



MEMO DATE: June 18, 2009
HEARING DATE: June 25, 2009
TO: Montgomery County Planning Board
VIA: Ralph Wilson, Supervisor, Development Review *RW*
FROM: Josh Sloan, Planner Coordinator, Development Review *JS*
PURPOSE: Second discussion of new mixed-use development district—The Commercial/Residential (CR) District – for use by pending master plans.

Summary of Changes

Draft #10 of the proposed Commercial/Residential (CR) Zones has changed in several significant ways since the discussion of Draft #9. These changes, however, do not alter the conceptual framework of these zones. Instead, they try to simplify, clarify, organize, and detail the establishment of the zones and the provisions of the zones. As a redline version of the Draft is virtually incomprehensible, the following bullets cover the main topics and a clean, complete, and current Draft #10 is attached.

Key Changes

Zones Established

- 15.11 was simplified to state the basic and exact parameters of the zoning sequence: CR, C, R, and H.
- 15.12 has been consolidated to focus simply on the “rules” of establishing the zones and the application of them by section map amendment.

Purposes

- 15.2 has been only slightly edited (it was previously 15.21)

Land Uses

- 15.31 is unchanged but is the new home for the land use table.
- 15.32 is the new home for the operational restrictions; the restrictions on outdoor storage have been removed

Methods of Development

- 15.4, the methods of development, have been rewritten.

Parking

- 15.5 has been dedicated entirely to the parking requirements for the CR zones; this section has been clarified and simplified; and example has been given.

General Requirements

- 15.6 is the new home of all the general requirements; the applicability of these requirements is now set at the outset and the categories of the requirements have been removed; these were previously under section 15.3.
- 15.61 has changed the name and significantly modified the requirements of what is now called “priority retail street frontage”; an example has been given.
- 15.62 and 15.63 now simply state that streetscape standards and master plan conformance is required.
- 15.64 has minor edits the bike/shower requirements.

Development Standards

- 15.7 is the new home of the development standards (previously section 15.5).
- 15.71 and 15.72 have not changed, but a diagram has been added.
- 15.73, the setback standards, has minor changes for clarity.
- 15.74, the public open space requirements have been simplified and clarified.
- 15.75 has minor edits

Incentive Zoning

- 15.8 has been significantly modified for simplicity and directness; it now begins with a basic statement and three rules for determining incentive density increases (previously, this was 15.6).
- 15.81, the automatic increments, has not changed significantly.
- 15.82 through 15.85 and the subsections have been significantly modified. These sections now delineate the requirements for the minimum incentive density increase and provisions for achieving the maximum density in the zone.

BLTs

- 15.9 now houses the BLT provisions – similar in placement to the TMX zone

Grandfathering

- 15.10 covers existing approvals and has not significantly changed.

DRAFT #10

Ordinance No:
Zoning Text Amendment No: 09-
Concerning: Commercial/Residential (CR)
Zones Establishment
Draft No. & Date: 1 -6/16/09
Introduced:
Public Hearing:
Adopted:
Effective:

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

By: District Council at Request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- Establish a group of Commercial/Residential (CR) zones; and
- Establish allowable land uses, purposes, general requirements, development standards, density incentive provisions, and approval procedures for development under the Commercial/Residential zones.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

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

DIVISION 59-C-15 "COMMERCIAL/RESIDENTIAL ZONES"
Sections 59-C-15.1 through 59-C-15.8

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

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:

DRAFT #10

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

2 * * *

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

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

6
7 **59-C-15.11.** The Commercial/Residential (CR) zones are indicated on the
8 official zoning maps. Floor area ratio (FAR) and building heights are identified
9 by a sequence of symbols: CR, C, R, and H each followed by a number where,

- 10 • CR-# is the maximum combined total FAR,
11 • C# is the maximum non-residential (C) FAR,
12 • R# is the maximum residential (R) FAR, and
13 • H# is the maximum building height in feet (H).

14
15 **59-C-15.12.** Any combination of maximum total FAR, non-residential FAR,
16 residential FAR, and building height may be established as a zone according to
17 the following:

- 18 a) The maximum total FAR must be an increment of 0.5 between 0.5 and 8.0;
19 b) The maximum non-residential or residential FAR must be 0.25 or an
20 increment of 0.5 between 0.5 and 7.0; and
21 c) The maximum height must be an increment of 10 feet between 40 and 300
22 feet.
23 d) The zoning designation of CR, C, R, and H establishes the maximum
24 allowed density and height under the optional method of development.
25 e) A Commercial/Residential (CR) zone must be recommended on an approved
26 and adopted master or sector plan and may be applied only by Sectional Map
27 Amendment.

28
29 *Examples:*

- 30 • An area zoned CR-2.0, C1.0, R1.0, H80 allows a total FAR of 2.0, but maximum non-
31 residential and residential FARs of 1.0, thereby requiring a mix of uses to obtain the total
32 FAR allowed. The height for any building in this zone is limited to 80 feet.
33 • An area zoned CR-6.0, C3.0, R5.0, H200 allows a residential FAR up to of 5.0, whereas
34 commercial density is only allowed up to an FAR of 3.0 and a mix of the two uses could
35 yield a total FAR of 6.0. This combination allows for flexibility in the market and shifts
36 in the surrounding context. The height for any building in this zone is limited to 200 feet.

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

59-C-15.2. Purpose of the CR Zones.

The CR zones permit a mix of commercial and residential uses at varying densities. The zones promote more sustainable development patterns where people can live, work, and have access to services and amenities while minimizing automobile use. CR zones are appropriate where impacts on the environment can be reduced by co-locating housing, jobs, and services. The purposes of the CR zones are to:

- a) Implement the goals and objectives of applicable master and sector plans;
- b) Provide opportunities for redevelopment of commercial areas and surface parking lots with a sustainable mix of uses;
- c) Reduce dependence on the automobile by encouraging development that includes a range of housing opportunities, mobility options, commercial services, and public facilities and amenities;
- d) Achieve an appropriate balance of “jobs to housing” within the zone and compatible relationships with adjoining zones and neighborhoods;
- e) Establish the maximum density and building height for each zone but retain flexibility with regard to site design and the mix of uses; and
- f) Establish standards for the provision of the public benefits required under the optional method of development.

59-C-15.3. Land Uses.

59-C-15.31. Allowed Land Uses.

No use is allowed except as indicated below:

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

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a) Agricultural	
Farmer's markets	P
Farming, limited to vegetables, herbs, and ornamental plants	P
Nurseries	P
Seasonal outdoor sales	P
b) Residential	
Dwellings	P
Group homes, small or large	P
Hospice care facilities	P
Housing and related facilities for senior adults or persons with disabilities	P
Life care facilities	P
Live/Work units	P
Personal living quarters	P
c) Commercial Sales and Service	
Ambulances or rescue squads	P
Animal boarding places	SE
Automobile filling stations	P
Automobile rental services, excluding storage of vehicles and supplies	P
Automobile repair and service	P
Automobile sales	P
Conference centers	P
Entertainment and spectator sports facilities such as cultural centers; art, athletic, and other events; theaters and cinemas; meeting/banquet halls	P
Health clubs and gyms	P
Home occupations, major	SE
Home occupations, registered and no-impact	P
Hotels and motels	P
Laboratories	P
Laundry or dry-cleaning services	P
Medical clinics	P
Offices	P
Recreational facilities, participatory, indoor	P
Recreational facilities, participatory, outdoor	SE
Research, development, and related activities	P
Restaurants	P
Retail sales and service	P
Self-storage facilities	SE
Veterinary hospitals	SE
Warehousing, not including self-storage, less than 10,000 square feet	P
d) Institutional & Civic	
Charitable and philanthropic institutions	P
Cultural and art exhibits, libraries and museums	P
Day care facilities and centers	P
Educational institutions, private	P

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Hospitals	P
Parks and playgrounds, private	P
Private clubs	P
Publicly owned or operated uses	P
Religious institutions	P
e) Industrial	
Manufacturing and production, artisanal	P
Manufacturing and packaging related to biotechnical research and development	P
f) Other	
Accessory buildings and uses	P
Bus terminals, private	P
Parking garages, automobile	P
Public utility buildings, structures, and underground facilities	P
Radio and television broadcast studios	P
Rooftop mounted antennas and related unmanned equipment buildings, cabinets, or rooms	P

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59-C-15.32. Operational Restrictions.

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The operation of a drive-through or a surface parking lot is subject to the following:

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a) Drive-Through Services:

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b) Surface Parking:

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- 1) No part of the parking facility at or above grade may be located between the street and the main front wall of the building or the side wall of a building on a corner lot unless the Planning Board finds that no alternative is reasonably feasible;

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- 2) Primary vehicular access to the parking facility must be from an alley when the site is bounded by such; and
- 3) Curb cuts must be kept to a minimum and shared by common ingress/egress easements whenever possible.

59-C-15.4. Methods of Development.

Two methods of development are available under the CR zones.

59-C-15.41. Standard Method.

Standard method development must meet the parking standards, general requirements, and development standards under this Article. A site plan is required for a standard method development project if:

- a) The gross floor area exceeds 10,000 square feet;
- b) Any building or group of buildings contains 6 or more dwelling units; or
- c) Any use generates more than 15 peak-hour trips.

59-C-15.42. Optional Method.

Optional method development must meet the parking standards, general requirements, and development standards under this Article. In addition, the optional method of development allows for the maximum density and height as indicated on the official zoning maps if supported by additional public benefits as delineated by the incentive zoning provisions of this Article. Site plan review is required for any optional method of development project.

59-C-15.5. Parking.

The following parking standards apply to any development in the CR zones.

- a) The maximum number of parking spaces provided on site must not exceed the number established under Article 59-E.
- b) The minimum number of parking spaces must not be less than the maximum number of spaces established above, as reduced by the following table:

Minimum Parking Requirements	
	Distance from Transit Access

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	¼ mile from transit	¼ to ½ mile from transit	½ mile to 1 mile from transit	>1 mile from transit
The minimum number of spaces required is equal to the total as determined by Article 59-E multiplied by the following factor:	0.20	0.40	0.60	0.80

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128 c) For purposes of the CR zones, transit access is defined as a site with ADA-
129 conforming access to an existing or master planned MetroRail, MARC, light-
130 rail, or a bus-rapid transit station.

131 d) Parking requirements may be met by any of the following:

- 132 • Providing the spaces on site,
- 133 • Constructing on-street parking, or
- 134 • Entering into an agreement for shared parking spaces in a facility within
135 1,000 feet of the subject lot provided that the off-site parking facility is not
136 in an agricultural or residential district.

137 e) Every “car-share” space provided reduces the total minimum number of
138 required spaces by six spaces for non-residential use or three spaces for
139 residential use.

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141 *Example:* A site requiring a minimum of 100 spaces according to Article 59-E would be allowed
142 to provide a maximum of 100 spaces on site. If that site was within ¼ to ½ mile of a transit
143 station, the minimum requirement for parking would be 40 spaces (100 x 0.40 = 40). If two car-
144 share spaces were provided, that requirement would be 28 for non-residential use or 34 for
145 residential use.

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147 f) Landscaping for surface parking facilities must be provided according to the
148 following table:

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Minimum Landscape Standards for Surface Parking	
Subject	Requirement
Right-of-Way Screening	6-foot width of continuous soil panel or stormwater management recharge facility (not including any PUE or PIE) with groundcover, planting bed, or lawn; a minimum 3-foot high continuous evergreen hedge or fence; and one deciduous tree per 30 feet of street frontage or per the applicable streetscape standards.
Adjacent to a Property in any Commercial, Industrial, or Mixed-Use Zone	4-foot width continuous soil panel or stormwater management recharge facility with groundcover, planting bed, or lawn; one deciduous tree per 30 feet of frontage.

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Adjacent to a Property in an Agricultural or Residential District	10-foot width continuous soil panel or stormwater management recharge facility with groundcover, planting bed, or lawn; 6-foot high continuous evergreen hedge or fence; and one deciduous tree per 30 feet of frontage.
Internal Pervious Area	10% of the parking facility area; to count towards this requirement, individual permeable areas must be a minimum of 100 square feet.
Tree Coverage	30% of the parking facility area (at 15 years growth).

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Surface Parking Requirements Illustrative (Place Holder)

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154 **59-C-15.6. General Requirements.**

155 This section details the general requirements that must be met by any development
156 in the CR zones.

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158 **59-C-15.61. Priority Retail Street Frontages.**

159 Any building on a street identified as “priority retail” street frontage or as a
160 “main street” or “pedestrian-oriented street” in an approved and adopted master
161 plan or adopted design guidelines must provide the following:

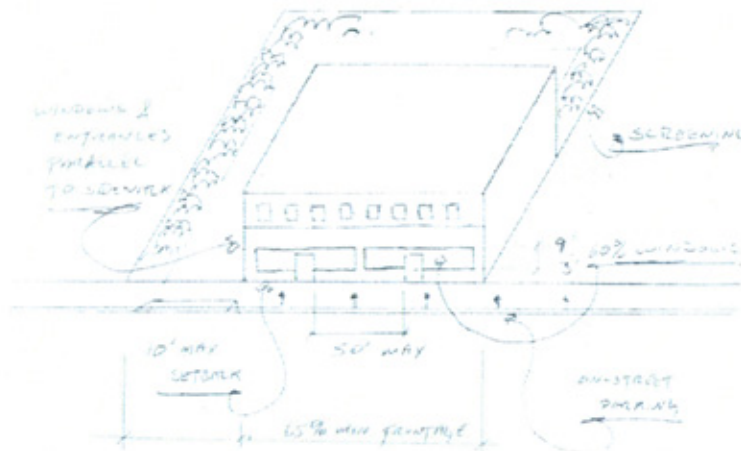
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- 163 a) On-street parallel parking, unless specifically denied by the agency
164 maintaining the right-of-way;
- 165 b) Screening of any surface parking from the street (or the primary street in
166 case of a corner lot);
- 167 c) Display windows and entrances arranged parallel to the sidewalk;
- 168 d) Shop entrances not more than 50 feet apart within the same development;
- 169 e) Building façade along a minimum of 65% of the aggregate length of the
170 front street right-of-way;

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- 171 f) Building footprint within a maximum of ten feet of the public right-of-way
172 or five feet if no public utility/improvement easement is required; and
173 g) Windows on 60% of the building façade between 3 and 9 feet of height
174 along the sidewalk, measured from grade.
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176 These provisions may only be modified or waived by the Planning Board
177 during the review of a site plan if found to be unreasonably burdensome to a
178 proposed development.
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180 *Priority Retail Building Requirements Illustrative (Place Holder)*
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183 **59-C-15.62. Streetscape.**

184 Streetscape must be provided in accordance with the recommendations of the
185 applicable approved and adopted master or sector plan.
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187 **59-C-15.63. Master Plan and Design Guidelines Conformance.**

188 Site plans must be must be found consistent with the applicable master or sector
189 plan and design guidelines.
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191 **59-C-15.64. Bicycle Parking Spaces and Commuter Shower/Change 192 Facility.**

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194 a) Bicycle parking facilities must be secure and accessible to all residents.

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- 195 b) The number of bicycle parking spaces and shower/change facilities required
196 is determined as follows (calculations are rounded to the higher whole
197 number):
198

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

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201 **59-C-15.7. Development Standards.**

202 This section details the development standards that must be met by any
203 development in the CR zones.

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205 **59-C-15.71. Density.**

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- 207 a) The maximum density for any standard method project is 0.5 FAR.
208 b) The maximum density for any optional method project is specified on the
209 official zoning maps of Montgomery County. The difference between the
210 standard method density and optional method density is defined as
211 “incentive density” and is regulated under the incentive density provisions of
212 59-C-15.8.

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214 **59-C-15.72. Height.**

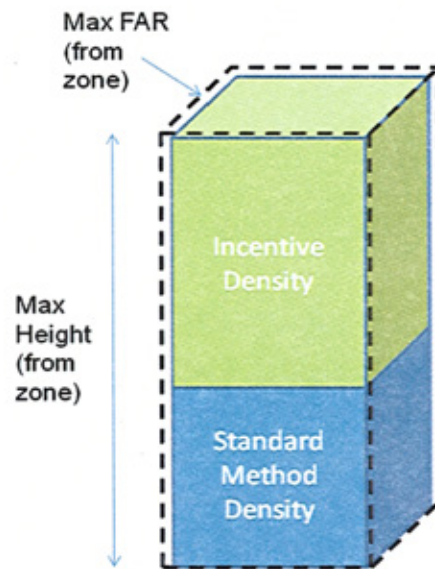
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- 216 a) The maximum height for any standard method project is 40 feet.

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217 b) The maximum height for any optional method project is specified on the
218 official zoning maps of Montgomery County. The difference between the
219 standard method height and the optional method height is defined as
220 “incentive height” and is allowed when it is found:

- 221 • Consistent with the applicable master or sector plan and design
222 guidelines and
 - 223 • Compatible with adjacent properties during site plan review.
- 224



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226 *Incentive Density Illustration (Place Holder)*

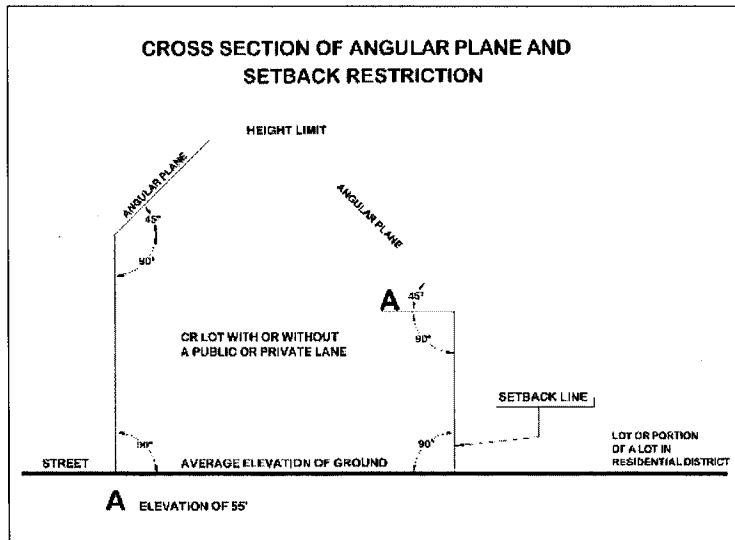
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59-C-15.73. Setbacks.

- 229
- 230 a) A window of any dwelling unit must not be closer than 15 feet to a window
231 in any other building wall that is between perpendicular and parallel angles
232 to the subject building.
 - 233 b) A building must not be any closer to a lot line of an agricultural or
234 residential district than:
 - 235 1) 25 feet or the setback required by the adjacent lot to the shared lot line,
236 whichever is greater, and
 - 237 2) No part of the building may project beyond a 45 degree angular plane
238 projecting over the lot measured beginning from a height of 55 feet at the
239 setback determined above, with the exception of those features exempt
240 from height and setback restrictions according to section 59-B-1.

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Angular Plan Setback Illustration (Place Holder)

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59-C-15.74. Public Open Space.

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a) Public open space must be provided on-site as indicated in the following table:

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Minimum Required Public Open Space				
Acres	Street Frontages			
	1	2	3	4+
< ½	0	0	4%	6%
½ - 1.00	0	4%	6%	8%
1.01 - 3.00	4%	6%	8%	10%
3.01 - 6.00	6%	8%	10%	10%
6.01 +	8%	10%	10%	10%

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b) Public open space must be:

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- 1) Calculated on the net lot area of the site;
- 2) Rounded to the next highest 100 square feet;
- 3) Easily and readily accessible to the public;
- 4) Placed under a public open space easement in perpetuity; and
- 5) Contain amenities such as seating options, shade, landscaping, or other similar public benefits.

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c) In lieu of providing on-site public open space, for any site of 3 acres or less, the Planning Board may approve the following:

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- 260 1) Public open space improvements to an area equal in size within ¼ mile of
- 261 the subject site; or
- 262 2) A payment in part or in full to the Public Amenity Fund equal to cost of
- 263 site improvements added to the current square foot market value of the
- 264 area required as public open space.

59-C-15.75. Residential Amenity Space.

- 267
- 268 a) Any building containing 20 or more dwelling units must provide amenity
- 269 space for its residents as set out in the following table:
- 270

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

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- 272 b) The amenity space requirement does not apply to MPDUs on a site within a
- 273 metro station policy area or where the Planning Board finds that there is
- 274 adequate recreation and open space within a ½ mile radius of the subject
- 275 site.
- 276 c) The amenity space requirement may be reduced by ½ for WFHUs if the
- 277 WFHUs are located within a metro station policy area or the minimum
- 278 public open space requirement is satisfied.
- 279 d) The provision of residential amenity space may be counted towards the
- 280 required recreation calculations according the Recreation Guidelines, as
- 281 amended.

59-C-15.8. Incentive Zoning.

284 To increase FAR and building height above the standard method limits, an optional
 285 method project must provide public benefits in accordance with Sections 59-C-
 286 15.81 through 59-C-15.85 and the following:

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- 288 a) Except for the automatic increments related to transit access, a maximum of
 289 30% of the incentive density may be granted for any of the four other
 290 incentive categories;
- 291 b) Public benefits are calculated towards the total allowed FAR based on a
 292 percentage of the incentive density as defined by Section 59-C-15.71, the
 293 incremental difference between the standard method maximum (0.5 FAR)
 294 and the maximum FAR in the zone; and
- 295 c) In approving incentive densities above the minimum, the Planning Board
 296 must considered the size and configuration of the parcel, the priorities of the
 297 applicable master or sector plan, the applicable design guidelines, the
 298 context of the adjacent properties, and the lack of similar benefits nearby.
 299

300 *Example:* A development in a zone with a maximum FAR of 5.5 would base all public benefit
 301 calculations on 5.0 FAR (5.5-0.5). Thus, being on a site adjacent to a metro station would yield
 302 an automatic incentive density of 1.25 FAR (5.0x.25) and full density would be allowed by
 303 providing public benefits equal to an additional 75 percent.
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Incentive Zoning Table			
Public Benefit	Percent of Incentive Density		Section Reference
	Minimum	Maximum	
<i>Automatic Increments</i>			
Adjacent or Confronting Transit Access	n/a	25	15.81
Transit Access within ¼ Mile		20	
Transit Access between ¼ and ½ Mile		15	
Transit Access between ½ and 1 Mile		10	
<i>Connectivity & Mobility</i>			
Community Garden	10	20	15.821
Community Connectivity	10	20	15.822
Parking	15	25	15.823
Pedestrian Walkway	5	10	15.824
Transit Access Improvement	10	20	15.825
<i>Diversity</i>			
Affordable Housing: MPDUs	See section reference		15.831
Affordable Housing: WFHUs	See section reference		
Care Center	5	10	15.832
Community Facility	10	20	15.833
Local Retail Preservation	10	20	15.834
Unit Mix and Size	5	10	15.835
<i>Design</i>			
Floor Plate Size	10	20	15.841

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Historic Resource Protection	10	20	15.842
Podium/Tower Setback	5	10	15.843
Public Art	10	20	15.844
Public Plaza/Open Space	5	10	15.845
Streetscape, Off-Site	5	10	15.846
Wow Factor	10	20	15.847
<i>Environment</i>			
Conveyed Parkland	10	20	15.851
Dark Skies	5	10	15.852
Green Roof	10	20	15.853
Green Wall	5	10	15.854
LEED Rating	10	30	15.855
Vegetated Area	5	10	15.856
Rainwater Reuse	5	10	15.857
Bio-retention and Stormwater Recharge	5	10	15.858
Renewable Energy Generation	10	20	15.8510
Tree Canopy	10	20	15.859

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59-C-15.81. Automatic Increments.

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Transit access encourages greater transit use and reduces vehicle miles travelled. For the purposes of the CR zones, transit access is defined as a site with ADA-conforming access to an existing or master-plan approved MetroRail, MARC, light rail, or a bus-rapid transit station.

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59-C-15.82. Connectivity and Mobility Incentives.

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59-C-15.821. Community Garden.

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Community gardens allow residents to grow their own produce, reduce automobile reliance, increase water and air quality, and foster social interaction. The minimum incentive density increase requires that the garden:

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- a) Is located on the subject site or within 500 feet of the subject site;
- b) Provides at least one 16 square-foot garden that is accessible according to ADA standards for 2% of the total spaces allocated;
- c) Provides all garden spaces with a minimum of 12” of soil depth and access to water; and
- d) Provides a minimum of 16 square feet of space for a minimum of 5% of the dwelling units.

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328 The maximum increase requires such additional features as a composting
329 facility, additional garden space, seating areas, doubling as a green roof, or
330 additional accessible garden plots.

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332 **59-C-15.822. Community Connectivity.**

333 The minimum incentive density increase for a building that enhances
334 community connectivity by locating near existing retail uses and/or
335 providing retail uses requires that:

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337 a) At least ten existing or proposed retail uses with direct pedestrian access
338 are within 0.5 miles;

339 b) The retail uses are located on a lot that is within 0.5 miles of:

340 1) An existing transit station,

341 2) A master or sector planned transit station , or

342 3) A property that is zoned with a residential FAR of 2.0 or greater (or
343 more than 30 units per acre);

344 c) The front setback of the proposed building containing the pedestrian
345 retail uses is a maximum of 5 feet (or 10 feet if a public
346 utility/improvement easement is required), unless a greater setback is
347 approved by the Planning Board; and

348 d) A minimum of 50 percent of any proposed retail uses must have a
349 minimum floor area of 5,000 square feet for a period of at least six years
350 after the initial use-and-occupancy permit is issued for the use.

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352 The maximum increase requires additional benefits such as a large diversity
353 of retail, a greater number of retail shops, provision of services associated
354 with live-work units, or that the required number of retail uses are within ¼
355 mile.

356

357 **59-C-15.823. Parking.**

358

359 a) The minimum incentive density increase requires on-site provision of
360 only the minimum required number of parking spaces.

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- 361 b) The maximum increase requires on-site provision of the difference
362 between the minimum number of parking spaces and the maximum
363 number of parking spaces as publicly accessible spaces.
364

59-C-15.824. Pedestrian Through-Block Connections.

365 Through-block connections enhance pedestrian mobility and help to create
366 interesting spaces, particularly on larger blocks. The minimum incentive
367 density increase for a pedestrian through-block connection requires that:
368

- 369
- 370 a) The pedestrian walkway must provide direct access between at least two
371 streets;
 - 372 b) The minimum width of the pedestrian walkway must be 15 feet;
 - 373 c) A minimum of 70 percent of the walls facing the interior pedestrian
374 walkway below a height of eight feet must have clear unobstructed
375 glazing for a minimum of 65 percent of its length;
 - 376 d) The pedestrian walkway must be open to the public between 8:00 a.m.
377 and 7:00 p.m. and, where it leads to a transit facility or publicly-
378 accessible parking facility, for the hours of operation of the transit and/or
379 parking facility; and
 - 380 e) Retail uses fronting both a pedestrian walkway and a street, shall
381 maintain operable doors from both unless not required by the Planning
382 Board during site plan review.
- 383

384 The maximum increase requires further benefits such as a direct connection
385 to parks, transit facilities, or public buildings; the pedestrian connection is
386 animated by retail uses along the majority of its length; the connection is
387 increased in width; or public artworks are integrated into the walk.
388

59-C-15.825. Transit Access Improvement.

389 The minimum incentive density increase for transit access improvements
390 requires that:
391

- 392
- 393 a) The improvements be located within 2,500 feet of the proposed
394 development site or, in the case of mobile transit improvements, that
395 provide regular access for passengers within 2,500 and

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396 b) The improvements be built to current ADA accessibility standards.
397

398 The maximum increase requires additional benefits such as closer access,
399 new access easements, connecting walkways, mezzanines, seating areas,
400 structures for wind/rain protection, or concourse areas.
401

401

402 **59-C-15.83. Diversity Incentives.**

403

404 **59-C-15.831. Affordable Housing.**

405 Provision of floor area for affordable residential uses grants a density
406 incentive increase when a percentage of the additional dwelling units
407 includes affordable housing as either moderately priced dwelling units
408 (MPDUs) and/or workforce housing units (WFHUs) providing the following
409 standards are met:

410

- 411 a) The increase in density is calculated as required by Chapters 22A and
412 22B;
- 413 b) Both MPDUs and WFHUs must be reasonably distributed throughout the
414 project; and
- 415 c) Any dwelling units built under this section must be either MPDUs or
416 WFHUs for a minimum period of 99 years and the proportion of MPDUs
417 may not be less than 12.5%.

418

419 **59-C-15.832. Care Center.**

420 The minimum incentive density increase for a center for daytime adult or
421 child care requires that at least twelve spaces are provided and a minimum of
422 25 percent of the available space in the care center is available to the general
423 public.
424

424

425 The maximum increase requires additional benefits such as additional
426 spaces, a drop-off area, an increase in spaces available to the general public,
427 and recreation facilities beyond those required by law.
428

428

429 **59-C-15.833. Community Facility.**

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

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- 432
- 433 a) The public facility is recommended in the appropriate master plan or
- 434 sector plan and
- 435 b) Is accepted for use by an appropriate public agency or nonprofit
- 436 organization;

437

438 The maximum increase requires further benefits such as an entrance to the

439 community facility on a street, location of the building within ten feet of a

440 public sidewalk, associated outdoor open space, or integration into an area

441 with a minimum residential FAR of 2.0 or greater (or 30 dwelling units per

442 acre).

443

444 **59-C-15.834. Local Retail Preservation.**

445 Preservation of locally-owned small businesses, as determined by the Small

446 Business Administration's Table of Small Business Size Standards, is

447 eligible for incentive density according to the following:

- 448
- 449 a) Preservation of up to 2 small businesses: 10% and
- 450 b) Preservation of 3 or more small businesses: 20%.

451

452 **59-C-15.835. Dwelling Unit Mix and Size.**

453 The minimum incentive density increase for creating residential buildings

454 with a minimum mix of dwelling unit types (calculated by rounding to the

455 next higher whole number) requires provision of a minimum percentage of

456 unit types, as follows:

- 457
- 458 a) 8 percent as efficiency dwelling units,
- 459 b) 8 percent as one-bedroom dwelling units,
- 460 c) 8 percent as two-bedroom dwelling units, and
- 461 d) 5 percent as three-bedroom dwelling units.

462

463 The maximum increase requires that the minimum percentage of unit types

464 (rounded to the next higher whole number) is as follows:

- 465
- 466 a) 10 percent as efficiency dwelling units,

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- 467 b) 10 percent as one-bedroom units,
468 c) 10 percent as two-bedroom units, and
469 d) 7.5 percent as three-bedroom units.

470

471 **59-C-15.84. Design Incentives.**

472

473 **59-C-15.841. Floor Plate Size.**

474 The minimum density incentive increase for the provision of floor plate
475 restrictions requires that:

476

- 477 a) The floor area of any floor above a height of 120 feet does not exceed
478 10,000 square feet for residential uses or 17,000 square feet of non-
479 residential uses, or 12,000 square feet of mixed-uses (provided that not
480 more than 60 percent of a mixed- use floor is used for any single use);
481 and
482 b) The exterior of the building facing any street or public open space has a
483 minimum of 60 percent glass.

484

485 The maximum density increase requires additional benefits, such as
486 providing smaller floor plates, combining this incentive with a tower
487 setback, providing a larger percentage of glass, or integrating sustainable
488 technologies into the architecture.

489

490 **59-C-15.842. Historic Resource Protection.**

491 The minimum density incentive increase for the protection of a historic
492 resource as designated in the Master Plan of Historic Preservation requires
493 that a preservation plan for the resource is approved by the Historic
494 Preservation Commission.

495

496 The maximum increase requires that other benefits are provided, such as
497 interpretive signs or integration and construction of context-appropriate
498 landscapes and settings.

499

500 **59-C-15.843. Podium/Tower Setback.**

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501 The minimum density incentive increase for the provision of a tower setback
502 requires that:

- 503
- 504 a) The tower must be set back at or below the 6th floor and
 - 505 b) The setback must be a minimum of 6 feet.
- 506

507 The maximum increase requires that the tower setback be at or below the 4th
508 floor and that the setback be a minimum of 12 feet.

509

509 **59-C-15.844. Public Art.**

511 Public art is considered a public benefit because it enhances the quality of
512 place and creates a sense of identity in a community. the minimum density
513 incentive increase for public art requires that:

- 514 a) It enhances the general or specific cultural objectives of the applicable
515 master or sector plan;
 - 516 b) It is approved by the Public Arts Trust Steering Committee.
- 517

518 The maximum increase requires that, in addition to the above requirements,
519 the artwork fulfill a minimum of five of the eight goals in the report by the
520 Study Committee on Artwork in the Optional Method Projects report that
521 was approved by the Planning Board, as amended.

522

523 A fee-in-lieu for public art may be made according to the following
524 provisions:

- 525 a) The fee is calculated on 1% of the development's projected cost;
 - 526 b) The fee is paid to the Public Arts Trust Steering Committee;
 - 527 c) The fee is used for provision, management, and maintenance of public art
528 in the policy area where the proposed development is located.
- 529

530 **59-C-15.845. Public Plaza/Open Space.**

531 Plazas are an important public amenity and create interesting spaces and
532 active gathering areas. The minimum density incentive increase for any
533 plaza requires that:

- 534 a) The plaza is directly accessible to a street;
- 535

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- 536 b) The plaza must be open to the public at a minimum between 8:00 a.m.
537 and 9:00 p.m.;
- 538 c) No loading or parking facilities should be visible below a height of the
539 fourth floor; and
- 540 d) The plaza must be in addition to any public open space required by the
541 development standards or other minimum open space requirement of this
542 Article.

543

544 The maximum increase requires that the above requirements are met in
545 addition to the following:

- 546
- 547 a) The minimum width of the plaza must be 50 feet;
- 548 b) Where the plaza is provided as part of a redevelopment, buildings facing
549 the plaza must be designed so that:
- 550 1) The walls of any non-residential floor area facing the plaza must have
551 a minimum of 70 percent glazing below a height of four floors and
552 2) The main entry to any dwelling units is from a wall facing the plaza;
- 553 c) The plaza should contain seating, trash receptacles, landscaping, and
554 other amenities such as water features, kiosks, and passive recreation
555 areas.

556

557 **59-C-15.846. Streetscape, Off-Site.**

558 Streetscape improvements enhance the pedestrian experience and better
559 connect buildings to the public spaces. The minimum density incentive
560 increase for streetscape improvements requires that the following criteria are
561 met:

- 562 a) The improvements must be located within 2,500 feet of the subject site
563 and
- 564 b) The improvements are equal to the amount of on-site public open space
565 required by the development or 18 percent of the net lot, whichever is
566 greater.

567

568 The maximum increase requires that the improvements be a minimum of 36
569 percent of the net lot area.

570

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571 The Applicant may make a cash contribution for the value of improvements
572 to a County Agency which will undertake the improvements in full.

573

574 **59-C-15.847. Wow Factor.**

575 The minimum density incentive increase for high-quality site and
576 architectural design requires that at least three of the following criteria are
577 met. The maximum density increase requires that a least five of the
578 following criteria are met.

579

- 580 a) Provides innovate solutions in response to the architectural context and
581 surrounding landscape, for example by rotating floor plates for views or
582 reconciling offset street-walls;
- 583 b) Creates a sense of place that will serve as a landmark in the community,
584 for example by creating a distinguishing element that is visible from an
585 important view or at a gateway to an area;
- 586 c) Enhances the public realm in a distinct and original manner, for example
587 by using existing materials and forms in new ways to provide continuity
588 and contrast;
- 589 d) Adds to the diversity of the built realm within the community, for
590 example by introducing new materials, building methods, or design
591 styles;
- 592 e) Uses design solutions to make compact/infill living, working, and
593 shopping environments pleasurable and desirable, for example by
594 retrofitting surface parking lots and single-use retail malls or creating
595 multi-use, pedestrian-dominated realms in previous auto-oriented areas;
596 and
- 597 f) Integrates environmentally sustainable solutions, for example by using
598 bmp stormwater management facilities in an apparent and observable
599 way or integrating passive solar features into the visible structure of a
600 building.

601

602 **59-C-15.85. Environment Incentives.**

603

604

605 **59-C-15.851. Conveyed Parkland.**

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606 The minimum incentive density increase for land conveyed to the MC
607 Department of Parks for inclusion in or provision of parkland, trail area, or
608 other master-planned Parks' use requires conveyance of at least of 15% of
609 the net lot area. The maximum increase requires conveyance of at least 30%
610 of the net lot area.

611

612 **59-C-15.852. Dark Skies.**

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

616

617 The maximum increase requires that the exterior lighting plan be integrated
618 into an energy efficiency plan for the entire property submitted and approved
619 by the Planning Board with a site plan application.

620

621 **59-C-15.853. Vegetated Roof.**

622 The minimum density incentive increase for green roofs requires that:

623

- 624 a) The green roof must cover a minimum of 33% of the roof of the building
625 excluding any space occupied by mechanical equipment;
- 626 b) The soil or media depth must be a minimum of 4 inches; and
- 627 c) The vegetation must be maintained for the life of the building and the
628 County will have access to inspect, install, and/or maintain the vegetation
629 at the expense of the owner.

630

631 The maximum increase requires that further benefits are provided, such as
632 more intensive vegetation, and coverage of a minimum of 50% of the roof
633 area.

634

635 **59-C-15.854. Green Walls**

636 The minimum density incentive increase for a green wall requires that:

637

- 638 a) It must be designed, installed, and maintained to cover a minimum of
639 30% of the area of a blank wall or parking garage;

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- 640 b) It must be found to add to the aesthetic quality and environmental
641 sustainability of the project;
642 c) It should be on the south or west facades of the building to achieve
643 maximum energy savings; and
644 d) The vegetation must be maintained for the life of the building and the
645 County will have access to inspect, install, and/or maintain the vegetation
646 at the expense of the owner.

647
648 The maximum increase requires further benefits, such as a greater amount of
649 coverage and integration into an overall energy or environmental site design
650 program.

651
652 **59-C-15.855. LEED Silver/Gold Certification.**
653 A LEED-rated (or County-approved equivalent) building of site is eligible
654 for density incentive floor area provided it meets any continuing
655 requirements necessary to maintain that status. The amount of incentive
656 density increase is equal to the following:

- 657
658 a) LEED Silver: 10%
659 b) LEED Gold: 20%
660 c) LEED Platinum: 30%

661
662 **59-C-15.856. Vegetated Area.**
663 The minimum density incentive increase for a vegetated area requires that
664 the following criteria are met:

- 665
666 a) The area must be a minimum of 5% of any on-site open space;
667 b) The area is not counted towards the green roof incentive provisions;
668 c) The area provides a minimum of 12 inches of soil depth; and
669 d) The area is planted with well-maintained vegetation.

670
671 The maximum increase requires the above and additional benefits such as a
672 larger area or greater soil depth.

673
674 **59-C-15.857. Rainwater Reuse.**

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675 The minimum density incentive increase for the collection of rainwater for
676 on-site irrigation, grey-water use, or filtration for re-use requires that a
677 minimum of 25% of projected rainwater be collected and used on-site.

678
679 The maximum increase requires that a minimum of 50% of projected
680 rainwater be collected and used on site.

681
682 **59-C-15.858. Bio-retention and Stormwater Recharge.**
683 The minimum density incentive increase for the use of bio-retention and
684 recharge facilities requires that a minimum of 25% of projected stormwater
685 outfall be contained and recharged on site.

686
687 The maximum increase requires that a minimum of 50% of projected
688 stormwater be contained and recharged on site.

689
690 **59-C-15.859. Tree Canopy.**
691 The minimum density incentive increase for the provision of tree canopy
692 requires coverage of at least 25% of the on-site open space at 15 years
693 growth.

694
695 The maximum increase requires coverage of at least 50% of the on-site open
696 space at 15 years growth.

697
698 **59-C-15.8510. Renewable Energy Generation.**
699 The minimum density incentive increase for the use of on-site renewable
700 energy generation requires that a minimum of 2.5% of a site's energy use
701 requirement is met by the on-site energy generation.

702
703 The maximum increase requires provision of a minimum of 5% on-site
704 energy generation.

705
706 **59-C-15.9. Special Regulations for Use of a Building Lot Termination (BLT)**
707 **Development Right.**

DRAFT #10

708 Any building with floor area above the amount allowed by the standard method
709 must provide for building lot termination easements if recommended by an
710 approved master or sector plan according to the following provisions:

- 711
- 712 a) Residential development within a metro-station policy area that provides
713 workforce housing is exempt from this section;
 - 714 b) Building lot termination easements must be purchased or a contribution must be
715 made to the Agricultural Land Preservation Fund under Chapter 2B equal to
716 12.5 percent of the incentive density FAR. One building lot termination is
717 required for every 7,500 square feet of residential floor area above 0.5 FAR or
718 for every 9,000 square feet of non-residential floor area above 0.5 FAR (or 0.5
719 FAR total for a mixed-use project); and
 - 720 c) When a BLT easement cannot be purchased or the amount of floor area
721 attributed to a building lot termination easement is a fraction of the floor area
722 equivalent, payment must be made to the Ag Land Preservation Fund according
723 to the rate set annually by executive regulation.

724

725 **59-C-15.10. Existing Approvals.**

726

- 727 a) A lawfully existing building or structure and the uses therein, which predates
728 the applicable sectional map amendment, is a conforming structure or use, and
729 may be continued, renovated or enlarged up to 10 percent above the existing
730 floor areas or 7,500 square feet, whichever is less. A larger addition requires
731 compliance with the full provisions of this division.
- 732 b) A project that received an approved development plan prior to the enactment of
733 this district may proceed according to the binding elements of the development
734 plan. Any increase in the total floor area, height, or reduction of setbacks
735 approved by the development plan requires compliance with the full provisions
736 of this division.
- 737 c) A project subject to preliminary or site plan approved prior to the applicable
738 sectional map amendment may be built or altered at any time subject to either
739 the full provisions of the previous zone or this division.

740

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

743

744 This is a correct copy of Council action.

745

746

747 Linda M. Lauer, Clerk of the Council

748

749