


**Introduction**

**MEMORANDUM**

April 11, 2011

TO: County Council

FROM: Jeffrey L. Zyontz, Legislative Attorney 

SUBJECT: Introduction – Zoning Text Amendment 11-01,  
Commercial/Residential Zones – Neighborhood and Town Zones

Zoning Text Amendment (ZTA) 11-01, sponsored by Council President Ervin at the request of the Planning Board, is scheduled for introduction on April 12, 2011.<sup>1</sup> A public hearing on ZTA 11-01 will be scheduled for May 17, 2011 at 7:30 p.m.

After the PHED committee worksessions on the Kensington Sector Plan in March of 2010, Planning Board Staff was directed to evaluate the appropriateness of the Commercial/Residential (CR) zones for lower density areas with smaller properties, diverse ownership patterns, and detached-house residential neighborhoods in close proximity. The Planning Board and Planning Staff considered this question in the context of the Takoma/Langley Crossroads and Wheaton Sector Plans.

In the opinion of the Planning Board, ZTA 11-01 has 3 functions:

- (1) create a new CRN (Neighborhood) zone;
- (2) create a new CRT (Town) zone; and
- (3) enact a variety of amendments to the CR zones, some related to the integration of the new CRN and CRT zones, and some representing improvements and clarifications resulting from experience with the CR zones since their adoption.

ZTA 11-01 includes numerous amended provisions. The Planning Board's transmittal letter, dated March 11, 2011 does an excellent job of detailing the substantives changes in ZTA 11-01 and explaining the Planning Board's rationale for the proposed changes. The following highlights significant elements of ZTA 11-01.

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<sup>1</sup> The ZTA being introduced is not exactly the same as the ZTA transmitted by the Planning Board. The technical recommendations of the ZTA Advisers are reflected in ZTA 11-01. In particular, the introduced amendment clarifies the Planning Board's intent with regard to sketch plan amendments. Planning Department Staff reviewed and did not object to these changes.

## **New Zoning Classifications**

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 zone; the total floor area ratio (FAR), the residential FAR, the non-residential FAR, and the maximum building height are identified with each zone. The Planning Board believes that two new zoning classifications are necessary. 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 zone would have the most limited land uses of the 3 CR zones. Optional method development is not allowed in CRN zones.

## **Public Use Space**

Public use space would be modified. Standard method development on small lots would have no open space requirement. Standard method development on medium lots would have a 10 percent open space requirement. Standard method development on large lots would have a 10 percent requirement based on the limits of disturbance for each site plan rather than for the entire tract at once. The optional method development open space requirement would remain unchanged.

## **Land Use**

ZTA 11-01 would change the table of permitted uses to add a new element: any development that proposes a use designated as “L” for “limited” in the use table will require a site plan. The new concept of “limited” uses establishes a third use category. Currently, uses are “permitted” as-of-right or by “special exception”. Uses would be categorized as Limited when they have potential adverse effects that may require the kind of individualized mitigation that site plan review can provide (visual and noise buffering, setbacks, careful location of parking) but where the burdens of special exception approval outweigh the benefits. Site plan approval would also be required for development larger than 10,000 square feet of gross floor area or for a building higher than 40 feet. Master plan and design guideline consistency would still be required for all site plans. The ZTA recommends adding a phrase identical to a phrase in the subdivision regulations to allow the Planning Board to find that events have changed to render the master plan recommendations no longer appropriate.

## **Transit Proximity**

A change is proposed to “Transit Proximity” to require a transit station or stop to at least be in the relevant Capital Improvement Program (“CIP”) to be considered “planned”. If it is “planned”, a nearby property owner would qualify for reduced parking and incentive density. ZTA 11-01 would clarify the Planning Board’s discretion in approving amendments to approved sketch plans.

## **Public Benefits**

Public benefits would use a point system instead of a percentage system. The minimum percentage of a public benefit category would be replaced with a requirement for benefits from 4 out of 6 categories. The “major master plan facility” category of public benefits would be modified. The Planning Board would be allowed to grant incentive density for land, construction, or financing of a major facility that has not been recommended in a master plan. The Board must find that the proposed facility is similar to the type of facility that master plans typically recommend and would provide at least as valuable a public benefit.

## **Sketch Plan Amendments**

The Planning Board proposed language in their original submission to the Council to clarify their interpretation of the current Ordinance. The Board relied on the current language in its recent sketch plans approvals. The Planning Board Chair indicated that she is satisfied with the current text without any change.

### This Packet Contains

ZTA 11-01

Planning Board Transmittal Letter

### © number

1 – 49

50 – 57

Zoning Text Amendment No: 11-01  
Concerning: Commercial/Residential  
zones – Neighborhood  
and Town zones  
Draft No. & Date: 2 – 4/7/11  
Introduced: April 12, 2011  
Public Hearing:  
Adopted:  
Effective:  
Ordinance No:

**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”

<p><i>EXPLANATION: <b>Boldface</b> indicates a heading or a defined term. <u>Underlining</u> 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. <u>Double underlining</u> 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.</i></p>
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*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, and C, R, and H is established  
 41 as a zone under the following limits:

<u>Category</u>	<u>Maximum</u> <u>Total FAR</u>	<u>Maximum</u> <u>C or R FAR</u>	<u>Maximum H</u>
<u>CRN</u>	<u>0.5 to 1.5</u>	<u>0.25 to 1.5</u>	<u>40 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>

42 (b) Zones may be established and mapped at densities in increments of 0.25 and  
 43 heights in increments of 5 feet within the ranges indicated in the table.

44 Example: Under the provisions of Sections (a) and (b) above, the CRN zones may  
 45 establish maximum total densities of 0.5, 0.75, 1.0, 1.25, or 1.5 FAR and  
 46 maximum heights of 40, 45, 50, 55, 60, or 65. The range of densities and heights  
 47 from which the various CRN zones can be established and mapped provides  
 48 guidance to the Planning Board’s recommendation and to the Council when

49 applying a particular zone. Once the zone is approved on a zoning map, it allows a  
 50 developer to build at any height and density up to the maximum. For example, a  
 51 property owner whose land is zoned at CRN1.0 C0.5 R1.0 H45 could elect to  
 52 build at a 1.0 FAR with a height of 35 feet or 0.75 FAR and 42 feet or any other  
 53 combination up to 1.0 FAR and 45 feet.

- 54 [(a) the maximum total FAR must be established as an increment of 0.25 from  
 55 0.5 up to 8.0;
- 56 (b) the maximum non-residential and residential FAR must be established as an  
 57 increment of 0.25 from 0.25 up to 7.5; and
- 58 (c) the maximum height must be established as an increment of 5 feet up to 100  
 59 feet and an increment of 10 feet from 100 feet up to 300 feet.]

60

61 **[59-C-15.121]59-C-15.122. Density averaging.**

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

- 64 (a) the lots or parcels are subject to the same site plan or sketch plan;
- 65 (b) the lots or parcels are created by the same preliminary subdivision plan or  
 66 satisfy a phasing plan established by an approved sketch plan;
- 67 (c) the maximum total [density and], non-residential and residential density  
 68 limits apply to the entire development, not to individual lots or parcels;
- 69 (d) no building may exceed the maximum height set by the zone;
- 70 (e) [public benefits must be provided under the phasing element of an approved  
 71 sketch plan] uses are subject to the provisions of the zone classification;
- 72 (f) the total allowed maximum density [of] on a lot or parcel [zoned CR] that is  
 73 adjacent to or confronting [one-family residentially zoned or agriculturally  
 74 zoned lots or parcels] a lot or parcel in a one-family residential zone or an



75 agricultural zone may not [be exceeded] exceed that allowed by the lot or  
 76 parcel's commercial/residential zone; and  
 77 (g) [the resulting development must conform to the design and land use  
 78 objectives of the applicable master or sector plan and design guidelines.]  
 79 public benefits must be provided under the phasing element of an approved  
 80 sketch plan.

81 **59-C-15.13. Applicability.**

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

85  
 86 *Examples:*

- 87 • An area zoned [CR-2.0] CRN1.5, C1.0, R1.0, [H80] H45 allows a total FAR [of 2.0] up  
 88 to 1.5, with maximum non-residential and residential FARs of 1.0, thereby requiring [an  
 89 equal] a mix of uses to obtain the total FAR allowed. The height for any building in this  
 90 zone is limited to [80] 45 feet.
- 91 • An area zoned CR[-]6.0, C3.0, R5.0, H200 allows [a residential FAR of up to 5.0,] a non-  
 92 residential FAR [of] up to 3.0, a residential FAR up to 5.0, and a mix of the two uses  
 93 could yield a total FAR of 6.0. This combination allows for flexibility in the market and  
 94 shifts in the surrounding context. The height for any building in this zone is limited to  
 95 200 feet.
- 96 • An area zoned [CR-4.0] CRT3.5, [C4.0] C3.5, [R4.0] R3.5, [H160] H100 allows  
 97 complete flexibility in the mix of uses, including buildings with no mix, because the  
 98 maximum allowed non-residential and residential FARs are both equivalent to the total  
 99 maximum FAR allowed. The height for any building in this zone is limited to [160] 100  
 100 feet.

101  
 102 **59-C-15.2. Description and objectives of the CR zones.**

103 The CRN, CRT, and CR zones permit a mix of residential and non-residential uses  
 104 at varying densities and heights. The zones promote economically,  
 105 environmentally, and socially sustainable development patterns where people can  
 106 live, work, recreate, and have access to services and amenities while minimizing  
 107 the need for automobile use. The application of the CR zones is appropriate where

108 ecological impacts can be moderated by co-locating housing, jobs, and services.

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

110 (a) implement the policy recommendations of applicable master and sector  
111 plans;

112 (b) target opportunities for redevelopment of single-use areas and surface  
113 parking lots with a mix of uses;

114 (c) reduce dependence on the automobile by encouraging development that  
115 integrates a combination of housing types, mobility options, commercial  
116 services, and public facilities and amenities;

117 (d) allow a mix of uses, densities, and building heights appropriate to various  
118 contexts to ensure compatible relationships with adjoining neighborhoods;

119 (e) [encourage] allow an appropriate balance of employment and housing  
120 opportunities [and compatible relationships with adjoining neighborhoods;

121 (e) establish the maximum density and building height for each zone, while  
122 retaining appropriate development flexibility within those limits]; and

123 (f) standardize optional method development by establishing minimum  
124 requirements for the provision of [the] public benefits that will support and  
125 accommodate density above the standard method limit.

126 **59-C-15.3. Definitions specific to the CR zones.**

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

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

131 **Cultural institutions:** public or private institutions or businesses including: art,  
132 music, and photographic studios; auditoriums or convention halls; libraries and

133 museums; recreational, performance, or entertainment establishments,  
134 commercial; theater, indoor; theater, legitimate.

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

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

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

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

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

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

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

156 **Recreational facilities, participatory:** Facilities used for sports or recreation.

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

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

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

165 **Tenant Footprint:** The horizontal area measured within the exterior walls for the  
 166 ground floor of the main structure allocated to each non-residential tenant or  
 167 owner-occupant.

168 **Transit proximity:** Transit proximity is categorized in two levels: 1. proximity  
 169 to an existing or planned Metrorail Station; 2. proximity to an existing or  
 170 planned station or stop along a rail or bus line with a dedicated, fixed path. All  
 171 distances for transit proximity are measured from the nearest transit station  
 172 entrance or bus stop. To qualify as a planned station or stop, the station or stop  
 173 must have funds appropriated in the relevant Capital Improvement Program.

174 **59-C-15.4. Methods of development and approval procedures.**

175 [Two methods of development are available under the CR zones] The CRN zones  
 176 allow development only under the standard method. The CRT and CR zones  
 177 allow development under the standard method and may allow development under  
 178 the optional method.

179 **59-C-15.41. Standard Method.**

180 Standard method development [must comply with the general requirements and  
 181 development standards of the CR zones] is allowed under the following  
 182 requirements.

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

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

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

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

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

191 (2) [the] includes a gross floor area [exceeds] exceeding 10,000 square feet;  
 192 [or]

193 (3) includes a building height exceeding 40 feet; or

194 [(b)](4) [any building or group of buildings contains] includes 10 or more  
 195 dwelling units.

196 **59-C-15.42. Optional method.**

197 Optional method development [must comply with the general requirements and  
 198 development standards of the CR zones and must provide public benefits under  
 199 Section 59-C-15.8 to obtain greater density and height than allowed under the  
 200 standard method of development. A sketch plan and site plan are required for any  
 201 development using the optional method. A sketch plan must be filed under the  
 202 provisions below; a site plan must be filed under Division 59-D-3. Any required  
 203 preliminary subdivision plan must not be submitted before a sketch plan is  
 204 submitted] is allowed under the following requirements.

205 (a) The maximum total, non-residential, and residential densities and building  
206 height for any property are set by the zone shown on the zoning map.

207 (b) A sketch plan must be submitted under Section 59-C-15.43.

208 (c) Site plan(s) must be submitted under Division 59-D-3.

209 (d) Public benefits must be provided under Section 59-C-15.8.

210 **59-C-15.43. Sketch plan.**

211 Any optional method development in the CRT and CR zones requires an approved  
212 sketch plan. Any required preliminary plan of subdivision or site plan may not be  
213 submitted before a sketch plan has been approved.

214 (a) A sketch plan application must contain:

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

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

220 (A) [the maximum densities for residential and non-residential  
221 uses, massing, and heights of buildings] building densities, massing,  
222 heights, and the anticipated mix of uses;

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

224 (C) pedestrian, bicycle, and vehicular circulation, parking, and  
225 loading; and

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

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

230 (4)] a table of proposed public benefits and the incentive density  
231 requested for each; and

232 [(5)](4) [the] a general phasing outline of structures, uses, rights-of-  
233 way, sidewalks, dedications, public benefits, and future preliminary  
234 and site plan applications.

235 (b) Procedure for a sketch plan:

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

239 (A) notice;

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

241 (C) holding a pre-submittal meeting.

242 (2) A public hearing must be held by the Planning Board on each sketch  
243 plan application no later than 90 days after the filing of an optional  
244 method development application, unless a request to extend this  
245 period is requested by the applicant, Planning Board staff, or other  
246 interested parties. A request for an extension must be granted if the  
247 Planning Board finds it not to constitute prejudice or undue hardship  
248 on any interested party. A recommendation regarding any request for  
249 extension must be acted upon [as a consent agenda item] by the  
250 Planning Board on or before the 90-day hearing period expires.  
251 Notice of the extension request and recommendation by Staff must be  
252 posted no fewer than 10 days before the item's agenda date.

253 (3) No fewer than 10 days before the public hearing on a sketch plan,  
254 Planning Board staff must submit its analysis of the application,  
255 including its findings, comments, and recommendations with respect

256 to the requirements and standards of this division and any other  
 257 matters that may assist the Planning Board in reaching its decision on  
 258 the application. This staff report must be included in the record of the  
 259 public hearing.

260 (4) The Planning Board must act within 30 days after the close of the  
 261 record of the public hearing, by majority vote of those present and  
 262 voting based upon the hearing record, to:

- 263 (A) approve;
- 264 (B) approve subject to modifications, conditions, or binding  
 265 elements; or
- 266 (C) disapprove.

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

270 (1) [The plan: (A) meets the] meet objectives, general requirements, and  
 271 standards of this Division;

272 (2) [(B) will further] further the recommendations and objectives of the  
 273 applicable master or sector plan; [and (C) will provide more efficient  
 274 and effective development of the site than the standard method of  
 275 development;]

276 [(2)](3) [The proposed building massing and height and public use and  
 277 other open spaces are located and scaled to achieve] achieve  
 278 compatible internal and external relationships [with each other and  
 279 with] between existing and proposed nearby buildings, [and] open  
 280 space [adjacent to the site and with adjacent communities] , and uses;





- 307 - *Permitted Uses* are designated by the letter “P” and are permitted  
 308 subject to all applicable regulations.  
 309 - Limited Uses are designated by the letter “L” and are permitted  
 310 subject to all applicable regulations and the additional restrictions  
 311 under Section 59-C-15.51.  
 312 - *Special Exception Uses* are designated by the letters “SE” and may be  
 313 authorized as special exceptions under Article 59-G.  
 314

Use	CRN	CRT	CR
<b>(a) Agricultural</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>			
Dwellings	<u>P</u>	<u>P</u>	P
Group homes, small [or large]	<u>P</u>	<u>P</u>	P
Group homes, large	<u>L</u>	<u>P</u>	<u>P</u>
Hospice care facilities	<u>L</u>	<u>P</u>	P
Housing and related facilities for senior adults or persons with disabilities	<u>P</u>	<u>P</u>	P
Life care facilities	<u>P</u>	<u>P</u>	P
Live/Work units	<u>P</u>	<u>P</u>	P
Personal living quarters	<u>P</u>	<u>P</u>	P
<b>(c) Commercial Sales and Service</b>			
Advanced technology and biotechnology		<u>P</u>	P
Ambulance or rescue squads, private	<u>L</u>	<u>L</u>	P
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>	P
Automobile rental services, including storage of vehicles and supplies		<u>L</u>	<u>L</u>
Automobile repair and services		<u>L</u>	P
Automobile sales, indoors	<u>L</u>	<u>L</u>	P
Automobile sales, outdoors [(except where a municipality prohibits the use within its jurisdiction by resolution)]		<u>L</u>	P
Clinic	<u>L</u>	<u>P</u>	P
Conference centers		<u>P</u>	P
Eating and drinking establishments	<u>L</u>	<u>P</u>	P
Health clubs and gyms	<u>L</u>	<u>P</u>	P

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>
Offices, general	<u>P</u>	<u>P</u>	<u>P</u>
Recreational facilities, participatory	<u>L</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 5,000sf</u>	<u>P</u>	<u>P</u>	<u>P</u>
Retail trades, businesses, and services of a general commercial nature <u>with each tenant footprint between 5,000sf and 15,000sf</u>	<u>L</u>	<u>P</u>	<u>P</u>
Retail trades, businesses, and services of a general commercial nature <u>with each tenant footprint between 15,000sf and 60,000sf</u>		<u>P</u>	<u>P</u>
Retail trades, businesses, and services of a general commercial nature <u>with each tenant footprint over 60,000sf</u>		<u>L</u>	<u>P</u>
Self-storage facilities		<u>SE</u>	<u>SE</u>
Veterinary hospitals and offices with boarding facilities	<u>SE</u>	<u>L</u>	<u>P</u>
Veterinary hospitals and offices without boarding facilities	<u>P</u>	<u>P</u>	<u>P</u>
Warehousing, not including self-storage, less than 10,000 square feet		<u>P</u>	<u>P</u>
<b>(d) Institutional &amp; Civic</b>			
Charitable and philanthropic institutions	<u>L</u>	<u>P</u>	<u>P</u>
Cultural institutions	<u>L</u>	<u>P</u>	<u>P</u>
Day care facilities and centers <u>with over 30 users</u>	<u>L</u>	<u>L</u>	<u>P</u>
Day care facilities and centers <u>with up to 30 users</u>	<u>P</u>	<u>P</u>	<u>P</u>
Educational institutions, private	<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</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</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>	P
Rooftop mounted antennas and related unmanned equipment buildings, cabinets, or rooms	<u>P</u>	<u>P</u>	P

315 **59-C-15.51. Limited Uses.**

316 **59-C-15.511. Applicability.** Uses designated by an “L” in the land use table are  
 317 Limited Uses and must comply with the requirements of this Section if they are on  
 318 properties that are:

319 (a) Located adjacent to a property in a one-family residential or agricultural  
 320 zone; or

321 (b) Separated from such a property only by the right-of-way of a primary,  
 322 secondary, or tertiary residential street.

323 Where these circumstances do not apply, the use is considered a permitted use and  
 324 Section 59-C-15.41(c)(1) does not apply.

325 **59-C-15.512. Requirements of Limited Uses.**

326 Development applications that include Limited Uses must

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

328 (b) comply with the design recommendations of the applicable sector or master  
 329 plan, and associated design guidelines; and

330 (c) ensure compatible relationships with existing and proposed adjacent residential  
 331 housing through mitigating factors including, but not limited to;

332 (1) increased setbacks;

333 (2) sound and visual barriers;

334 (3) decreased structural heights, or

335 (4) diminished site lighting.

336 **59-C-15.6. General requirements.**

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

339 **59-C-15.61. Master plan and design guidelines conformance.**

340 Development that requires a site plan must be consistent with the applicable  
 341 master or sector plan, unless the Planning Board finds that events have occurred to  
 342 render the relevant master or sector plan recommendation no longer appropriate,  
 343 and must [address] substantially conform to any design guidelines approved by the  
 344 Planning Board that implement the applicable plan.

345 **[59-C-15.62. Priority retail street frontages.**

346 Development that requires a site plan and is located on a street identified as a  
 347 priority retail street frontage in the applicable master plan, sector plan, or design  
 348 guidelines must be developed in a manner that is consistent with the  
 349 recommendations and objectives of the applicable plan and address any applicable  
 350 design guidelines approved by the Planning Board that implement the applicable  
 351 plan.

352 **59-C-15.63. Streetscape.**

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

356 **[59-C-15.64]59-C-15.62. Bicycle parking spaces and commuter shower/change**  
 357 **facility.**

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

363

<b>Bicycle and Shower/Change Facilities Required</b>	
Use	Requirement

<i>Multi-family Residential</i>	
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.
<i>Non-Residential</i>	
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.

364 ]

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

368 (a) Bicycle Parking Spaces

369

<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 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 10,000sf and 100,000 square feet gross floor area (sf)</u>	<u>2 per 10,000sf</u>	<u>1 per 10,000sf, 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 10,000sf, not fewer than 10, to a maximum requirement of 100.</u>

371 (b) For office uses with a total non-residential floor area of 100,000 square feet  
 372 of gross floor area or greater, one shower/change facility is required for  
 373 each gender available only to employees when the building is accessible.

374

375 **[59-C-15.63]59-C-15.63. Parking.**

376 [(a) (1) For projects that satisfy the requirements for transit proximity levels 1  
 377 or 2, the number of parking spaces provided on site must not exceed the  
 378 number required under Article 59-E, except that the maximum number of  
 379 parking spaces for general retail and restaurant uses is 4 spaces for every  
 380 1,000 square feet of gross leasable area, and no parking spaces are required  
 381 for restaurant outdoor patron areas.

382 (2) All projects that do not satisfy the requirements for transit proximity levels  
 383 1 or 2 must meet the parking requirements established under Article 59-E,  
 384 except that the number of parking spaces for general retail and restaurant  
 385 uses in Subsection (a)(1) may be provided without a parking waiver.

386 (b) Except for retail and restaurant uses that satisfy Subsection (a)(1) and  
 387 projects that do not satisfy transit proximity level 1 or 2, the number of  
 388 parking spaces required is based on a building’s distance from transit as  
 389 follows:

390

Parking Requirements				
	Transit Proximity (Level 1 or 2)			
	¼ mile from transit	¼ to ½ mile from transit	½ mile to 1 mile from transit	>1 mile from transit



Non-residential: the 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

391

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

394 Instead of the requirements of Article 59-E regarding parking space numerical  
 395 requirements, landscaping, and surface parking design, development in the CRN,  
 396 CRT, and CR zones must comply with the following provisions. All standards and  
 397 requirements of Article 59-E that are not modified by this Section must be  
 398 satisfied.

399

400 **59-C-15.631. Parking Ratios.**

401 Parking spaces must satisfy the following minimums and maximums. The  
 402 minimum number of spaces required is equal to the number of parking spaces that  
 403 would otherwise be required by Division 59-E-3 multiplied by the applicable  
 404 factor in the table, or at the rate indicated. When a maximum number of spaces is

405 indicated, no more parking than would otherwise be required by Division 59-E-3  
 406 may be provided.

<u>Use</u>	<u>CRN</u>		<u>CRT</u>		<u>CR</u>			
	<u>Up to</u>	<u>Greater</u>	<u>Up</u>	<u>Greater</u>	<u>Up to</u>	<u>¼ to ½</u>	<u>½ to 1</u>	<u>Greater</u>
<u>Distance from a level 1 or 2 transit station or stop</u>	<u>½</u> <u>mile</u>	<u>than ½</u> <u>mile</u>	<u>to ½</u> <u>mile</u>	<u>than ½</u> <u>mile</u>	<u>¼ mile</u>	<u>mile</u>	<u>mile</u>	<u>than 1</u> <u>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</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</u>	<u>0.8</u>	<u>0.4</u>	<u>0.6</u>	<u>4 per</u> <u>1,000</u> <u>square</u> <u>feet</u>	<u>4 per</u> <u>1,000</u> <u>square</u> <u>feet</u>	<u>4 per</u> <u>1,000</u> <u>square</u> <u>feet</u>	<u>0.8</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</u>	<u>0.8</u>	<u>0.4</u>	<u>0.6</u>	<u>0.2</u>	<u>0.4</u>	<u>0.6</u>	<u>0.8</u>

407

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

410 **59-C-15.632. Accepted Parking Spaces**

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

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

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

414 [(3)](c) participating in;

415 (1) a parking lot district;

- 416           (2)   [or] a shared parking program established by municipal resolution; or  
 417           (3)   entering into an agreement for shared parking spaces in a public or  
 418           private facility within [1,000 feet] ¼ mile of the subject lot, if the off-  
 419           site parking facility is not in an agricultural (Division 59-C-9),  
 420           planned unit development (Division 59-C-7), or one-family  
 421           residential (Division 59-C-1) zone, unless otherwise allowed by this  
 422           Chapter.

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

425

426   *Example:* A non-residential project on a CR-zoned site requiring at least 100 spaces under  
 427   Article 59-E would be required to provide a maximum of 100 spaces on site. If that site was  
 428   within ¼ to ½ mile of a transit station, the minimum requirement for parking would be 40 spaces  
 429   (100 x 0.40 = 40). If 2 car-share spaces were provided, that requirement would be 28 for non-  
 430   residential use or 34 for residential use.

431   **59-C-15.633. Parking space location and access.**

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

434   [(1)](a)     [a] parking [facility at] spaces on or above grade must not be located  
 435           between the street and the main front wall of the building or the side wall of  
 436           [a] the main building on a corner lot[ unless the Planning Board finds that  
 437           safe and efficient circulation would be better served by a different  
 438           arrangement]; and

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

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

443   **59-C-15.634. Drive-through facility design.**

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

446 [(f)](a) [The design of parking facilities with drive-through services must  
 447 comply with the following; however, the Planning Board may approve a  
 448 design if it finds that the alternative design would provide safer and more  
 449 efficient circulation:] no part of a drive-through service facility, including  
 450 the stacking area, may be located within 100 feet of a property line shared  
 451 with an one-family or agriculturally zoned land;

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

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

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

463 **59-C-15.635. Landscaping and lighting.**

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

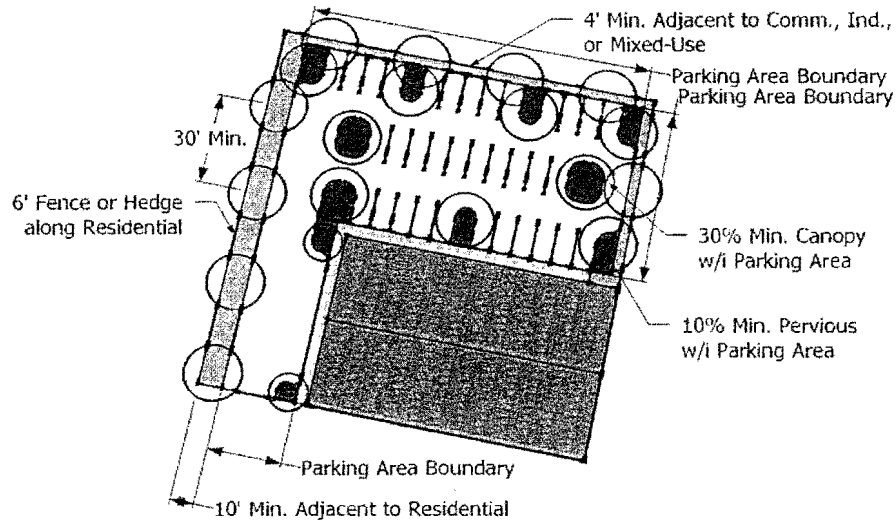
468

<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>	<u>No less than 6-foot [width of] wide continuous soil panel [or] (excluding any 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 continuous soil panel (excluding any 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 continuous soil panel [or] (excluding any 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 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.]
(d) <u>Internal Pervious Area</u>	<u>No less than 10 percent of the parking facility area comprised 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 footcandle illumination at any property line subject to (b), above.</u>

469

470



*Surface Parking Landscape Requirements Illustrative*

471  
472

473 **59-C-15.636. Waiver of parking provisions.**

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

481 **59-C-15.7. Development standards.**

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

484 **59-C-15.71. Density and height.**

485 Maximum density and height are specified by the zone established on the zoning  
 486 map under the provisions of Section 59-C-15.1.

487 [(a) The maximum density for any standard method project is the greater of 0.5  
 488 FAR or 10,000 square feet of gross floor area. Any single land use or any

489 combination of land uses allowed in the zone may achieve the maximum  
 490 density.

491 (b) The maximum total density and mix of maximum non-residential and  
 492 residential density for any project using the optional method of development  
 493 is specified by the zone.]

494 **[59-C-15.72. Height.**

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

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

499 **[59-C-15.73]59-C-15.72. Setbacks.**

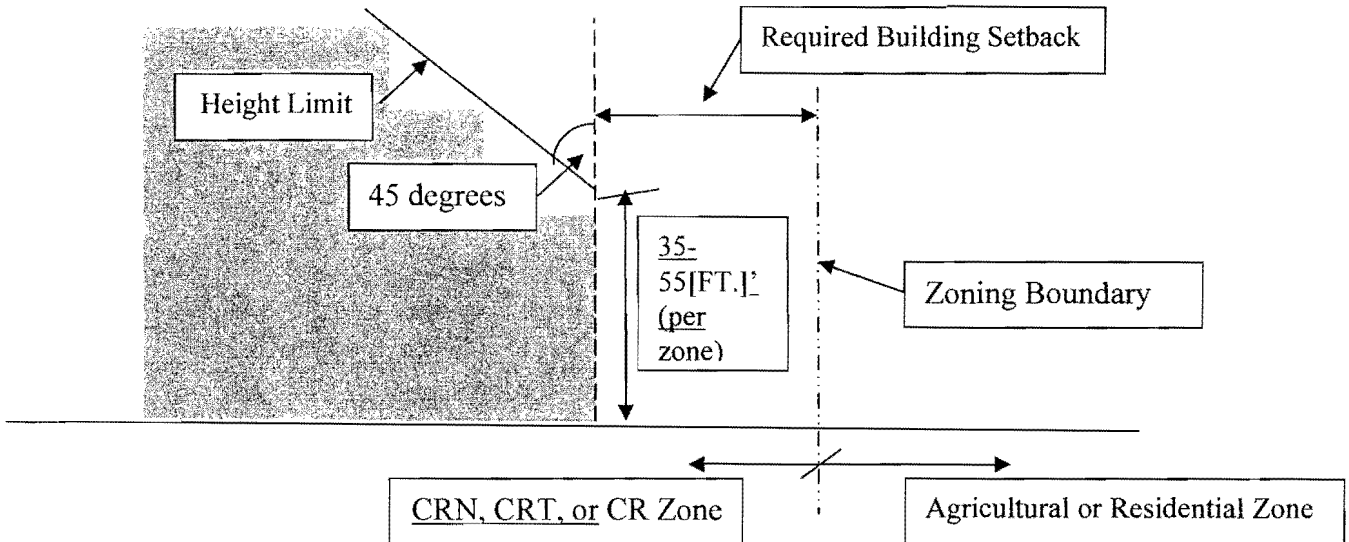
500 (a) [A building must not be any closer to a lot line shared with] Where a tract of  
 501 land is adjacent to a lot or parcel in [an agricultural (Division 59-C-9) or  
 502 applicable residential (Division 59-C-1)] a one-family residential or  
 503 agricultural zone [than] any building:

504 (1) must have a minimum setback of 25 feet or the setback required by  
 505 the adjacent lot or parcel, whichever is greater; and

506 (2) [the building] must not project beyond a 45 degree angular plane  
 507 projecting over the subject lot or parcel measured from a height of 55  
 508 feet in the CR zones, 45 feet in the CRT zones, or 35 feet in the CRN  
 509 zones at the setback line determined above, with the exception of  
 510 those features exempt from height and setback restrictions under  
 511 Section 59-B-1.

512 (b) The development of a new building in place of a building existing when  
 513 [the] a CRN, CRT, or CR zone is applied may be built to the [pre-existing

514 setbacks] previously allowed setback if the height of the new building is not  
 515 increased [over that] above the height of the former building.  
 516



517  
 518

*Angular Plan Setback Illustration*

519 **[59-C-15.74]59-C-15.73. Public use space.**

520 (a) Public use space is not required for any standard method project that does  
 521 not require a site plan. If a site plan is required for the proposed project,  
 522 [then the minimum ]public use space is [10 percent of the project’s net land  
 523 area.] required as follows:

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

524

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

527



<b>Minimum Required Public Use Space (% of net tract area)</b>				
Acres (Gross)	Number of Existing, Proposed, and Master-Planned Right-of-Way Frontages			
	1	2	3	4+
< 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

528

529 (c) Public use space must:

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

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

533 [(3)](2) be easily and readily accessible to the public; and

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

536 (5)](3) contain amenities such as seating options, shade, landscaping,  
537 artwork, or [other similar public benefits] fountains.

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

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

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

549 (A) equal to the cost of constructing an equal amount of public use  
 550 space and associated amenities on-site per square foot plus the  
 551 fair market value of the application tract of land per square  
 552 foot;

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

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

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

- 561 (1) located within the same master plan area as the proposed development; and
- 562 (2) indicated on the approved sketch plan.]

563 **[59-C-15.75]59-C-15.74. Residential amenity space.**

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

566

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

567

568 (b) [The] Additional amenity space is not required for Moderately Priced  
 569 Dwelling Units (MPDUs) or Workforce Housing Units (WFHUs) on a site

570 within a metro station policy area or where the Planning Board finds [that  
 571 there is ]adequate recreation facilities and open space area available within  
 572 [a] ½ mile [radius] of the subject site. If such a finding cannot be made,  
 573 amenity space must be provided as if all the dwelling units were market-rate  
 574 units.

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

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

581 **59-C-15.8. Special regulations for the optional method of development**

582 **[59-C-15.81. Incentive Density Provisions.]**

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

587 **59-C-15.81. Incentive Density Categories.**

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

591 [(1)](a) [Master-planned major] Major public facilities;

592 [(2)](b) Transit proximity [for residents, workers, and patrons];

593 [(3)](c) Connectivity between uses [and], activities, and mobility options;

594 [(4)](d) Diversity of uses and activities;

595 [(5)](e) Quality of building and site design; and

596 [(6)](f) Protection and enhancement of the natural environment[; and  
 597 (7) Advanced dedication of right-of-way].

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

601 **59-C-15.82. Public benefits required.**

602 Any optional method development must provide public benefits from at least 4 of  
 603 the 6 categories listed in Section 59-C-15.81 and:

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

606 (b) Development in the CR zones must provide BLTs required under Section  
 607 59-C-15.856(a) for at least 5 points and provide additional public benefits;  
 608 the sum of the public benefit points must equal at least 100.

609 **59-C-15.83. General incentive density considerations.**

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

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

614 [(2)](b) [Any applicable design guidelines and any adopted public benefit  
 615 standards and guidelines] The CR Zone Incentive Density Implementation  
 616 Guidelines and any design guidelines adopted for the applicable master plan  
 617 area;

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

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

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

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

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

629 [(c) Any incentive density increase approved by the Planning Board for an  
 630 optional method of development application must satisfy Subsection 59-C-  
 631 15.87(a).]

632 **59-C-15.84. CR zones incentive density implementation guidelines.**

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

636 [(1)](a) be consistent with the [recommendations and] objectives of [the  
 637 applicable master or sector plan and the purpose of the CR zones] this  
 638 Division;

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

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

644 [(4)](c) only [address the] allow incentive density for those public benefits  
 645 listed in [Sections 59-C-15.82 through 59-C-15.88 and must not add a  
 646 public benefit category; and

647 (5) include the criteria to determine when an early dedication of right-of-way  
 648 qualifies for incentive density, and the amount of the incentive density  
 649 permitted] Section 59-C-15.85.

650 **59-C-15.85. Individual public benefit descriptions and criteria.**

651 **[59-C-15.82]59-C-15.851. [Incentives for master-planned] Major public**  
 652 **facilities.**

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

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

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

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

668 (c) Because of their significance in place-making, the Planning Board may  
 669 approve incentive density of up to 40 points in the CRT zones and 70  
 670 [percent] points in the CR zones for (1) the conveyance of a site or floor  
 671 area for, [and/or] (2) construction of, and/or (3) making a payment for a  
 672 major public facility that is [designated on a master plan or sector plan and

673 is] accepted for use and/or operation by [the] an appropriate public agency,  
 674 community association, or nonprofit organization.

675 **[59-C-15.83]59-C-15.852. [Incentives for transit] Transit Proximity.**

676 [In order to encourage] Development near transit facilities encourages greater use  
 677 of transit, [control] controls sprawl, and [reduce] reduces vehicle miles traveled,  
 678 congestion, and carbon emissions[, the Planning Board may approve incentive  
 679 density for transit proximity under this section. The percentage of incentive  
 680 density awarded to a project for transit proximity is]. Transit proximity points are  
 681 granted for proximity to existing or planned transit based on transit service level  
 682 and CRT and CR zones as follows:

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

683

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

684

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

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

690 (b) For split proximity-range projects:

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

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

700 **[59-C-15.84]59-C-15.853. [Incentives for connectivity] Connectivity and**  
 701 **mobility.**

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

709 (a) **Neighborhood Services:** [Safe] At least 10 points for safe and direct  
 710 pedestrian access to at least 10 different retail services on site or within ¼  
 711 mile, of which at least 4 have a [maximum] retail bay floor area of no  
 712 greater than 5,000 square feet.



- 713 (b) **Minimum Parking:** [Provision of the minimum required] Up to 10 points  
 714 for providing less than the maximum allowed number of parking [for  
 715 projects of one acre of gross tract area or more] spaces, if a maximum is  
 716 applicable under Section 59-C-15.631.
- 717 (c) **Through-Block Connections:** [Safe] Up to 20 points for safe and attractive  
 718 pedestrian connections between streets.
- 719 (d) **Public Parking:** [Provision of] Up to 25 points for providing up to the  
 720 maximum number of parking spaces allowed in the zone as public parking.
- 721 (e) **Transit Access Improvement:** [Ensuring] Up to 20 points for ensuring that  
 722 access to transit facilities meets County standards for handicapped  
 723 accessibility.
- 724 (f) **Trip Mitigation:** [A] At least 15 points for entering into a binding [and  
 725 verifiable] Traffic Mitigation Agreement to reduce the number of weekday  
 726 morning and evening peak hour trips attributable to the site in excess of any  
 727 other regulatory requirement; the agreement must result in a non-auto driver  
 728 mode share of at least 50% for trips attributable to the site.
- 729 (g) **Streetscape:** Up to 20 points for construction of off-site streetscape  
 730 excluding any streetscape improvements required by this Division.
- 731 (h) **Advance Dedication:** Up to 30 points for dedicating or providing a  
 732 reservation for dedication for master-planned rights-of-way in advance of a  
 733 preliminary or site plan application.
- 734 (i) **Way-Finding:** At least 5 points for design and implementation of a way-  
 735 finding system orienting pedestrians and cyclists to major open spaces,  
 736 cultural facilities, and transit opportunities.
- 737 **[59-C-15.85]59-C-15.854. [Incentives for diversity] Diversity of uses and**  
 738 **activities.**

739 [In order to increase] Development that increases the variety and mixture of land  
 740 uses, types of housing, economic [diversity] variety, and community activities;  
 741 [contribute] contributes to development of [a ]more efficient and sustainable  
 742 [community] communities; [reduce] reduces the necessity for automobile use; and  
 743 [facilitate] facilitates healthier lifestyles and greater social interaction[, the  
 744 Planning Board may approve incentive density of up to 30% for a project that  
 745 provides affordable housing or a public facility, as described below, or at least 2 of  
 746 the other following public benefits:]

747 (a) **Affordable Housing:**

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

752 (1) MPDU Incentive Density: Provision of MPDUs above the minimum  
 753 required is calculated on the total number of dwelling units as  
 754 required by Chapter 25A, and the percent of incentive density  
 755 increase is based on the proposed FAR for the entire project], except  
 756 that achieving bonus density under Section 25A-5(c)(3), as amended  
 757 from time to time, entitles an applicant to incentive density points  
 758 under this Division equal to the bonus density percentage.

759 *Example:* Provision of 14.5% MPDUs is awarded [an incentive density of  
 760 20 % (see 25A-5(c)(3)). In the case of a CR 4.5 zone that proposes 4.5  
 761 FAR, that equals 0.20 x 4.0 (the incentive density), which is 0.8 FAR] 20  
 762 points; provision of 13.0% MPDUs is awarded 5 points.

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

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

767 *Example:* Provision of 5% WFHUs is awarded [incentive density of] 10[%]  
 768 points; provision of 12% WFHUs is awarded [incentive density of] 24[%]  
 769 points.

- 770 (b) **Adaptive Buildings:** [Provision of buildings with] At least 10 points for  
 771 constructing commercial or mixed use buildings with minimum floor-to-  
 772 floor heights of at least 15 feet on any floor that meets grade and 12 feet on  
 773 all other floors. Internal structural systems must be able to accommodate  
 774 various types of use with only minor modifications.
- 775 (c) **Care Centers:** [Child] Up to 20 points for constructing a child or adult day  
 776 care [facilities] facility with spaces for at least 15 users.
- 777 (d) **Small Business [Retention] Opportunities:** [Provision of] Up to 20 points  
 778 for providing on-site space for small, neighborhood-oriented businesses.
- 779 (e) **Dwelling Unit Mix:** [Provision of] At least 5 points for integrating a mix of  
 780 residential unit types with at least 7.5% efficiency units, 8% 1-bedroom  
 781 units, 8% 2-bedroom units, and 5% 3-or-more bedroom units.
- 782 (f) **Enhanced Accessibility for the Disabled:** [Provision of] Up to 20 points  
 783 for constructing dwelling units that satisfy American National Standards  
 784 Institute A117.1 Residential Type A standards or [units that satisfy] an  
 785 equivalent County standard.
- 786 (g) **Live/Work:** At least 10 points for developments of up to 2.0 FAR total  
 787 density that provide at least the greater of 3 units or 10% of the total unit  
 788 count as live/work units.
- 789 **[59-C-15.8]59-C-15.855. [Incentives for quality] Quality building and site**  
 790 **design.**

791 High quality design is especially important in urban, integrated-use settings to  
 792 ensure that buildings and uses are visually compatible with each other and  
 793 adjacent communities and to provide a harmonious pattern of development. Due to  
 794 [the] increased density [of] in these settings, buildings tend to [have high  
 795 visibility. High] be highly visible and high quality design [may help to] helps  
 796 attract residents, patrons, and businesses to [locate in] these [settings] areas.  
 797 Location, height, massing, façade treatments, and ornamentation of buildings  
 798 affect sense of place, orientation, and the perception of comfort and convenience.  
 799 The quality of the built environment affects light, shadow, wind, and noise, as well  
 800 as the functional and economic value of property. [In order to promote high  
 801 quality design, the Planning Board may approve incentive density of up to 30% to  
 802 a project that provides at least 2 of the following public benefits:]

- 803 (a) **Historic Resource Protection:** [Preservation] Up to 20 points for the  
 804 preservation and/or enhancement of or payment towards preservation and/or  
 805 enhancement of a historic resource [indicated on] or a contributing element  
 806 within a historic district designated in the Master Plan for Historic  
 807 Preservation [in conformance with a plan approved by the Historic  
 808 Preservation Commission. A fee-in-lieu for a specific preservation project  
 809 may be paid to the Historic Preservation Division as specified in the  
 810 Guidelines for Public Benefits].
- 811 (b) **Structured Parking:** [Parking provided] Up to 20 points for placing  
 812 parking within [a structure or below-grade] above- or below-grade  
 813 structures.
- 814 (c) **Tower [Setback] Step-Back:** [Setback of building] At least 5 points for  
 815 stepping back a building's upper floors by a minimum of 6 feet [beyond]

- 816 behind the first floor façade [at a maximum height of] . The step-back must  
 817 begin at a height no greater than 72 feet.
- 818 (d) **Public Art:** [Provision of ] Up to 15 points for installing public art [must  
 819 be] reviewed for comment by, or paying a fee accepted by, the [Public Arts  
 820 Trust Steering Committee. A fee-in-lieu may be paid to the Trust as  
 821 specified in the Guidelines for Public Benefits] Arts and Humanity Council.
- 822 (e) **Public Open Space:** [Provision of] Up to 20 points for providing, or  
 823 making a payment for, open space in addition to the minimum public use  
 824 space required by [the zone. Public open space must be easily accessible to  
 825 the public during business hours and/or at least from sunrise to sunset and  
 826 must contain amenities such as seating, plantings, trash receptacles, kiosks,  
 827 and water features] this Division.
- 828 [(f) **Streetscape:** Construction of off-site streetscape in addition to the  
 829 requirements of this division].
- 830 [(g)](f) **Exceptional Design:** [Building design that provides innovative  
 831 solutions in response to the immediate context; creates a sense of place and  
 832 serves as a landmark; enhances the public realm in a distinct and original  
 833 manner; introduces new materials, forms, or building methods; uses design  
 834 solutions to make compact infill development living, working, and shopping  
 835 environments more pleasurable and desirable; and integrates low-impact  
 836 development methods into the overall design of the site and building.] Up to  
 837 10 points for building or site design whose visual and functional impacts  
 838 enhance the character of a setting and the purposes delineated in this  
 839 Section.
- 840 (g) **Architectural Elevations:** Up to 20 points for providing elevations of  
 841 architectural façades and agreeing to be bound by particular elements of

842 design, such as minimum amount of transparency, maximum separation  
 843 between doors, awning provisions, sign restrictions, or lighting parameters  
 844 that affect the perception of mass, pedestrian comfort, or enhance  
 845 neighborhood compatibility.

846 **[59-C-15.87]59-C-15.856. [Incentives for] Protection and enhancement of the**  
 847 **natural environment.**

848 [In order to combat sprawl and] Protection and enhancement of natural systems  
 849 and decreases in energy consumption help mitigate or reverse environmental  
 850 [problems] impacts such as heat island effects from the built environment,  
 851 inadequate carbon-sequestration, habitat and agricultural land loss, and air and  
 852 water pollution caused by reliance on the automobile [, the Planning Board may  
 853 approve a density increase up to 30% for the public benefits in this Subsection:].

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

860 (1) In the CR zones, an applicant must purchase BLT easements, or make  
 861 payments to the ALPF, in an amount equal to 5% of the incentive  
 862 density floor area under the following parameters:

863 (A) One BLT must be purchased or equivalent payment made for  
 864 every 20,000 square feet of gross floor area to qualify for the  
 865 first 5% incentive density floor area; and

866 (B) Any private BLT easement must be purchased in whole units;  
 867 or

868 (C) BLT payments must be made to the ALPF, based on the  
869 amount established by Executive Regulations under Chapter  
870 2B; if a fraction of a BLT easement is needed, a payment based  
871 on the gross square footage of incentive density must be made  
872 for at least the fraction of the BLT easement.

873 (2) [BLT payments must be made to the Agricultural Land Preservation  
874 Fund, based on the amount established by Executive Regulations  
875 under Chapter 2B; if a fraction of a BLT easement is needed, a  
876 payment based on the gross square footage of incentive density must  
877 be made to the Agricultural Land Preservation Fund for at least the  
878 fraction of the BLT easement.] Up to 25 points for the purchase of  
879 BLTs, or equivalent payments to the ALPF for any incentive density  
880 above 5%. Each BLT easement purchase or payment is equal to  
881 30,000 square feet of gross floor area, or such proportionate square  
882 footage represented by a fractional BLT purchase or payment. This is  
883 converted into points by dividing the incentive density floor area  
884 covered by the purchase or payment by the total square feet of the  
885 incentive density area.

886 (3) In the CRT zones, BLT payments are optional; each BLT easement  
887 purchase or payment is equal to 30,000 square feet of gross floor area,  
888 or such proportionate square footage represented by a fractional BLT  
889 purchase or payment.[(A) For the first 5% of incentive density,  
890 each BLT easement purchase or payment allows 20,000 gross square  
891 feet of incentive density or a proportion thereof, allowed by a  
892 payment for a fraction of a BLT.

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

896 Example: If a 50,000 square-foot (sf) CR3.0 site is fully developed, the  
 897 incentive density available to be earned equals 125,000sf (150,000sf -  
 898 25,000sf = 125,000sf). The 5% BLT requirement for 125,000sf equals  
 899 6,250sf, which equals 0.32 BLT (6,250sf / 20,000sf = 0.32). If the applicant  
 900 seeks an additional 10 points through the purchase of BLTs, 10% of the  
 901 incentive density is calculated, which in this case is 12,500sf (125,000sf x  
 902 0.10 = 12,500sf). Because 1 BLT, above the required 5%, is equivalent to  
 903 30,000sf, the 12,500sf requires a payment for an additional 0.42 BLTs  
 904 (12,500sf / 30,000sf = 0.42). Together, the required and incentive BLTs  
 905 equal 0.74 BLTs for 15 points in the Environment category.

- 906 (b) **Energy Conservation and Generation:** At least 10 points for constructing  
 907 buildings that [Provision of energy-efficiency that exceeds] exceed the  
 908 energy-efficiency standards for the building type by 17.5% for new  
 909 buildings or 10% for existing buildings [, or provision of]. At least 15  
 910 points for providing renewable energy generation facilities on-site or within  
 911 ½ mile of the site for a minimum of 2.5% of the projected energy  
 912 requirement for the development.
- 913 (c) **[Green] Vegetated Wall:** [Installation] At least 5 points for the installation  
 914 and maintenance of a vegetated wall that covers at least 30% of any blank  
 915 wall or parking garage façade that is at least 300 feet in area and is visible  
 916 from a public street or open space.
- 917 (d) **Tree Canopy:** [Coverage] At least 10 points for tree canopy coverage at 15  
 918 years of growth of at least 25% of the on-site open space.



- 919 (e) **Vegetated Area:** [Installation] At least 5 points for installation of plantings  
920 in a minimum of 12 inches of soil, covering at least 5,000 square feet [of  
921 previously impervious surfaces]. This does not include vegetated roofs.
- 922 (f) **Vegetated Roof:** [Provision ] At least 10 points for installation of a  
923 vegetated roof with a soil depth of at least 4 inches covering at least 33% of  
924 a building's roof, excluding space for mechanical equipment.
- 925 (g) **Cool Roof:** At least 5 points for constructing any roof area that is not  
926 covered by a vegetated roof with a minimum solar reflectance index (SRI)  
927 of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum SRI  
928 of 25 for slopes above 2:12.
- 929 (h) **Recycling Facility Plan:** At least 5 points for providing a recycling facility  
930 plan to be approved as part of a site plan for buildings that must comply  
931 with Montgomery County Executive Regulation 15-04AM or Montgomery  
932 County Executive Regulation 18-04.
- 933 (i) **Habitat Preservation and Restoration:** Up to 20 points for protection,  
934 restoration, or enhancement of natural habitats, onsite or within the same  
935 local watershed, which are in addition to requirements of the Forest  
936 Conservation Law or other county laws.

937 [59-C-15.88. Advanced dedication of right-of-way.

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

943 **59-C-15.9. Existing Approvals.**

- 944 (a) One or more lawfully existing buildings [or], structures [and the], or uses  
 945 [therein which] ,that predate the [applicable sectional map  
 946 amendment]application of the CR zone to the site[,] are conforming  
 947 structures or uses, and may be continued, renovated, repaired, or  
 948 reconstructed to the same size and configuration, or enlarged up to a total of  
 949 10 percent above the total existing floor areas of all buildings and structures  
 950 on site or 30,000 square feet, whichever is less, and such development does  
 951 not require a site plan. [Enlargements] Expansions in excess of the  
 952 limitations in this Subsection will require compliance with the full  
 953 provisions of this Division. Uses located in a building or structure deemed  
 954 conforming under the provisions of this Subsection may be converted to any  
 955 permitted non-residential or residential use(s) up to the density limits for the  
 956 land use established by the CRT, CRN, or CR zone.
- 957 (b) A project that received an approved development plan under Division 59-D-  
 958 1 or schematic development plan under Division 59-H-2 before the  
 959 [enactment] application of the CR zones to the site may proceed under the  
 960 binding elements of the development plan and will thereafter be treated as a  
 961 lawfully existing building, and may be renovated or reconstructed under  
 962 Subsection (a) above. Such development plans or schematic development  
 963 plans may be amended as allowed under Division 59-D-1 or 59-H-2 under  
 964 the provisions of the previous zone; however, any incremental increase in  
 965 the total floor area beyond that allowed by Subsection (a) above or any  
 966 incremental increase in building height greater than 15 feet requires, with  
 967 respect to the incremental increase only, full compliance with the provisions  
 968 of this Division. Any failure to fully comply with the binding elements of

969 the development plan will require full compliance with the provisions of  
970 this Division.

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

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

984 (e) A project that has had a special exception approved before application of  
985 the CR zone to the site may continue as a lawfully existing use as long as it  
986 fully complies with the terms and conditions of its approval. Any failure to  
987 fully comply with the terms and conditions of the special exception  
988 approval will require full compliance with the provisions of this Division.  
989 If a special exception holder chooses to operate under this Division instead  
990 of under the special exception, written notice must be provided to the Board  
991 of Appeals that the special exception has been abandoned.

992 \* \* \*

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

995

996 This is a correct copy of Council action.

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998

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999 Linda M. Lauer, Clerk of the Council

1000



**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIRMAN

March 11, 2011

The Honorable Valerie Ervin, President  
Montgomery County Council  
Stella B. Werner Council Office Building  
100 Maryland Avenue, Room 501  
Rockville, Maryland 20850

Re: Planning Board Recommendation to County Council for  
Introduction of Zoning Text Amendment to make changes to the  
Commercial/Residential (CR) Zones.

Dear Ms. Ervin and Councilmembers:

Attached for your consideration is a zoning text amendment with three functions:

- (i) to create a new CRN (Neighborhood) zone;
- (ii) to create a new CRT (Town) zone; and
- (iii) to make a variety of mostly minor amendments to the CR zones, some related to the integration of the new CRN and CRT zones, and some representing improvements and clarifications resulting from experience with the CR zones since their adoption.

At our meeting on March 10, 2011, the Planning Board voted unanimously, 5-0, to recommend introduction of the attached zoning text amendment (ZTA). We believe that creating a family of CR zones will provide a valuable set of tools to promote vibrant, mixed-use development in diverse areas of the County, and that the changes to the existing CR zones will make the zones easier to administer while retaining the benefits that the Council recognized when it first approved the CR zones.

As you know, following PHED committee work sessions on the Kensington Sector Plan in March of 2010, Planning Board Staff was directed to evaluate the appropriateness of the CR zones for lower density areas with smaller properties, diverse ownership patterns, and detached-house residential neighborhoods in close proximity. The Planning Board and Planning Staff have also considered this question in the context of the Takoma/Langley Crossroads and Wheaton Sector Plans, each of which presents its own unique challenges.

To resolve these issues, Planning Board Staff discussed several models with stakeholders, including overlay zones, retention of existing zones, modifications to other commercial and mixed-use zones, or modifications to the CR zones. For numerous

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reasons, however, these models did not provide adequate solutions. Overlay zones have generally not proved to be as effective as predicted, and a new overlay zone would be needed in each area where the CR zones would otherwise be considered. Existing zones lack the mixture of uses desired in many places. They also lack the protections provided by master plan conformance and site plan review requirements. Modifications to existing zones, such as MXTC or TMX, risked unintended consequences in Olney or Twinbrook, where these zones are already in place. Ultimately, the Planning Board and its staff concluded that the best approach would be to create two new CR zoning categories that retain much of the flexibility of the existing CR zones while lessening public benefit requirements for certain areas and ensuring compatibility with surrounding residential uses.

Specifically, we developed the CR Neighborhood (CRN) and CR Town (CRT) zones for areas where there are smaller properties, lower densities, and more challenging economic conditions. The existing CR zones were categorized as CR Metro (still called "CR" because the zone has been mapped as CR in White Flint and Gaithersburg). Early on in thinking about developing a "CR Lite" zone, it became clear that two zones would be necessary: one for areas where existing commercial zones are located next to single-family residential neighborhoods, and one for areas where requiring too many public benefits might impede redevelopment.

The Planning Board undertook a detailed review process in crafting the attached ZTA, including a very high level of participation by interested community members, attorneys, and business owners. We held eight work sessions on this ZTA, including one that was devoted entirely to public comment. We had the benefit of extensive, detailed written comments from participants a variety of viewpoints, several of whom took the time and trouble to prepare a detailed, point-by-point analysis of the proposed amendments. We also had the benefit of the considerable energy and talent of our own staff, who repeatedly considered the public comments and Board discussion and came up with new ideas for how to adjust the draft zoning categories in response.

The CR, CRT, and CRN zones have been carefully calibrated to address varied and sometimes competing goals. Uses, density and height limits, site plan thresholds, standard method densities, public benefit requirements, parking requirements, and development standards have all been crafted to ensure that public review of development applications is based on impacts to the community, and that opportunities for revitalization are appropriate to the context. A change to any one standard or threshold would have consequences for other aspects, all of which need to work together.

One of the challenges we faced as a deliberative body was the difficulty of satisfying diverse interests. The primary concern for some people who participated in developing the ZTA is preserving maximum flexibility for property owners and controlling the cost of public benefits, particularly for small properties. For other participants, the main goal is maximizing the value of public benefits and minimizing the risk that redevelopment might adversely affect the character of residential neighborhoods.

The Planning Board heard these views and many in between. And we expect the Council will hear similar concerns as it considers this ZTA. To assist the Council and its staff in understanding how the Planning Board reached the careful balancing of objectives represented in this ZTA, our staff has prepared a table that summarizes the many written comments we received and our staff's response. The table is arranged by ordinance section, so that one can readily check the comments and discussion on any given section while that section is being discussed. That table will be finalized in the next week or two to reflect some late-arriving comments, and will be provided to the Council and its staff shortly. We hope this will be a useful tool.

The following summary outlines the changes recommended to the zone to integrate the CRN and CRT zones. Generally, though, the changes to the zone allow incorporation of the new CR categories without changing the fundamental architecture of the CR zones or the base requirements, standards, and benefits. The summary also provides some background on the Planning Board's intent in recommending certain changes.

The sections of the CR zones remain the same:

- 15.1. Zones Established.
- 15.2. Descriptions and Objectives of the CR Zones.
- 15.3. Definitions Specific to the CR Zones.
- 15.4. Methods of Development and Approval Procedures.
- 15.5. Land Uses.
- 15.6. General Requirements.
- 15.7. Development Standards.
- 15.8. Special Regulations for the Optional Method of Development.
- 15.9. Existing Approvals.

**Changes to 15.1. Zones Established.**

- Introduction of the CRN and CRT zoning categories to Division 59-C-15.
- Density and height limits set for each CR category: CRN up to 1.5 FAR and 65 feet in height; CRT up to 4.0 FAR and 150 feet in height; and CR remains the same – up to 8.0 FAR and 300 feet in height. These ranges have allowed modeling of fine-tuned densities and heights with the appropriate uses for each category.
- Density averaging has only been changed to ensure it is clear that uses are regulated by the underlying zone.
- Applicability remains the same.

**Changes to 15.2. Descriptions and Objectives of the CR Zones.**

- Language was changed to focus the objectives and improve clarity. No substantive change is intended.

**Changes to 15.3. Definitions Specific to the CR Zones.**

- Three definitions were added.
- “Applicable Residential Zone” was added as a defined term for shorthand used throughout the CR zones to address compatibility at locations near residential uses.
- “Limits of Disturbance” was added to deal with public use space requirements on very large lots.
- “Tenant Footprint” was added to split general retail uses by size to better regulate neighborhood impact in the various CR zones.
- A change to “Transit Proximity” was made to clarify that a transit station or stop must at least be in the County’s Capital Improvement Program (“CIP”) to be considered “planned” and therefore qualify a nearby property owner for reduced parking and incentive density. This was a subject of considerable discussion, acknowledging the tension between encouraging development in areas where transit has been proposed because additional density will help justify construction of the transit, and recognizing that when transit has been recommended in a master plan but is not programmed in the CIP it is very uncertain. Therefore, the public benefit of focusing density near potential future transit is too intangible to justify granting incentive density on that basis. A majority of the Planning Board agreed that at a minimum, incentive density for transit proximity should require that the transit be far enough along to be part of the CIP. Two members argued that it should be enough to get incentive density that transit has been recommended in a master plan, because private property owners cannot control when transit infrastructure is actually built. The meaning of “planned” transit for these purposes was somewhat unclear in the original CR zone legislation, so clarification is called for, whether the Council agrees with the Planning Board majority or with the minority view. An alternative that was also considered, but ultimately not brought forward, was that a reduced incentive density may be appropriate for transit facilities that are within master plans, but not yet programmed in the CIP. Planning Board staff will be able to provide alternatives if the Council is interested in pursuing this or other options during its consideration of the ZTA.

**Changes to 15.4. Methods of Development and Approval Procedures.**

- Different standard method densities are set for the CRN, CRT, and CRN zones. Standard method in the CR zone remains 0.5 FAR, and increases in the CRT zone to allow properties in these areas more development potential without necessarily having to meet optional method requirements. Finally, the CRN zone, for which we do not propose to have any optional method, the standard method is set at 1.5 FAR.
- As before, any development above the standard method requires public benefits under Section 59-C-15.8.
- Site plan thresholds have been changed to add a new element: any development that proposes a use designated as “L” for “limited” in the use



table will require a site plan. The new concept of “limited” uses establishes a third use category in between “permitted” and “special exception” for uses that require particularly careful consideration when located near sensitive uses (those in single-family residential and agricultural zones). Uses are categorized as Limited when they have potential adverse effects that may require the kind of individualized mitigation that site plan review can provide: visual and noise buffering, setbacks, careful location of parking, etc.

- With this additional site plan trigger, site plan will be required in all CR Zones if a development proposes:
  - A Limited use;
  - A building greater than 10,000 square feet;
  - A building height above 40 feet; or
  - Ten or more dwelling units.

In addition, site plan will be required for all optional method development, whether in the CR or CRT zones.

- Optional method changes have been made to clarify, streamline, and focus the contents, procedures, and findings related to sketch plans. No substantive changes are intended.
- The greatest amount of debate was over the implications of sketch plan changes under Section 59-C-15.43(d). In the end, a majority of Board members felt that language should be inserted to clarify the interpretation of the existing language on which the Board relied in its recent approvals of the first three sketch plans that have been submitted under the CR zones: that the Board has the authority to require changes from the concept submitted at sketch plan when the details of a site plan are reviewed. The Board felt strongly that if, as one member suggested, changes could be made only with the agreement of the applicant, thereby effectively binding the Planning Board to the key elements of a sketch plan, that would require a sketch plan to be more detailed than the zone intends it should be, viz., a concept plan. This is most clearly indicated in the language of the CR zone that describes the basis for a sketch plan approval: under Section 59-C-15.43(c), the Planning Board is directed to approve a sketch plan if it finds that it is “appropriate in concept and appropriate for further detailed review at site plan.”

#### **Changes to 15.5. Land Uses.**

- Permitted land uses have not changed for the CR zones.
- For the CRN zones, which will often be adjacent to single-family homes, a number of precedents were analyzed, numerous citizen meetings were held, and pages of written testimony were reviewed. The ZTA recommends a list of Permitted, Limited, and Special Exception uses which, in combination with the site plan requirement for Limited uses, will allow for a mix of neighborhood-serving commercial and residential uses while maintaining compatibility with adjacent homes.

- The CRT zones, with greater applicability to larger areas suitable for medium density development, allow more uses than the CRN zones, but less than the CR zones.
- Limited uses are defined by proximity to residential uses, and particular language regarding compatibility was crafted to guide site plan review.

**Changes to 15.6. General Requirements.**

- Master plan and design guideline consistency are still required for all site plans. The ZTA recommends adding a phrase identical to the subdivision regulations, to allow the Planning Board to find that events have changed to render the master plan recommendations no longer appropriate. We believe that this will provide valuable flexibility, with the assurance that as the chief architect of our master plans, the Planning Board understands the importance of master plan integrity and will, as it has historically in the subdivision context, make use of this language sparingly. In fact, the use of this language during subdivision review has been applied only a few times, according to the collective memory of staff that has been here for the past 20-plus years.
- Priority retail streets and streetscape requirements have been removed because they are both aspects of master plans or design guidelines and, therefore, redundant with the master plan consistency requirement.
- Bicycle parking and shower facility requirements have been clarified in a more detailed table.
- Parking requirements have been modified to incorporate the CRN and CRT zones; parking ratios for the CR zones remain unchanged, the ratios for CRT and CRN are increased and, in most cases, maximums for these categories have been removed.
- Municipal parking facilities have been added as accepted parking spaces.
- Drive-throughs are required to have a site plan review.
- A waiver provision based on the existing language in Article 59-E has been added.
- Other changes have been made for clarity and simplicity.

**Changes to 15.7. Development Standards.**

- Density and height remain but have been consolidated.
- Setbacks have only been changed to step the angular plane setback down with the CRT and CRN zones to 45' and 35', respectively. Thus, the roof slope on a building will have to begin at a lower height in the least dense CRN zone, increasing from CRN to CRT to CR.
- Public use space has been modified to ensure a more appropriate amount of open space based on lot size. Thus, for standard method development, small lots have no requirement, medium lots have a 10% requirement, and large lots have a 10% requirement based on the limits of disturbance for each site plan rather than for the entire tract at once. Optional method development remains unchanged.

- Residential amenity space has been modified to address changes in workforce housing laws.

**Changes to 15.8. Special Regulations for the Optional Method of Development.**

- Sections have been organized under headings for clarity.
- Some public benefits were reorganized into different categories to reflect their impact and experience with sketch plan reviews.
- Significantly, to incorporate the CRT zones, it was much easier to change the percent system to a point system. This has no impact on the CR zones – 100% simply converts to 100 points. The CRT zones are proposed to require public benefits worth 50 points, reflecting their intended use in areas with less density and more challenging economic conditions.
- BLTs are still required in the CR zones for the first 5% of incentive density; no BLTs are required for the CRT or CRN zones.
- The current CR Zones permit an application to obtain no more than 30% of its incentive density from any one public benefit category. To simplify this system while still ensuring a diversity of public benefits, the ZTA would require each applicant to propose public benefits from at least 4 of the 6 categories. This is a much easier system to calculate and implement for both applicants and Planning Board staff.
- Generally, redundancies were removed and language was modified for clarity and focus.
- Significantly, the “major master plan facility” category has been modified to allow the Planning Board to grant incentive density for land, construction or financing of a major facility that has not been recommended in a master plan, but that the Board finds is similar to and will provide at least as valuable a benefit as the type of facility that master plans typically recommend. Some community members strongly objected to this provision, arguing that incentive density should be reserved for master-planned public facilities. Nonetheless, the entire Planning Board considered it important to allow for flexibility, given the long shelf lives of many of our master plans and the desirability of being able to provide public facilities and infrastructure improvements that benefit the community as a whole, beyond what is required during a regular review and approval.
- Several public benefits were added that are specifically tailored to smaller towns with lower densities, smaller lots and fragmented ownership patterns.

**Changes to 15.9. Existing Approvals**

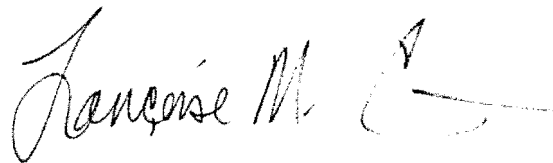
- Section (a) of the existing approvals was clarified to ensure that uses are grandfathered, as well as structures; further, buildings and structures that are deemed conforming may convert to any permitted use up to the density limits established by the zone.

The Honorable Valerie Ervin  
March 11, 2011  
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- Clarifications were added for development plans and special exception approvals that were granted prior to application of the CR zones to the subject sites.
- The Planning Board debated at some length a proposal from a property owner that any applicant with an approved sketch plan be permitted to proceed with the entire development under the current CR zones. A four-member majority of the Board rejected the proposal on the basis that the administrative costs of tracking the three existing sketch plan approvals through a separate set of rules would be too burdensome, given the minor changes that are proposed to the basic structure of the CR zones, which will ensure that all existing sketch plan approvals will remain in conformance with the zone if these amendments are passed. One Planning Board member argued that applicants should be able to rely on the law that was in effect when they submitted their sketch plan, but the majority felt strongly that sketch plan is too early in the process to warrant grandfathering, particularly in view of the minor impacts that the proposed changes will have on existing sketch plans. Finally, there is no precedent in, for example, the CBD zones for grandfathering approved project plans when text amendments are applied to the CBD zone between project plan approval and site plan approval. The flexibility of the zone and the ability to make modifications at site plan ensure adequate predictability for applicants and staff.

We look forward to assisting the Council in its deliberations on the enclosed ZTA.

Sincerely,



Françoise M. Carrier  
Chair

Enclosures

cc: Montgomery County Planning Board  
Rollin Stanley