that include Limited Uses must:

371 (a) satisfy the site plan requirements of 59-D-3;

372 (b) comply with the design recommendations of the applicable sector or master  
373 plan[[,]] and associated design guidelines; and

374 (c) ensure compatible relationships with existing and proposed adjacent  
375 residential housing through mitigating factors including, but not limited  
376 to[[,]]:

377 (1) increased setbacks;

378 (2) sound and visual barriers;

379 (3) decreased structural heights[[,]]; or

380 (4) diminished site lighting.

381 **59-C-15.6. General requirements.**

382 Development in the CRN, CRT, and CR [zone] zones must comply with the  
383 following requirements.

384 **59-C-15.61. Master plan and design guidelines conformance.**

385 Development that requires a site plan must be substantially consistent with the  
386 applicable master or sector plan [[, unless the Planning Board finds that events  
387 have occurred to render the relevant master or sector plan recommendation no

388 longer appropriate,]] and must [address] substantially conform to any design

389 guidelines approved by the Planning Board that implement the applicable plan.

390 **[59-C-15.62. Priority retail street frontages.**

391 Development that requires a site plan and is located on a street identified as a

392 priority retail street frontage in the applicable master plan, sector plan, or design

393 guidelines must be developed in a manner that is consistent with the

394 recommendations and objectives of the applicable plan and address any applicable

395 design guidelines approved by the Planning Board that implement the applicable

396 plan.

397 **59-C-15.63. Streetscape.**

398 Streetscape improvements must be consistent with the recommendations of the

399 applicable master or sector plan and must address any Planning Board approved

400 design guidelines that implement the applicable plan.]

401 **[59-C-15.64]59-C-15.62. Bicycle parking spaces and commuter shower/change**

402 **facility.**

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

408

<b>Bicycle and Shower/Change Facilities Required</b>			
<b>Use</b>	<b>Requirement</b>		
<b><i>Multi-family Residential</i></b>			
In a building containing less than 20 dwelling units.	At least 4 bicycle parking spaces.		

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

409 ]

410 Instead of the requirements of Article 59-E regarding bicycle parking spaces,  
 411 development in the CRN, CRT, and CR zones must satisfy the following  
 412 provisions.

413 (a) Bicycle Parking Spaces

414



<u>Use</u>	<u>Publicly Accessible Bike Spaces</u>	<u>Private, Secure Bike Spaces</u>
(1) <u>Multi-family Residential</u>		
<u>In a building containing less than 20 dwelling units</u>	<u>2</u>	<u>4</u>
<u>In a building containing 20 or more dwelling units</u>	<u>0.1 per unit to a maximum requirement of 10</u>	<u>[[0.5]] 0.35 per unit to a maximum requirement of 100</u>
<u>In any group living arrangement expressly for senior citizens</u>	<u>0.1 per unit, not fewer than 2, to a maximum requirement of 100</u>	<u>0.1 per unit, not fewer than 2, to a maximum requirement of 100</u>
(2) <u>Non-Residential</u>		
<u>Total non-residential floor area under 10,000 square feet gross floor area</u>	<u>2</u>	<u>2</u>
<u>Total non-residential floor area between 10,000[[sf]] square feet and 100,000 square feet gross floor area [[(sf)]]</u>	<u>2 per 10,000[[sf]] square feet</u>	<u>1 per 10,000[[sf]] square feet, not fewer than 2, to a maximum requirement of 10</u>
<u>Total non-residential floor area greater than 100,000 square feet gross floor area [[(sf)]]</u>	<u>20</u>	<u>1 per 10,000[[sf]] square feet, not fewer than 10, to a maximum requirement of 100.</u>

415

416 (b) For office uses with a total non-residential floor area of 100,000 square feet  
417 of gross floor area or greater, one shower/change facility is required for  
418 each gender; the facility may be made available only to employees when the  
419 building is accessible.

420 **[59-C-15.65]59-C-15.63. Parking.**

421 [(a) (1) For projects that satisfy the requirements for transit proximity levels 1  
422 or 2, the number of parking spaces provided on-site must not exceed the  
423 number required under Article 59-E, except that the maximum number of  
424 parking spaces for general retail and restaurant uses is 4 spaces for every  
425 1,000 square feet of gross leasable area, and no parking spaces are required  
426 for restaurant outdoor patron areas.

- 427 (2) All projects that do not satisfy the requirements for transit proximity levels  
 428 1 or 2 must meet the parking requirements established under Article 59-E,  
 429 except that the number of parking spaces for general retail and restaurant  
 430 uses in Subsection (a)(1) may be provided without a parking waiver.
- 431 (b) Except for retail and restaurant uses that satisfy Subsection (a)(1) and  
 432 projects that do not satisfy transit proximity level 1 or 2, the number of  
 433 parking spaces required is based on a building's distance from transit as  
 434 follows:  
 435

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

436

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

439 Instead of the requirements of Article 59-E regarding parking space numerical  
 440 requirements, landscaping, and surface parking design, development in the CRN,  
 441 CRT, and CR zones must comply with the following provisions. All standards and

442 requirements of Article 59-E that are not modified by this Section must be  
 443 satisfied.

444 **59-C-15.631. Parking Ratios.**

445 Parking spaces must satisfy the following minimums and maximums unless the  
 446 minimum number of parking spaces is waived under §59-C-15.636. The minimum  
 447 number of spaces required is equal to the number of parking spaces that would  
 448 otherwise be required by Division 59-E-3, multiplied by the applicable factor in  
 449 the table, or at the rate indicated. When a maximum number of spaces is  
 450 indicated, no more parking than would otherwise be required by Division 59-E-3  
 451 may be provided.

452

<u>Use</u>	<u>CRN</u>		<u>CRT</u>		<u>CR</u>			
	<u>Up to ½ mile</u>	<u>Greater than ½ mile</u>	<u>Up to ½ mile</u>	<u>Greater than ½ mile</u>	<u>Up to ¼ mile</u>	<u>¼ to ½ mile</u>	<u>½ to 1 mile</u>	<u>Greater than 1 mile</u>
<u>(a) Residential</u>								
<u>Maximum:</u>	<u>None</u>	<u>None</u>	<u>59-E</u>	<u>None</u>	<u>59-E</u>	<u>59-E</u>	<u>59-E</u>	<u>None</u>
<u>Minimum:</u>	<u>0.8</u>	<u>1.0</u>	<u>0.7</u>	<u>0.8</u>	<u>0.6</u>	<u>0.7</u>	<u>0.8</u>	<u>0.9</u>
<u>(b) Retail and restaurant non-residential uses (gross leasable indoor area; no parking spaces are required for outdoor patron area)</u>								
<u>Maximum:</u>	<u>[[59-E]] None</u>	<u>None</u>	<u>[[59-E]] None</u>	<u>None</u>	<u>59-E</u>	<u>59-E</u>	<u>59-E</u>	<u>None</u>
<u>Minimum:</u>	<u>[[0.6]] 4 per 1,000 square feet</u>	<u>[[0.8]] 4 per 1,000 square feet</u>	<u>[[0.4]] 4 per 1,000 square feet</u>	<u>[[0.6]] 4 per 1,000 square feet</u>	<u>4 per 1,000 square feet</u>	<u>4 per 1,000 square feet</u>	<u>4 per 1,000 square feet</u>	<u>[[0.8]] 4 per 1,000 square feet</u>
<u>(c) All other non-residential uses</u>								
<u>Maximum:</u>	<u>59-E</u>	<u>None</u>	<u>59-E</u>	<u>None</u>	<u>59-E</u>	<u>59-E</u>	<u>59-E</u>	<u>None</u>
<u>Minimum:</u>	<u>[[0.6]] 0.8</u>	<u>[[0.8]] 1.0</u>	<u>[[0.4]] 0.6</u>	<u>[[0.6]] 0.8</u>	<u>0.2</u>	<u>0.4</u>	<u>0.6</u>	<u>0.8</u>

453

454 (d) The appropriate rates to determine the number of parking spaces apply to  
 455 the gross floor area of each use within each distance category.

456 **59-C-15.632. Accepted Parking Spaces.**

457 [(c)] Parking requirements must be met by any one or a combination of the  
458 following:

459 [(1)](a) providing the spaces on site;

460 [(2)](b) constructing publicly available on-street parking; or

461 [(3)](c) participating in:

462 (1) a parking lot district;

463 (2) [or] a shared parking program established by municipal resolution; or

464 (3) entering into an agreement for shared parking spaces within ¼ mile of  
465 the subject property in a public or private facility ~~[[within]]~~ [1,000  
466 feet] ~~[[¼ mile of the subject lot]]~~, if the off-site parking facility is not  
467 in an agricultural (Division 59-C-9), planned unit development  
468 (Division 59-C-7), or one-family residential (Division 59-C-1) zone,  
469 unless otherwise allowed by this Chapter.

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

472

473 *Example:* A non-residential project on a CR-zoned site requiring at least 100 spaces under  
474 Article 59-E would be required to provide a maximum of 100 spaces on site. If that site was  
475 within ¼ to ½ mile of a transit station, the minimum requirement for parking would be 40 spaces  
476 (100 x 0.40 = 40). If 2 car-share spaces were provided, that requirement would be 28 for non-  
477 residential use or 34 for residential use.

478

479 **59-C-15.633. Parking space location and access.**

480 [(e)] The design of surface parking [facilities] spaces must comply with the  
481 following:

482 [(1)](a) [a] parking [facility at] spaces on or above grade must not be located  
483 between the street and the main front wall of the building or the side wall of  
484 [a] the main building on a corner lot [unless the Planning Board finds that

485 safe and efficient circulation would be better served by a different  
486 arrangement]; and

487 [(2)](b) if a site is adjacent to an alley, the primary vehicular access to the  
488 parking facility must be from that alley.]; and

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

491 **59-C-15.634. Drive-through facility design.**

492 Any drive-through facility requires the approval of a site plan under Division 59-  
493 D-3 and must satisfy the following:

494 [(f)](a) [The design of parking facilities with drive-through services must  
495 comply with the following; however, the Planning Board may approve a  
496 design if it finds that the alternative design would provide safer and more  
497 efficient circulation:] no part of a drive-through [[service]] facility,  
498 including the stacking area, may be located within 100 feet of a property  
499 line shared with [[an]] one-family (Division 59-C-1) or agriculturally  
500 (Division 59-C-9) zoned land;

501 [(1)](b) [the driveway must not be] no drive-through service window, drive  
502 aisle, or stacking area may be located between the street and the main front  
503 wall of [a] the main building [or the side wall of a building on a corner lot];

504 [(2)](c) [the] no drive-through service window [must], drive aisle, or stacking  
505 area may be located [on the rear or] between the street and the side wall of  
506 the main building [; any service window on the side wall of a building must  
507 be] on a corner lot unless permanently screened from any street by a 5-foot  
508 or higher wall or fence[[; and]]].

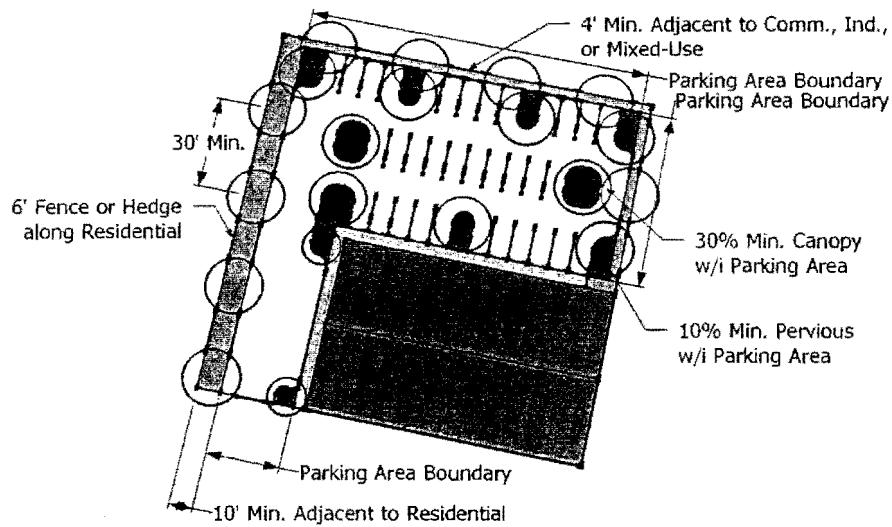
509 [(3) curb cuts to a street must be minimized to one drive aisle of no more than 20  
510 feet in width for two-way traffic or two drive aisles each of no more than 10  
511 feet in width for one-way traffic.]

512 **59-C-15.635. Landscaping and lighting.**

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

517

<b>Minimum Landscape Standards for Surface Parking</b>	
Subject	Requirement
(a) [Right-of-Way Screening] <u>Property line adjacent to a right-of-way</u>	No less than 6-foot [width of] <u>wide continuous soil panel [or] (excluding any utility easements) with stormwater [management recharge facility (not including any PUE or PIE) with groundcover] facilities, planting bed, or lawn, including[;] a minimum 3-foot high continuous evergreen hedge or fence; [and] plus one deciduous tree per 30 feet of street frontage or per the applicable streetscape standards.</u>
(b) <u>Property line adjacent to a lot or parcel in a one-family residential or agricultural zone</u>	<u>No less than 10-foot [[width]] wide continuous soil panel (excluding any utility easements) with stormwater facilities, planting bed, or lawn, including a minimum 6-foot high continuous evergreen hedge or fence; plus one deciduous tree per 30 feet of frontage.</u>
(c) <u>Property line [Adjacent] adjacent to a lot or parcel in any [Commercial, Industrial, or Mixed-Use Zone] zone not subject to (b), above</u>	<u>No less than 4-foot [[width]] wide continuous soil panel [or] (excluding any utility easements) with stormwater [management recharge facility with groundcover] facilities, planting bed, or lawn; plus one deciduous tree per 30 feet [of frontage].</u>
[Adjacent to a lot or parcel in an Agricultural or Residential District	10-foot 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.]
(d) <u>Internal Pervious Area</u>	<u>No less than 10 percent of the parking facility area [[comprised]] composed of individual areas of at least 100 square feet each.</u>
(e) <u>Tree Canopy Coverage</u>	<u>No less than 30 percent of the parking facility area (at 15 years growth).</u>
(f) <u>Lighting</u>	<u>Per the Illuminating Engineering Society of North America standards, or County equivalent, with full or partial cut-off fixtures and no more than 0.5 [[foocandle]] footcandle illumination at any property line subject to (b), above.</u>



519

520

*Surface Parking Landscape Requirements [[Illustrative]] Illustration*

521

**59-C-15.636. Waiver of parking provisions.**

523 The Director, Planning Board, or Board of Appeals may waive any requirement of  
 524 Section 59-C-15.63 not necessary to accomplish the objectives of this Division  
 525 and Section 59-E-4.2, and in conjunction with such a waiver may adopt reasonable  
 526 mitigating requirements above the minimum standards. At least 10 days notice of  
 527 any request for a waiver under this Section must be provided to all adjoining  
 528 property owners, affected citizen associations, and Planning Department Staff, if  
 529 applicable, before a decision may be made.

**59-C-15.7. Development standards.**

531 Development in [any] the CRN, CRT, and CR [zone] zones must comply with the  
 532 following standards.

**59-C-15.71. Density and height.**

534 Maximum density and height are specified by the zone established on the zoning  
 535 map under [[the provisions of]] Section 59-C-15.1.



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

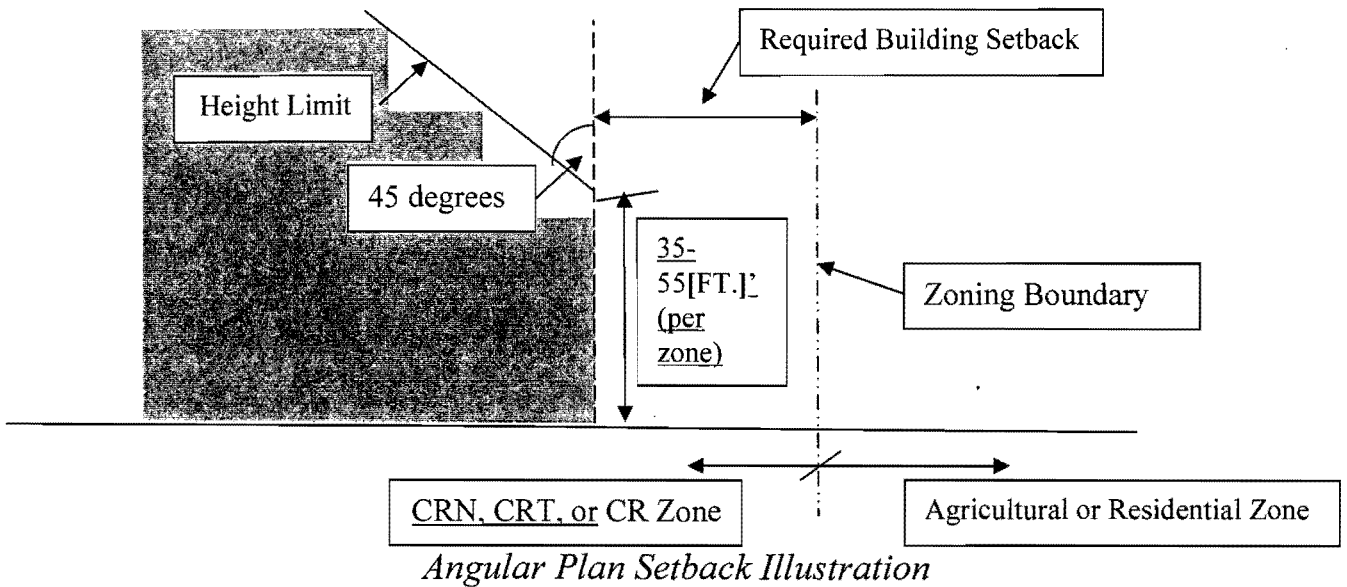
543 **[59-C-15.72. Height.**

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

548 **[59-C-15.73]59-C-15.72. Setbacks.**

- 549 (a) [A building must not be any closer to a lot line shared with] Where a tract of  
550 land is adjacent to a lot or parcel in [an agricultural (Division 59-C-9) or  
551 residential (Division 59-C-1)] a one-family residential or agricultural zone  
552 that is not improved with a commercial, industrial, or utility use, [than] any  
553 building:
- 554 (1) must have a minimum setback of 25 feet or the setback required by  
555 the adjacent lot or parcel, whichever is greater; and
- 556 (2) [the building] must not project beyond a 45 degree angular plane  
557 projecting over the subject lot or parcel measured from a height of 55  
558 feet in the CR zones, 45 feet in the CRT zones, or 35 feet in the CRN  
559 zones at the setback line determined above, with the exception of  
560 those features exempt from height and setback restrictions under  
561 Section 59-B-1.

562 (b) The development of a new building in place of a building existing when  
 563 [the] a CRN, CRT, or CR zone is applied may be built to the [pre-existing  
 564 setbacks] previously allowed setback if the height of the new building is not  
 565 increased [over that] above the height of the former building.  
 566



567  
 568  
 569

570 **[59-C-15.74]59-C-15.73. Public use space.**

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

575

<b>Gross Tract Area</b>	<b>Minimum Public Use Space</b>
Up to 10,000[[sf]] square feet	None
10,001[[sf]] square feet up to 3 acres	10% of net tract area
Over 3 acres	10% of limits of disturbance

576

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

579

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

580

581 (c) Public use space must:

582 (1) be [calculated on the net tract area that was included in the sketch  
 583 plan application;

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

585 [(3)](2) be easily and readily accessible to the public; and

586 [(4) be distributed within the entire tract area included in the sketch plan  
 587 application; and

588 (5)](3) contain amenities such as seating options, shade, landscaping,  
 589 artwork, or [other similar public benefits] fountains.

590 (d) Instead of providing on-site public use space, [for any site of 3 acres or less,  
 591 a development may propose the following alternatives,] an applicant may  
 592 satisfy all or part of the requirement by one or more of the following means,  
 593 subject to Planning Board approval:

594 (1) implementing public park or public use space improvements of an  
 595 equal or greater size within [¼ mile of the subject site] or near the  
 596 applicable master or sector plan area; or

597 (2) making a payment in part or in full [to the Public Amenity Fund  
598 under Section 59-D-2.31.] for design, construction, renovation,  
599 restoration, installation, and/or operation within or near the applicable  
600 master or sector plan area if the payment is:

601 (A) equal to the cost of constructing an equal amount of public use  
602 space and associated amenities on~~[-]~~ site per square foot plus  
603 the fair market value of the ~~[[application]] applicable tract of~~  
604 land per square foot;

605 (B) used to implement the open space, recreation, and cultural  
606 goals of the applicable master or sector plan; and

607 (C) made within 30 days of the release of any building permit for  
608 the subject application.

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

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

614 (2) indicated on the approved sketch plan.]

615 **[59-C-15.75]59-C-15.74. Residential amenity space.**

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

618

<b>Required Residential Amenity Space</b>	
<b>Type of Amenity Space</b>	<b>Area of Amenity Space</b>
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>A minimum of 20 square feet per market-rate dwelling unit up to 5,000 square feet.</u>
Passive or active outdoor recreational space.	<u>A minimum of 20 square feet per market-rate dwelling unit, of which at least 400 square feet must adjoin or be directly accessible from the indoor amenity space, up to 5,000 square feet.</u>

619

620 (b) [The] Additional amenity space is not required for Moderately Priced  
621 Dwelling Units (MPDUs) or Workforce Housing Units (WFHUs) on a site  
622 within a metro station policy area or where the Planning Board finds [that  
623 there is] adequate recreation facilities and open space area available within  
624 [a] ½ mile [radius] of the subject site. If such a finding cannot be made,  
625 amenity space must be provided as if all the dwelling units were market-rate  
626 units.

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

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

633 **59-C-15.8. Special regulations for the optional method of development.**

634 **[59-C-15.81. Incentive Density Provisions.]**

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

639 **59-C-15.81. Incentive Density Categories.**

640 [(a)] Public benefits must be provided that enhance or contribute to the  
 641 objectives of the CRT and CR [zone] zones in some or all of the following  
 642 categories:

- 643 [(1)](a) [Master-planned major] Major public facilities;
- 644 [(2)](b) Transit proximity [for residents, workers, and patrons];
- 645 [(3)](c) Connectivity between uses [and], activities, and mobility options;
- 646 [(4)](d) Diversity of uses and activities;
- 647 [(5)](e) Quality of building and site design; [[and]]
- 648 [(6)](f) Protection and enhancement of the natural environment[; and
- 649 (7) Advanced dedication of right-of-way];and

650 (g) Retained Buildings.

651 [Sections 59-C-15.82 through 59-C-15.88 indicate] Section 59-C-15.85 indicates  
 652 the individual [types of] public benefits that may be accepted in each of these  
 653 categories.

654 **59-C-15.82. Public benefits required.**

655 (a) Any optional method development must satisfy the minimum public benefit  
 656 points from the mininium number of benefit categories as follows:

657

<u>Zoning Classification</u>	<u>Sites smaller than 10,000 square feet of land area or less than 1.5 maximum allowed FAR</u>		<u>Sites equal to or larger than 10,000 square feet of land area or equal to or more than 1.5 maximum allowed FAR</u>	
	<u>Public Benefit Points</u>	<u>Number of Benefit Categories</u>	<u>Public Benefit Points</u>	<u>Number of Benefit Categories</u>
<u>CRT</u>	<u>25</u>	<u>2</u>	<u>50</u>	<u>3</u>
<u>CR</u>	<u>50</u>	<u>3</u>	<u>100</u>	<u>4</u>

658

659 For the purpose of determining the minimum number of public benefit  
660 points and the minimum number of benefit categories, all land adjoining and  
661 abutting the subject property under common ownership when the CR or  
662 CRT zone was applied must be included to determine the area of the site.

663 [[Any optional method development must provide public benefits from at least 4  
664 of the categories listed in Section 59-C-15.81 and:

665 (a) Development in the CRT zones must provide public benefits worth a  
666 minimum total of 50 points; and]]

667 (b) Development in the CR zones must provide BLTs required under Section  
668 59-C-15.856(a) for at least 5 points and provide additional public benefits;  
669 the sum of the public benefit points must equal at least 100.

670 **59-C-15.83. General incentive density considerations.**

671 [(b)] In approving any incentive density based on the provision of public  
672 benefits, the Planning Board must not grant incentive density for any  
673 attribute required by law and must consider:

674 [(1)](a) The [policy] recommendations, [[and]] objectives, [and priorities] and  
675 priorities of the applicable master or sector plan;

676 [(2)](b) [Any applicable design guidelines and any adopted public benefit  
677 standards and guidelines] The CR Zone Incentive Density Implementation  
678 Guidelines and any design guidelines adopted for the applicable master plan  
679 area;

680 [(3)](c) The size and configuration of the tract;

681 [(4)](d) The relationship of the site to adjacent properties;

682 [(5)](e) The presence or lack of similar public benefits nearby; and

683 [(6)](f) Enhancements beyond the elements listed in the individual public  
684 benefit descriptions or criteria that increase public access to or enjoyment of  
685 the benefit.

686 Examples: Pedestrian activation along a through-block connection, greater  
687 vegetated roof or tree canopy area than required, tower step-backs at a lower  
688 height or deeper into the site than the minimum necessary to qualify for the  
689 benefit, or provision of neighborhood services for more smaller businesses  
690 than required.

691 [(c) Any incentive density increase approved by the Planning Board for an  
692 optional method of development application must satisfy Subsection 59-C-  
693 15.87(a).]

694 **59-C-15.84. CR zones incentive density implementation guidelines.**

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

698 [(1)](a) be consistent with the [recommendations and] objectives of [the  
699 applicable master or sector plan and the purpose of the CR zones] [[this  
700 Division]] the applicable master or sector plan and the purpose of the CR  
701 zones;

702 [(2)](b) be in addition to any standards, requirements, or rules of incentive  
703 density calculation included in this Division, but may not [supersede]  
704 conflict with those provisions; and

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



- 707 (4)(c) only [address the] allow incentive density for those public benefits  
708 listed in [Sections 59-C-15.82 through 59-C-15.88 and must not add a  
709 public benefit category; and
- 710 (5) include the criteria to determine when an early dedication of right-of-way  
711 qualifies for incentive density, and the amount of the incentive density  
712 permitted] Section 59-C-15.85.

713 **59-C-15.85. Individual public benefit descriptions and criteria for CR zones.**  
714 **[59-C-15.82]59-C-15.851. [Incentives for master-planned major] Major public**  
715 **facilities.**

716 Major public facilities [such as schools, libraries, recreation centers, urban parks,  
717 and county service centers] provide public services at convenient locations and  
718 where increased density creates a greater need for civic uses and greater demands  
719 on public infrastructure [ , centers for community meetings, and civic events].

720 (a) Major public facilities include, but are not limited to, such facilities as  
721 schools, libraries, recreation centers, parks, county service centers, public  
722 transportation or utility upgrades, or other resources delineated in an  
723 applicable master or sector plan.

724 (b) If a major public facility is not recommended in the applicable master or  
725 sector plan, the Planning Board must find that the facility or improvement  
726 provides the community with a resource that is at least as beneficial as other  
727 major facilities recommended in the applicable master or sector plan.

728 Additionally, any infrastructure upgrade may only receive incentive density  
729 for improvements beyond those required by any applicable adequate public  
730 facilities requirement to complete the proposed development.

731 (c) Because of their significance in place-making, the Planning Board may  
732 approve incentive density of up to 40 points in the CRT zones and 70

733 [percent] points in the CR zones for (1) the conveyance of a site or floor  
 734 area for, [and/or] (2) construction of, and/or (3) making a payment for a  
 735 major public facility that is [designated on a master plan or sector plan and  
 736 is] accepted for use and/or operation by [the] an appropriate public agency,  
 737 community association, or nonprofit organization.

738 **[59-C-15.83]59-C-15.852. [Incentives for transit] Transit Proximity.**

739 [In order to encourage] Development near transit facilities encourages greater use  
 740 of transit, [control] controls sprawl, and [reduce] reduces vehicle miles traveled,  
 741 congestion, and carbon emissions[, the Planning Board may approve incentive  
 742 density for transit proximity under this section. The percentage of incentive  
 743 density awarded to a project for transit proximity is], and is eligible for incentive  
 744 density. The Planning Board may approve incentive density for transit proximity  
 745 under this section. Transit proximity points are granted for proximity to existing  
 746 or master planned transit stops based on transit service level and CRT and CR  
 747 zones as follows:

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

748

<u>Proximity</u>	<u>Adjacent or confronting</u>		<u>Within ¼ mile</u>		<u>Between ¼ and ½ mile</u>		<u>Between ½ and 1 mile</u>	
<u>Transit Service Level</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>
<u>CRT</u>	<u>25</u>	<u>15</u>	<u>20</u>	<u>12.5</u>	<u>15</u>	<u>10</u>	<u>10</u>	<u>7.5</u>
<u>CR</u>	<u>50</u>	<u>30</u>	<u>40</u>	<u>25</u>	<u>30</u>	<u>20</u>	<u>20</u>	<u>15</u>

749

750 (a) A project is adjacent to or confronting a transit station or stop if it shares a  
 751 property line[, ] or easement line, or is separated only by a right-of-way from  
 752 an existing or master-planned transit station or stop, and 100 percent of the

753 gross tract area [submitted] in a single sketch plan application is within ¼  
754 mile of the transit portal.

755 (b) For split proximity-range projects:

756 (1) [For all other projects to qualify for incentive density availability at  
757 the other distances,] If at least 75 percent of the gross tract area in a  
758 single sketch plan application [must be within the range for which the  
759 incentive is proposed.] is within the closer of two proximity ranges,  
760 the entire project may take the points for the closer range;

761 (2) [The incentive density for projects] If less than 75 percent of the  
762 gross tract area in [1 distance range] a single sketch plan is within the  
763 closer of 2 proximity ranges, the points must be calculated as the  
764 weighted average of the percentage of area in each range.

765 **[59-C-15.84]59-C-15.853. [Incentives for connectivity] Connectivity and**  
766 **mobility.**

767 [In order to enhance] Development that enhances connectivity between uses and  
768 amenities; [and increase] increases mobility options; [encourage] encourages non-  
769 automotive travel [for short and multi-purpose trips as well as for commuting];  
770 [facilitate] facilitates social [and commercial] interaction; [provide] provides  
771 opportunities for healthier living; and [stimulate] stimulates local businesses[, the  
772 Planning Board may approve incentive density of up to 30% for a project that  
773 provides at least 2 of the following public benefits:] is eligible for incentive  
774 density.

775 (a) **Neighborhood Services:** [Safe] [[At least 10 points for safe and direct  
776 pedestrian access to at least 10 different retail services on site or within ¼  
777 mile, of which at least 4 have a [maximum] retail bay floor area of no  
778 greater than 5,000 square feet]] When fewer than 10 different basic services

779 are within ¼ mile of the subject site, up to 15 points for providing floor area  
780 resulting in at least 10 different basic services within ¼ mile of the subject  
781 site. Of those 10 services, at least 4 must have tenant or owner bays of no  
782 more than 5,000 square feet each. However, for all sketch plan applications  
783 approved by the Planning Board before October 11, 2011, and for any  
784 subsequent related site plan approvals, at least 10 points for safe and direct  
785 pedestrian access to at least 10 different retail services on site or within ¼  
786 mile, of which at least 4 have a retail bay floor area of no greater than 5,000  
787 square feet.

788 (b) **Minimum Parking:** [Provision of the minimum required] Up to 10 points  
789 for providing less than the maximum allowed number of parking [for  
790 projects of one acre of gross tract area or more] spaces, if a maximum is  
791 applicable under Section 59-C-15.631.

792 (c) **Through-Block Connections:** [Safe] Up to 20 points for safe and attractive  
793 pedestrian connections between streets.

794 (d) **Public Parking:** [Provision of] Up to 25 points for providing up to the  
795 maximum number of parking spaces allowed in the zone as public parking.

796 (e) **Transit Access Improvement:** [Ensuring] Up to 20 points for ensuring that  
797 access to transit facilities meets County standards for handicapped  
798 accessibility.

799 (f) **Trip Mitigation:** [A] [[At least 15]] Up to 20 points for entering into a  
800 binding [and verifiable] Traffic Mitigation Agreement to reduce the number  
801 of weekday morning and evening peak hour trips attributable to the site in  
802 excess of any other regulatory requirement; the agreement must result in a  
803 non-auto driver mode share of at least 50% for trips attributable to the site.

- 804 (g) Streetscape: Up to 20 points for construction of off-site streetscape,  
805 excluding any streetscape improvements required by this Division.
- 806 (h) Advance Dedication: Up to 30 points for dedicating or providing a  
807 reservation for dedication for master-planned rights-of-way in advance of a  
808 preliminary or site plan application.
- 809 (i) Way-Finding: [[At least 5]] Up to 10 points for design and implementation  
810 of a way-finding system orienting pedestrians and cyclists to major open  
811 spaces, cultural facilities, and transit opportunities.

812 **[59-C-15.85]59-C-15.854. [Incentives for diversity] Diversity of uses and**  
813 **activities.**

814 [In order to increase] Development that increases the variety and mixture of land  
815 uses, types of housing, economic [diversity] variety, and community activities;  
816 [contribute] contributes to development of [a] more efficient and sustainable  
817 [community] communities; [reduce] reduces the necessity for automobile use; and  
818 [facilitate] facilitates healthier lifestyles and greater social interaction[, the  
819 Planning Board may approve incentive density of up to 30% for a project that  
820 provides affordable housing or a public facility, as described below, or at least 2 of  
821 the other following public benefits:] is eligible for incentive density.

822 (a) **Affordable Housing:**

823 (1) All residential development must comply with the requirements of  
824 Chapter 25A for the provision of Moderately Priced Dwelling Units  
825 (MPDUs) [and may provide Workforce Housing Units (WFHUs)  
826 under Chapter 25B.

827 (1) MPDU Incentive Density: Provision of MPDUs above the minimum  
828 required is calculated on the total number of dwelling units as  
829 required by Chapter 25A, and the percent of incentive density

830 increase is based on the proposed FAR for the entire project]]], except  
831 that achieving bonus density under Section 25A-5(c)(3), as amended  
832 from time to time, entitles an applicant to incentive density points  
833 under this Division equal to the bonus density percentage]]].

834 (2) MPDU Incentive Density: Provision of MPDUs above the minimum  
835 number of units required by Chapter 25A.

836 (A) MPDU units above the minimum number of units required, but  
837 not more than 15 percent of all units, entitles the applicant to  
838 12 incentive density points for each 1 percent increase in  
839 MPDUs. Any fraction of 1 percent increase in MPDUs entitles  
840 the applicant to an equal fraction of 12 points.

841 (B) Above 15 percent of MPDUs, each 1 percent of additional  
842 MPDUs entitles the applicant to an additional 2 benefit points;  
843 any fraction of 1 percent increase in MPDUs entitles the  
844 applicant to an equal fraction of 2 points.

845 (C) MPDUs under this subsection may be provided in any manner  
846 allowed by Chapter 25A.

847 [[

848 *Example:* Provision of 14.5% MPDUs is awarded [an incentive density of  
849 20 % (see 25A-5(c)(3)). In the case of a CR 4.5 zone that proposes 4.5  
850 FAR, that equals 0.20 x 4.0 (the incentive density), which is 0.8 FAR] 20  
851 points; provision of 13.0% MPDUs is awarded 5 points.

852

]]

853 [(2)] [WFHU Incentive Density: Provision of] [Up to 30 points for  
854 providing Workforce Housing Units (WFHUs) at a rate of] [is

855 calculated at the following rate:] [[2 times the percentage of total  
 856 units, excluding MPDUs]] [provided as WFHUs]]].

857

858 *Example:* Provision of 5% WFHUs is awarded [incentive density of] 10[%]  
 859 points; provision of 12% WFHUs is awarded [incentive density of] 24[%]  
 860 points.

861

862

863 (b) **Adaptive Buildings:** [Provision of buildings with] [[At least 10]] <sup>||</sup> Up to 15  
 864 points for constructing commercial or [[mixed use]] mixed-use buildings  
 865 with minimum floor-to-floor heights of at least 15 feet on any floor that  
 866 meets grade and 12 feet on all other floors. Internal structural systems must  
 867 be able to accommodate various types of use with only minor modifications.

868 (c) **Care Centers:** [Child] Up to 20 points for constructing a child [[or]] day  
 869 care, adult day care [facilities], or teen center facility, with spaces for at  
 870 least 15 users.

871 (d) **Small Business [Retention] Opportunities:** [Provision of] Up to 20 points  
 872 for providing on-site space for small, neighborhood-oriented businesses.

873 (e) **Dwelling Unit Mix:** [Provision of] [[At least 5]] Up to 10 points for  
 874 integrating a mix of residential unit types with at least 7.5% efficiency units,  
 875 8% 1-bedroom units, 8% 2-bedroom units, and 5% 3-or-more bedroom  
 876 units.

877 (f) **Enhanced Accessibility for the Disabled:** [Provision of] Up to 20 points  
 878 for constructing dwelling units that satisfy American National Standards  
 879 Institute A117.1 Residential Type A standards or [units that satisfy] an  
 880 equivalent County standard.

881 (g) Live/Work: [[At least 10]] Up to 15 points for developments of up to 2.0  
 882 FAR total density that provide at least the greater of 3 units or 10% of the  
 883 total unit count as live/work units.

884 ~~[59-C-15.86]~~59-C-15.855. [Incentives for quality] Quality building and site  
 885 design.

886 High quality design is especially important in urban, integrated-use settings, to  
 887 ensure that buildings and uses are visually compatible with each other and  
 888 adjacent communities and to provide a harmonious pattern of development, and is  
 889 eligible for incentive density. Due to [the] increased density [of] in these settings,  
 890 buildings tend to [have high visibility. High] be highly visible; [[and]] high  
 891 quality design [may help to] helps attract residents, patrons, and businesses to  
 892 [locate in] these [settings] areas. Location, height, massing, façade treatments, and  
 893 ornamentation of buildings affect sense of place, orientation, and the perception of  
 894 comfort and convenience. The quality of the built environment affects light,  
 895 shadow, wind, and noise, as well as the functional and economic value of  
 896 property. [In order to promote high quality design, the Planning Board may  
 897 approve incentive density of up to 30% to a project that provides at least 2 of the  
 898 following public benefits:]

899 (a) **Historic Resource Protection:** [Preservation] Up to 20 points for the  
 900 preservation and/or enhancement of, or payment towards preservation  
 901 [[and/]]or enhancement of a historic resource [indicated on] or a  
 902 contributing element within a historic district designated in the Master Plan  
 903 for Historic Preservation [in conformance with a plan approved by the  
 904 Historic Preservation Commission. A fee-in-lieu for a specific preservation  
 905 project may be paid to the Historic Preservation Division as specified in the  
 906 Guidelines for Public Benefits].



- 907 (b) **Structured Parking:** [Parking provided] Up to 20 points for placing  
 908 parking within [a structure or below-grade] above- or below-grade  
 909 structures.
- 910 (c) **Tower [Setback] Step-Back:** [Setback of building] [[At least 5]] Up to 10  
 911 points for stepping back a building's upper floors by a minimum of 6 feet  
 912 [beyond] behind the first floor façade [at a maximum height of]. The step-  
 913 back must begin at a height no greater than 72 feet.
- 914 (d) **Public Art:** [Provision of ] Up to 15 points for installing public art [must  
 915 be] reviewed for comment by, or paying a fee accepted by, the [Public Arts  
 916 Trust Steering Committee. A fee-in-lieu may be paid to the Trust as  
 917 specified in the Guidelines for Public Benefits] Arts and [[Humanity]]  
 918 Humanities Council.
- 919 (e) **Public Open Space:** [Provision of] Up to 20 points for providing, or  
 920 making a payment for, open space in addition to the minimum public use  
 921 space required by [the zone. Public open space must be easily accessible to  
 922 the public during business hours and/or at least from sunrise to sunset and  
 923 must contain amenities such as seating, plantings, trash receptacles, kiosks,  
 924 and water features] this Division.
- 925 [(f) **Streetscape:** Construction of off-site streetscape in addition to the  
 926 requirements of this division][[.]]
- 927 (f) **Exceptional Design:** [Building design that provides innovative solutions in  
 928 response to the immediate context; creates a sense of place and serves as a  
 929 landmark; enhances the public realm in a distinct and original manner;  
 930 introduces new materials, forms, or building methods; uses design solutions  
 931 to make compact infill development living, working, and shopping  
 932 environments more pleasurable and desirable; and integrates low-impact

933 development methods into the overall design of the site and building.] Up to  
 934 10 points for building or site design whose visual and functional impacts  
 935 enhance the character of a setting and the purposes delineated in this  
 936 Section.

937 (g) **Architectural Elevations:** Up to 20 points for providing elevations of  
 938 architectural façades and agreeing to be bound by particular elements of  
 939 design, such as minimum amount of transparency, maximum separation  
 940 between doors, awning provisions, sign restrictions, or lighting parameters  
 941 that affect the perception of mass[[.]] or pedestrian comfort, or enhance  
 942 neighborhood compatibility.

943 **[59-C-15.87]59-C-15.856. [Incentives for] Protection and enhancement of the**  
 944 **natural environment.**

945 [In order to combat sprawl and] [[Protection]] Protecting and [[enhancement of]]  
 946 enhancing natural systems and [[decreases in]] decreasing energy consumption  
 947 help mitigate or reverse environmental [problems] impacts, such as heat island  
 948 effects from the built environment, inadequate carbon-sequestration, habitat and  
 949 agricultural land loss, and air and water pollution caused by reliance on the  
 950 automobile, and are eligible for incentive density [, the Planning Board may  
 951 approve a density increase up to 30% for the public benefits in this Subsection:].

952 (a) **Building Lot Termination(BLT):** [CR zones require] Up to 30 points for  
 953 the purchase of BLT easements or payment to the Agricultural Land  
 954 Preservation Fund (ALPF) [for at least 5% but no more than 30% of the  
 955 incentive density under the following conditions]. The first 5 points are  
 956 mandatory for all developments in the CR zones; up to 25 additional points  
 957 are allowed as an option.

- 958           (1) In the CR zones, an applicant must purchase BLT easements, or make  
959 payments to the ALPF, in an amount equal to 5% of the incentive  
960 density floor area under the following parameters:
- 961           (A) One BLT must be purchased or equivalent payment made for  
962 every 20,000 square feet of gross floor area to qualify for the  
963 first 5% incentive density floor area; [[and]]
- 964           (B) Any private BLT easement must be purchased in whole units;  
965 or
- 966           (C) BLT payments must be made to the ALPF, based on the  
967 amount established by Executive Regulations under Chapter  
968 2B; if a fraction of a BLT easement is needed, a payment based  
969 on the gross square footage of incentive density must be made  
970 for at least the fraction of the BLT easement.
- 971           (2) [BLT payments must be made to the Agricultural Land Preservation  
972 Fund, based on the amount established by Executive Regulations  
973 under Chapter 2B; if a fraction of a BLT easement is needed, a  
974 payment based on the gross square footage of incentive density must  
975 be made to the Agricultural Land Preservation Fund for at least the  
976 fraction of the BLT easement.] Up to 25 points for the purchase of  
977 BLTs[[,] or equivalent payments to the ALPF may be made for any  
978 incentive density above 5%. Each BLT easement purchase or  
979 payment is equal to 30,000 square feet of gross floor area, or such  
980 proportionate square footage represented by a fractional BLT  
981 purchase or payment. This is converted into points by dividing the  
982 incentive density floor area covered by the purchase or payment by  
983 the total square feet of the incentive density area.

- 984 (3) In the CRT zones, BLT payments are optional; each BLT easement  
 985 purchase or payment is equal to 30,000 square feet of gross floor area,  
 986 or such proportionate square footage represented by a fractional BLT  
 987 purchase or payment.[(A) For the first 5% of incentive density,  
 988 each BLT easement purchase or payment allows 20,000 gross square  
 989 feet of incentive density or a proportion thereof, allowed by a  
 990 payment for a fraction of a BLT.  
 991 (B) For the incentive density above 5%, each BLT easement purchase or  
 992 payment allows 30,000 gross square feet of incentive density or a  
 993 proportion thereof, allowed by a payment for a fraction of a BLT.]

994 Example: If a 50,000 square-foot [(sf) CR3.0] CR-3.0 site is fully  
 995 developed, the incentive density available to be earned equals 125,000[(sf)]  
 996 square feet (150,000[(sf)] square feet - 25,000[(sf)] square feet =  
 997 125,000[(sf)] square feet). The 5% BLT requirement for 125,000[(sf)]  
 998 square feet equals 6,250[(sf)] square feet, which equals 0.32 BLT  
 999 (6,250[(sf)] square feet / 20,000[(sf)] square feet = 0.32). If the applicant  
 1000 seeks an additional 10 points through the purchase of BLTs, 10% of the  
 1001 incentive density is calculated, which in this case is 12,500[(sf)] square feet  
 1002 (125,000[(sf)] square feet x 0.10 = 12,500[(sf)] square feet). Because 1  
 1003 BLT, above the required 5%, is equivalent to 30,000[(sf)] square feet, the  
 1004 12,500[(sf)] square feet requires a payment for an additional 0.42 BLTs  
 1005 (12,500[(sf)] square feet / 30,000[(sf)] square feet = 0.42). Together, the  
 1006 required and incentive BLTs equal 0.74 BLTs for 15 points in the  
 1007 Environment category.

- 1008 (b) **Energy Conservation and Generation:** [Provision of energy-efficiency  
 1009 that exceeds] [[At least 10]] Up to 15 points for constructing buildings that

- 1010 exceed the energy-efficiency standards for the building type by 17.5% for  
 1011 new buildings or 10% for existing buildings [, or provision of]. At least 15  
 1012 points for providing renewable energy generation facilities on[[-]] site or  
 1013 within ½ mile of the site for a minimum of 2.5% of the projected energy  
 1014 requirement for the development.
- 1015 (c) **[Green] Vegetated Wall:** [Installation] [[At least 5]] Up to 10 points for the  
 1016 installation and maintenance of a vegetated wall that covers at least 30% of  
 1017 any blank wall or parking garage façade that is at least 300 square feet in  
 1018 area and is visible from a public street or open space.
- 1019 (d) **Tree Canopy:** [Coverage] [[At least 10]] Up to 15 points for tree canopy  
 1020 coverage at 15 years of growth of at least 25% of the on-site open space.
- 1021 (e) **Vegetated Area:** [Installation] [[At least 5]] Up to 10 points for installation  
 1022 of plantings in a minimum of 12 inches of soil, covering at least 5,000  
 1023 square feet [of previously impervious surfaces]. This does not include  
 1024 vegetated roofs.
- 1025 (f) **Vegetated Roof:** [Provision] [[At least 10]] Up to 15 points for installation  
 1026 of a vegetated roof with a soil depth of at least 4 inches covering at least  
 1027 33% of a building's roof, excluding space for mechanical equipment.
- 1028 (g) **Cool Roof:** [[At least 5]] Up to 10 points for constructing any roof area that  
 1029 is not covered by a vegetated roof with a minimum solar reflectance index  
 1030 (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a  
 1031 minimum SRI of 25 for slopes above 2:12.
- 1032 (h) **Recycling Facility Plan:** [[At least 5]] Up to 10 points for providing a  
 1033 recycling facility plan to be approved as part of a site plan for buildings that  
 1034 must comply with Montgomery County Executive Regulation 15-04AM or  
 1035 Montgomery County Executive Regulation 18-04.

1036 (i) **Habitat Preservation and Restoration: Up to 20 points for protection,**  
 1037 **restoration, or enhancement of natural habitats, [[onsite]] on site or within**  
 1038 **the same local watershed, which are in addition to requirements of the**  
 1039 **Forest Conservation Law or other county laws.**

1040 [59-C-15.88. Advanced dedication of right-of-way.

1041 When sketch plans or site plans are approved, the Planning Board may allow an  
 1042 incentive density not to exceed 30% for a prior dedication of rights-of-way for  
 1043 roadways, sidewalks, or bikeways recommended in the applicable master or sector  
 1044 plan, if the County or the State is responsible for constructing the facility on the  
 1045 right-of-way.]

1046 **59-C-15.857. Retained Buildings.**

1047 Development that:

- 1048 (a) maintains 75% of the structural system of the existing building;
- 1049 (b) uses an architectural deconstruction company or organization to remove  
 1050 recyclable materials prior to any demolition; and
- 1051 (c) submits documentation showing compliance with these criteria before the  
 1052 County issues a building permit for a new development

1053 may receive public benefit points, determined by applying the following formula:

1054 Public benefit points in CR zones =  
 1055 (Retained gross floor area / Incentive density gross floor area) x 100;  
 1056 Public benefit points in CRT zones =  
 1057 (Retained gross floor area / Incentive density gross floor area) x 50.

1058 **59-C-15.9. Existing Approvals.**

- 1059 (a) One or more lawfully existing buildings [or], structures [and the], or uses  
 1060 [therein which][[.]] that predate the [applicable sectional map amendment]  
 1061 application of the CR zone to the [[site]][,] land are conforming structures

1062 or uses[[,]] and may be continued, renovated, repaired, or reconstructed to  
 1063 the same size and configuration, or enlarged up to a total of 10 percent  
 1064 above the total existing floor areas of all buildings and structures on site or  
 1065 30,000 square feet, whichever is less, and such development does not  
 1066 require a site plan. [Enlargements] Expansions in excess of the limitations  
 1067 in this Subsection will require compliance with the full provisions of this  
 1068 Division. Uses located in a building or structure deemed conforming under  
 1069 the provisions of this Subsection may be converted to any permitted non-  
 1070 residential or residential use(s) up to the density limits for the land use  
 1071 established by the CRT, CRN, or CR zone.

1072 (b) A project that received an approved development plan under Division 59-D-  
 1073 1 or schematic development plan under Division 59-H-2 before the  
 1074 [enactment] application of the CR zones to the [[site]] land may proceed  
 1075 under the binding elements of the development plan and will thereafter be  
 1076 treated as a lawfully existing building, and may be renovated or  
 1077 reconstructed under Subsection (a) above. Such development plans or  
 1078 schematic development plans may be amended as allowed under Division  
 1079 59-D-1 or 59-H-2 under the provisions of the previous zone; however, any  
 1080 incremental increase in the total floor area beyond that allowed by  
 1081 Subsection (a) above or any incremental increase in building height greater  
 1082 than 15 feet requires, with respect to the incremental increase only, full  
 1083 compliance with the provisions of this Division. Any failure to fully  
 1084 comply with the binding elements of the development plan will require full  
 1085 compliance with the provisions of this Division.

1086 (c) At the option of the owner, any portion of a project subject to an approved  
 1087 development plan or schematic development plan described in Subsection

1088 (b) above may be developed under this Division. The remainder of that  
1089 project continues to be subject to the approved development plan or  
1090 schematic development plan[[,]] under Subsections (a) and (b).

1091 (d) A project which has had a preliminary or site plan approved before the  
1092 [[applicable sectional map amendment]] application of the CR zone to the  
1093 property may be built or altered at any time, subject to either the full  
1094 provisions of the previous zone or this [division] Division, at the option of  
1095 the owner. If built under the previous approval, it will then be treated as a  
1096 [lawfully existing building] conforming building, structure, or use and may  
1097 be renovated, continued, repaired, or reconstructed under Subsection (a)  
1098 above. If built with an incremental increase over the previous approval, only  
1099 that incremental increase must comply with this Division.

1100 (e) A project that has had a special exception approved before application of  
1101 the CR zone to the site may continue as a lawfully existing use as long as it  
1102 fully complies with the terms and conditions of its approval. Any failure to  
1103 fully comply with the terms and conditions of the special exception  
1104 approval will require full compliance with the provisions of this Division.  
1105 If a special exception holder chooses to operate under this Division instead  
1106 of under the special exception, written notice must be provided to the Board  
1107 of Appeals that the special exception has been abandoned.

1108 \* \* \*

1109 **Sec. 3. Effective date.** This ordinance takes effect 20 days after the date of  
1110 Council adoption.

1111



1112 This is a correct copy of Council action.

1113

1114 *Linda M. Lauer*

1115 Linda M. Lauer, Clerk of the Council