

The following sections have not been reviewed by the Planning Board as of the date of this posting.

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

~~59-C-15.81. Incentive Density Provisions.~~

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

59-C-15.81. Incentive Density Categories.

~~(a)~~—Public benefits must be provided that enhance or contribute to the objectives of the CRT and CR zones in some or all of the following categories:

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

Section[s] 59-C-15.85~~[2 through 59-C-15.88]~~ indicates the individual [types of] public benefits that may be accepted in each of these categories.

59-C-15.82. Public Benefits Required.

(a) Any optional method development must provide public benefits from at least 4 of the 6 categories.

27 (b) Development in the CRT zones must provide public benefits worth a
28 minimum total of 50 points.

29 (c) Development in the CR zones must provide BLTs required under Section
30 59-C-15.856(a) for 5 points and additional public benefits worth a minimum
31 total of 95 points (100 minimum points in sum).

32 **59-C-15.83. General Incentive Density Considerations.**

33 ~~[(b)—]~~In approving any incentive density based on the provision of public
34 benefits, the Planning Board must consider:

35 ~~(a)[(1)]~~ The policy objectives and priorities of the applicable master or sector
36 plan;

37 ~~(b)[(2)]~~ Any applicable design guidelines and any adopted public benefit
38 standards and guidelines;

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

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

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

42 ~~(f)[(6)]~~ Enhancements not listed in the individual public benefit descriptions
43 or criteria that increase public access to or enjoyment of the benefit.

44 ~~[(e)—Any incentive density increase approved by the Planning Board for an~~
45 ~~optional method of development application must satisfy Subsection 59-C-~~
46 ~~15.87(a).]~~

47 **59-C-15.84. CR Zones Incentive Density Implementation Guidelines.**

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

51 ~~(a)(1) — be c~~ Consistent with the [recommendations and] objectives of this
52 Division[e applicable master or sector plan and the purpose of the CR
53 zones]; and

54 ~~(b)(2) — be i~~ In addition to any standards, requirements, or rules of incentive
55 density calculation included in this Division, but may not supersede those
56 provisions.[;]

57 ~~[(3) — allow any single feature of a project a density incentive from only 1 public~~
58 ~~benefit;~~

59 ~~(4) — only address the public benefits listed in Sections 59-C-15.82 through 59-C-~~
60 ~~15.88 and must not add a public benefit category; and~~

61 ~~(5) — include the criteria to determine when an early dedication of right-of-way~~
62 ~~qualifies for incentive density, and the amount of the incentive density~~
63 ~~permitted.]~~

64 **59-C-15.85. Individual Public Benefit Descriptions and Criteria.**

65 **59-C-15.851[2]. [Incentives for Master-Planned]Major Public Facilities.**

66 Major public facilities [~~such as schools, libraries, recreation centers, urban parks,~~
67 ~~and county service centers]~~ provide public services at convenient locations and
68 where increased density creates higher demand for civic uses and demands on
69 public infrastructure[~~, centers for community meetings, and civic events]~~.

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

74 (b) If a major public facility is not recommended in the applicable master or
75 sector plan, the Planning Board must find that the facility or improvement

76 provides the community with a resource of particularly beneficial civic
 77 impact.

78 ~~(a)(c)~~ Because of their significance in place-making, the Planning Board may
 79 approve incentive density of up to 40 percent in the CRT zones and 70
 80 percent in the CR zones for the conveyance of a site, floor area, and/or
 81 construction of a major public facility that is [designated on a master plan or
 82 sector plan and is] accepted for use and/or operation by the appropriate
 83 public agency, community association, or nonprofit organization.

84 **59-C-15.852[3]. [Incentives for] Transit Proximity.**

85 Development near transit facilities [In order to] encourages greater use of transit,
 86 controls sprawl, and reduces vehicle miles traveled, congestion, and carbon
 87 emissions. [, the Planning Board may approve incentive density for transit
 88 proximity under this section. The percentage of incentive density awarded to a
 89 project for transit proximity is as follows] Transit proximity points are granted
 90 based on service level and CR context as follows:

Transit Proximity	Level 1	Level 2
Adjacent or confronting	50%	30%
Within ¼ mile	40%	25%
Between ¼ and ½ mile	30%	20%
Between ½ and 1 mile	20%	15%

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<u>Proximity</u>	<u>Adjacent or confronting</u>	<u>Within ¼ mile</u>	<u>Between ¼ and ½ mile</u>	<u>Between ½ and 1 mile</u>

<u>Transit Service Level</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>	<u>1</u>	<u>2</u>
<u>CRT</u>	<u>25</u>	<u>15</u>	<u>20</u>	<u>10</u>	<u>15</u>	<u>5</u>	<u>10</u>	<u>5</u>
<u>CR</u>	<u>50</u>	<u>30</u>	<u>40</u>	<u>25</u>	<u>30</u>	<u>20</u>	<u>20</u>	<u>15</u>

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

98 (b) For split proximity-range projects:

99 _____ (1) ~~[For all other projects to qualify for incentive density availability at~~
 100 ~~the other distances,]~~ If at least 75 percent of the gross tract area in a
 101 single sketch plan application is within the closer of two proximity
 102 ranges, the entire project may take the points for the closer range;
 103 but~~[must be within the range for which the incentive is proposed.]~~

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

108 **59-C-15.853[4]. ~~[Incentives for]~~ Connectivity and Mobility.**

109 ~~[In order to]~~ Development that enhances connectivity between uses and amenities
 110 and increase mobility options; encourages non-automotive travel ~~[for short and~~

111 ~~multi-purpose trips as well as for commuting~~]; facilitates social ~~[and commercial~~
112 ~~]~~interaction; provides opportunities for healthier living; and stimulates local
113 businesses~~[, the Planning Board may approve incentive density of up to 30% for a~~
114 ~~project that provides at least 2 of the following public benefits:]~~.

115 (a) **Neighborhood Services:** At least 10 points for [S]safe and direct pedestrian
116 access to 10 different retail services on site or within ¼ mile, of which at
117 least 4 have a maximum retail bay floor area of 5,000 square feet.

118 (b) **Minimum Parking:** Up to 10 points for providing [Provision of the
119 minimum required]less than the maximum allowed number of parking
120 spaces, if applicable[for projects of one acre of gross tract area or more].

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

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

125 (e) **Transit Access Improvement:** Up to 20 points for [E]ensuring that access
126 to transit facilities meets County standards for handicapped accessibility.

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

132 (g) **Grey-Field Redevelopment:** At least 5 points for the redevelopment of an
133 infill site.

134 (h) **Streetscape:** Up to 20 points for construction of off-site streetscape
135 excluding any streetscape improvements required by this Division.

136 (i) **Advance Dedication:** Up to 30 points for dedicating or providing a
137 reservation for dedication for master-planned rights-of-way in advance of a
138 preliminary or site plan application.

139 ~~(f)~~(j) **Way-Finding:** At least 5 points for design and implementation of a way-
140 finding system orienting pedestrians and cyclists to major open spaces,
141 cultural facilities, and transit opportunities.

142 **59-C-15.854[5]. [Incentives for] Diversity of Uses and Activities.**

143 Development that [In order to] increases the variety and mixture of land uses,
144 types of housing, economic [diversity]variety, and community activities[;]
145 contributes to development of a more efficient and sustainable community;
146 reduces the necessity for automobile use; and facilitates healthier lifestyles and
147 greater social interaction.], the Planning Board may approve incentive density of
148 up to 30% for a project that provides affordable housing or a public facility, as
149 described below, or at least 2 of the other following public benefits:]

150 (a) **Affordable Housing:**

151 (1) All residential development must comply with the requirements of
152 Chapter 25A for the provision of Moderately Priced Dwelling Units
153 (MPDUs) except that the percent bonus density achieved per the table in
154 Section 25A-5(c)(3) is equivalent to points required by this
155 Division.[and may provide Workforce Housing Units (WFHUs) under
156 Chapter 25B.

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

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

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(2) Up to 30 points for providing [WFHU Incentive Density: Provision of] Workforce Housing Units (WFHUs) at a rate of [is calculated at the following rate:] 2 points [times] per the percentage of total units, excluding MPDUs [provided as WFHUs].

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

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~~(a)~~(b) **Adaptive Buildings:** Up to 15 points for constructing commercial or mixed use buildings with [Provision of buildings with] minimum floor-to-floor heights of at least 15 feet on any floor that meets grade and 12 feet on all other floors. Internal structural systems must be able to accommodate various types of use with only minor modifications.

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~~(b)~~(c) **Care Centers:** Up to 20 points for constructing [C]child or adult day care facilities. The minimum care center that may qualify must provide spaces for at least 15 users.

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

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

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(f) **Enhanced Accessibility for the Disabled:** Up to 20 points for constructing [Provision of] dwelling units that satisfy American National Standards

187 Institute A117.1 Residential Type A standards or ~~[units that satisfy]~~an
188 equivalent County standard.

189 **(g) Diversity Ratio:**

190 (1) 30 points for developments over 2.0 FAR that provide a minimum of
191 30% of the market rate units as rentals; 30% of the market rate units
192 for sale; 15% of the total units as MPDUs and/or WFHUs (rental or
193 for sale); and 10% of the total FAR as retail trades, businesses, and
194 services of a general commercial nature.

195 ~~(1)~~(2) 10 points for developments of up to 2.0 FAR that provide at least the
196 greater of 3 units or 10% of the total unit count as live/work units.

197 **59-C-15.855[6]. ~~[Incentives for]~~Quality Building and Site Design.**

198 High quality design is especially important in urban, integrated-use settings to
199 ensure that buildings and uses are visually compatible with each other and
200 adjacent communities and to provide a harmonious pattern of development. Due to
201 ~~[the]~~ increased density ~~[of]~~ in these settings, buildings tend to be ~~[have]~~ highly
202 visibile~~[ity]~~ and ~~[.H]~~ high quality design ~~[may]~~ helps ~~[to]~~ attract residents, patrons,
203 and businesses to ~~[locate in]~~ these areas~~[settings]~~. Location, height, massing,
204 façade treatments, and ornamentation of buildings affect sense of place,
205 orientation, and the perception of comfort and convenience. The quality of the
206 built environment affects light, shadow, wind, and noise, as well as the functional
207 and economic value of property. ~~[In order to promote high quality design, the~~
208 ~~Planning Board may approve incentive density of up to 30% to a project that~~
209 ~~provides at least 2 of the following public benefits:]~~

210 (a) **Historic Resource Protection:** Up to 20 points for the [P]preservation
211 and/or enhancement of, or payment towards preservation and/or
212 enhancement of a historic resource ~~[indicated on]~~ designated in the Master

- 213 Plan for Historic Preservation~~[in conformance with a plan approved by the~~
 214 ~~Historic Preservation Commission. A fee in lieu for a specific preservation~~
 215 ~~project may be paid to the Historic Preservation Division as specified in the~~
 216 ~~Guidelines for Public Benefits].~~
- 217 (b) **Structured Parking:** Up to 20 points for placing [P]parking [provided]
 218 within a above- or below-grade structures[or below-grade].
- 219 (c) **Tower Step-Back[etback]:** At least 5 points for [Setback of]stepping back
 220 a -building's upper floors by a minimum of 6 feet behind[yond] the first
 221 floor façade at a maximum height of 72 feet.
- 222 (d) **Public Art:** Up to 15 points for installing [Provision of]public art [must
 223 be] reviewed for comment by, or paying a fee accepted by, the Public Arts
 224 Trust Steering Committee.[A fee in lieu may be paid to the Trust as
 225 specified in the Guidelines for Public Benefits.]
- 226 (e) **Public Open Space:** Up to 20 points for providing, or making a payment
 227 for,[Provision of] open space in addition to the minimum public use space
 228 required by this Division[e zone. Public open space must be easily
 229 accessible to the public during business hours and/or at least from sunrise to
 230 sunset and must contain amenities such as seating, plantings, trash
 231 receptacles, kiosks, and water features].
 232 [Streetscape: Construction of off-site streetscape in addition to the
 233 requirements of this division.]
- 234 (f) **Exceptional Design:** Up to 10 points for building and/or site design whose
 235 visual and functional impacts enhance the character of a setting per the
 236 purposes delineated in this Section.[Building design that provides
 237 innovative solutions in response to the immediate context; creates a sense of
 238 place and serves as a landmark; enhances the public realm in a distinct and

239 ~~original manner; introduces new materials, forms, or building methods; uses~~
 240 ~~design solutions to make compact infill development living, working, and~~
 241 ~~shopping environments more pleasurable and desirable; and integrates low-~~
 242 ~~impact development methods into the overall design of the site and~~
 243 ~~building.]~~

244 (g) **Architctural Elevations:** Up to 20 points for providing elevations of
 245 architectural façades. Particular elements of design, such as minimum
 246 amount of transparency, maximum separation between doors, and awning,
 247 sigh, or lighting parameters that affect the perception of mass and
 248 neighborhood compatibility may be binding on the applicant.

249 ~~(f)~~(h) **Public Charette:** At least 10 points for conducting a public charette prior to
 250 the required pre-submittal meeting for a sketch plan, suring which input is
 251 solicited from parties that are required to be noticed. Documentation and
 252 discussion of promotion of the event, the process, and responses to input are
 253 required.

254 **59-C-15.856[7]. ~~[Incentives for]~~Protection and Enhancement of the Natural**
 255 **Environment.**

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

263 (a) **BLTs:** Up to 30 points for the purchase of building lot termination (BLT)
 264 ~~[CR zones require the purchase of BLT]~~ easements or payment to the

265 Agricultural Land Preservation Fund (ALPF).~~[for at least 5% but no more~~
266 ~~than 30% of the incentive density under the following conditions.]~~

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

270 (A) One BLT must be purchased or equivalent payment made for
271 every 20,000 square feet included in the 5% incentive density floor
272 area; and

273 (B) Any private BLT easement must be purchased in whole units;
274 or

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

280 (2) Up to 25 points for the purchase of BLTs, or equivalent payments to
281 the ALPF for any incentive density above 5%. Each BLT easement
282 purchase or payment is equal to 30,000 square feet of floor area, or
283 proportion thereof. This is converted into points by dividing the
284 incentive density floor area covered by the purchase or payment by
285 the total square feet of the incentive density area.~~[must be made to the~~
286 ~~Agricultural Land Preservation Fund, based on the amount~~
287 ~~established by Executive Regulations under Chapter 2B; if a fraction~~
288 ~~of a BLT easement is needed, a payment based on the gross square~~
289 ~~footage of incentive density must be made to the Agricultural Land~~
290 ~~Preservation Fund for at least the fraction of the BLT easement.~~

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

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

298 Example: If a 50,000 square-foot CR3.0 site is fully developed, the
 299 incentive density available to be earned equals 125,000sf (150,000sf -
 300 25,000sf = 125,000sf). The 5% BLT requirement of 125,000sf equals
 301 6,250sf, which equals 0.32 BLTs (6,250sf / 20,000sf = 0.32). If the
 302 applicant seeks an additional 10 points through the purchase of BLTs, 10%
 303 of the incentive density is calculated, which in this case is 12,500sf
 304 (125,000sf x 0.10 = 12,500sf). Because 1 BLT, above the required 5%, is
 305 equivalent to 30,000sf, the 12,500sf requires a payment for an additional
 306 0.42 BLTs (12,500sf / 30,000sf = 0.42). Together the required and
 307 incentive BLTs equal 0.74 BLTs for 10 points in the Environment category.

308 (b) **Energy Conservation and Generation:** At least 10 points for constructing
 309 buildings that [~~Provision of energy efficiency that~~] exceed[s] the energy-
 310 efficiency standards for the building type by 17.5% for new buildings or
 311 10% for existing buildings. At least 15 points for providing [~~or provision~~
 312 of] renewable energy generation facilities on-site or within ½ mile of the
 313 site for a minimum of 2.5% of the projected energy requirement for the
 314 development.

315 (c) **Vegetated[Green] Wall:** At least 5 points for the [~~F~~] installation and
 316 maintenance of a vegetated wall that covers at least 30% of any blank wall

317 or parking garage façade that is at least 300 feet in area and is visible from a
318 public street or open space.

319 (d) **Tree Canopy:** At least 10 points for tree canopy [C]coverage at 15 years of
320 growth of at least 25% of the on-site open space.

321 (e) **Vegetated Area:** At least 5 points for [H]installation of plantings in a
322 minimum of 12 inches of soil covering at least 5,000 square feet [~~of~~
323 ~~previously impervious surfaces~~]. This does not include vegetated roofs.

324 (f) **Vegetated Roof:** At least 10 points for installation [Provision-]of a
325 vegetated roof with a soil depth of at least 4 inches covering at least 33% of
326 a building's roof, excluding space for mechanical equipment.

327 (g) **Cool Roof:** At least 5 points for constructing any roof area that is not
328 covered by a vegetated roof with a minimum solar reflectance index (SRI)
329 of 75 for roofs with a slope at or below a ration of 2:12 and a minimum SRI
330 of 25 for slopes above 2:12.

331 (h) **Recycling Facility Plan:** At least 5 points for providing a recycling facility
332 plan to be approved as part of a site plan for buildings that must comply
333 with Montgomery County Executive Regulation 15-04AM or Montgomery
334 County Executive Regulation 18-04.

335 (f)(i) **Habitat Preservation and Restoration:** Up to 20 points for protection,
336 restoration, or enhancement of natural habitats onsite or within the same
337 local watershed that are in addition to requirements of the Forest
338 Conservation Law or other county laws.

339 ~~[59-C-15.88. Advanced dedication of right-of-way.~~

340 ~~When sketch plans or site plans are approved, the Planning Board may allow an~~
341 ~~incentive density not to exceed 30% for a prior dedication of rights of way for~~
342 ~~roadways, sidewalks, or bikeways recommended in the applicable master or sector~~

343 ~~plan, if the County or the State is responsible for constructing the facility on the~~
 344 ~~right-of-way.]~~

345 **59-C-15.9. Existing Approvals.**

346 (a) One or more lawfully existing buildings or structures and the uses therein,
 347 which predate the applicable sectional map amendment, are conforming
 348 structures or uses, and may be continued, renovated, repaired, or
 349 reconstructed to the same size and configuration, or enlarged up to a total of
 350 10 percent above the total existing floor areas of all buildings and structures
 351 on site or 30,000 square feet, whichever is less, and does not require a site
 352 plan. Enlargements in excess of the limitations in this Subsection will
 353 require compliance with the full provisions of this Division.

354 (b) A project that received an approved development plan under Division 59-D-
 355 1 or schematic development plan under Division 59-H-2 before the
 356 enactment of the CR zones may proceed under the binding elements of the
 357 development plan and will thereafter be treated as a lawfully existing
 358 building, and may be renovated or reconstructed under Subsection (a)
 359 above. Such development plans or schematic development plans may be
 360 amended as allowed under Division 59-D-1 or 59-H-2 under the provisions
 361 of the previous zone; however, any incremental increase in the total floor
 362 area beyond that allowed by Subsection (a) above or any incremental
 363 increase in building height greater than 15 feet requires, with respect to the
 364 incremental increase only, full compliance with the provisions of this
 365 Division.

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

369 project continues to be subject to the approved development plan or
370 schematic development plan, under Subsections (a) and (b).

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