



Worksession #1: DRAFT Public Arts Trust Policies and Procedures and the Art Review Panel (private development)

Molline Smith, Senior Planner, molline.smith@montgomeryplanning.org, 301.495.4573

 Josh Sloan, Area 2 Supervisor, josh.sloan@montgomeryplanning.org, 301.495.4597

Rose Krasnow, Acting Planning Director, rose.krasnow@montgomeryplanning.org, 301.495.4500

Suzan Jenkins, Chief Executive Officer for AHCMC, suzan.jenkins@creativemoco.com, 301.565.3805

Completed: 12-06-12

Description

Review and discussion of the Public Arts Trust Policies and Procedures document as it relates to public use space within optional method projects (private development). If adopted by the Board, this document will supersede the Optional Method of Development Public Artworks document (adopted 1988).

Authors: The Public Arts Trust Steering Committee (PATSC)
Latest Draft Revision: November 2012

Executive Summary

Recommendation: Staff recommends **approval** of the adoption of the Public Arts Trust Policies and Procedures document.

Developers often commission artists to provide artwork(s) within required public use space in order to enrich the quality of the neighborhood and invite community interaction. When artwork is provided in privately developed Optional Method projects, the art pieces are currently reviewed by M-NCPPC Staff and the Art Review Panel. The Public Arts Trust Policies and Procedure document is intended to establish overall guidelines and procedures for implementing publicly and privately owned artworks. This document has been reviewed and approved by the Public Arts Trust Steering Committee (PATSC), consisting of arts professionals and representatives of the Montgomery County's Executive Branch, Montgomery County Public Schools (MCPS), Montgomery College, and the Maryland National Capital Park and Planning Commission (M-NCPPC, including both Parks and Planning staff).

The intent of this document is to establish a more holistic approach to managing, maintaining, and adding value to the entire art collection (publically and privately owned) for all of Montgomery County.

Background

The Optional Method of development was created in 1974 as a means of acquiring public amenities and facilities within densely populated areas (properties zoned CBD, TMX-2, CR, CRT, RMX, and other zones). The Montgomery County Zoning Ordinance (Division 59-D-2) gives the Maryland National Capital Park and Planning Commission (M-NCPPC) the legal authority to review and approve Optional Method projects. In accordance with the Optional Method of development, projects are permitted additional density (compared to the Standard Method projects) in exchange for the provision of public amenities. In order to qualify for the Optional Method, additional filings are required and certain development standards must be met in addition to the provision of a public amenities package. Qualifying facilities and amenities include increasing open space, providing affordable housing, constructing environmental elements, and installing public artworks. A minimum of 20 percent of the total tract area must be set aside for public use, and a combination of facilities and amenities must be provided by the private developers. Public facilities and amenities may also include a combination of recreational areas, parks, gardens, lawns, plazas, fountains, pathways, promenades, streetscapes, public artworks, and day care facilities.

In 1983, the County Council mandated that a specific percentage of any approved public building construction budget be set aside for the acquisition and commissioning of public artworks within the Capital Improvement Program (CIP). In the mid 1980's, the Planning Board convened a task force (currently known as the Art Review Panel) to study the placement, installation, maintenance, and approval criteria for public artworks. In February 1988, the Planning Board approved the policies, procedures, goals, and objectives for selecting public artwork and instituted the Panel to provide the Board with specific recommendations on the design of the public use space and its correlation with the public artworks within the spaces.



Sample A: Public art as a function of the space.

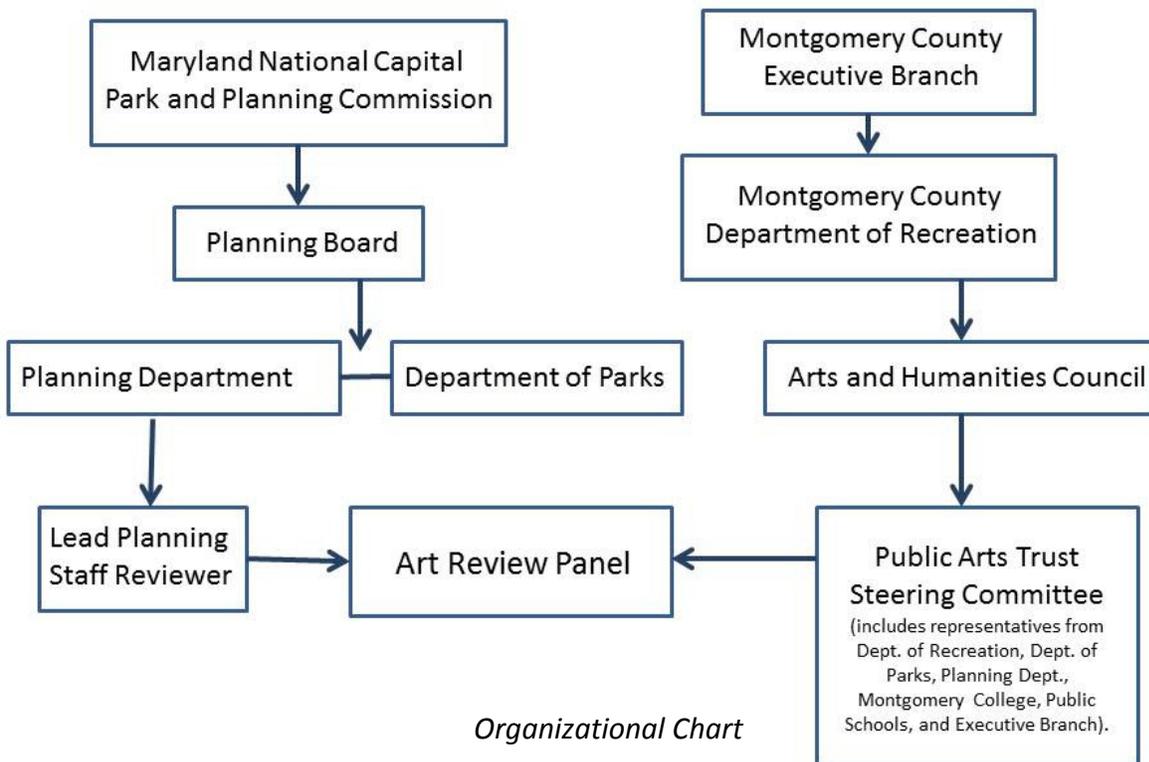
*“Braaksma” by Martin
Purveyor, circa 1987; 7700 Old
Georgetown Road; Granite
seating/sculpture 14”H by 7”W by
19” depth.*

From 1983 to 1991, four separate art programs were established and funded through the “percent-for-art” allocation. The separate programs were initiated by the 1) Executive Branch, 2) Montgomery County Public Schools (MCPS), 3) Montgomery College, and the 4) Parks Department and Planning Department of the Maryland-National Capital Park and Planning Commission (M-NCPPC). During this period, more than 200 artworks were collected and commissioned. In 1991, a thorough report was generated to analyze the policies and procedures of each individual program, and concluded that little to no coordination was shared between the programs. The report recommended that a task force

(currently known as The Arts and Humanities Council of Montgomery County, AHCMC) be created to establish general guidelines, reporting requirements, policies for artwork inspection, maintenance, site selection, allowed expenses for public art, and any restrictions of the number of artworks or the amount which may be expended for each site. Legislation was enacted by County Council in 1995 establishing the Public Arts Trust. Currently the County’s collection of public artworks consists of over 300 sculptural pieces and over 500 pieces of contemporary works on paper.

As written, the County’s Chief Administrative Officer administers the Trust through the Department of Recreation via an outside contract with the Arts and Humanities Council of Montgomery County. The Public Art Trust is funded through the Department of Recreation’s Capital Improvements Program, which includes some funding for AHCMC to manage the artworks of the public collection with oversight of those public art programs designed to receive, hold, and pay out public and private funds to buy, display, relocate, and conserve public artworks on County property. The Public Arts Trust Steering Committee (PATSC) is an advisory group made up of 15 members appointed by the AHCMC and represented by the county agencies originally included in the Public Arts Program. The PATSC is tasked with the responsibility of advising the Director of the AHCMC in the implementation of the Public Arts Trust Public Art Program.

Over the past two years, an effort has been made to integrate the two public art review bodies, the Art Review Panel serving the Planning Board and the PATSC serving the Arts and Humanities Council. Whether artworks are implemented on public or private land, MNCPPC Staff and the PATSC recognize the invisible boundaries between artworks and recommend that the policies and procedures for public artwork be unified under one set of regulations. The distinct authority of various bodies, such as the Planning Board’s jurisdiction regarding approval of density in exchange for public art, however, would remain.



Public Arts Trust Policies and Procedures Document

The purpose of the Public Arts Trust Policies and Procedures (*Appendix A*) is to provide the history of the public art in Montgomery County and establish the guidelines for implementing the County's 1995 restoration of the Public Art Program under Chapter 8 of the Montgomery County Code Article VI, Works of Art in Public Architecture, Section 8-43 to 8-45 (*Appendix B*). The mission of the Trust is to build and inspire communities through placemaking and to nurture artists engaged in public art. The program goals include:

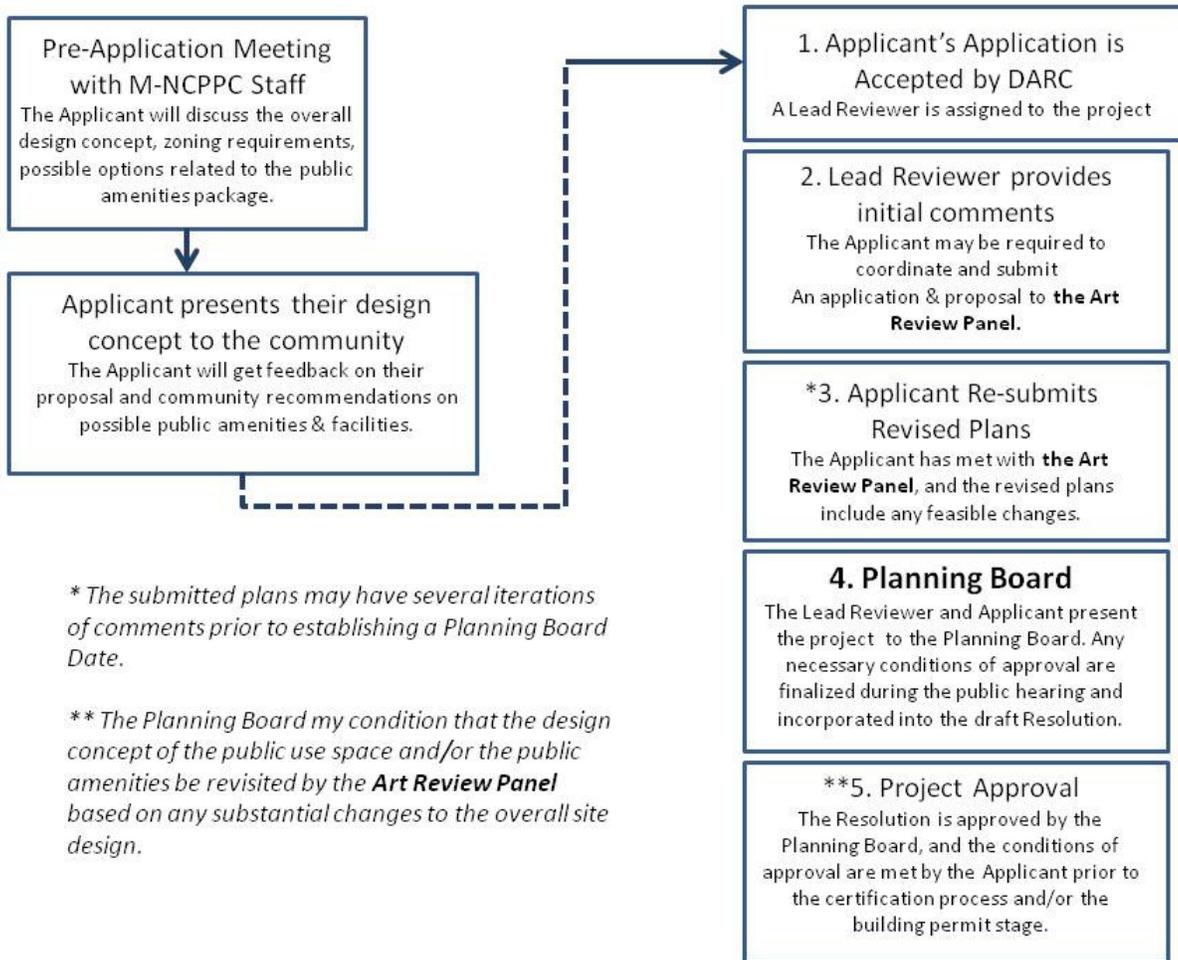
- Fostering community identity and spirit, encourage dialogue, and promote cultural enrichment;
- Celebrating our community's heritage, ethnicity, commonality, and civic pride by stimulating collaboration and understanding between artists and the County's diverse population;
- Placing public art where it will be enjoyed by numerous people, particularly in parts of the County where there is less public art;
- Creating exciting, appealing, and harmonious public spaces by integrating art into architecture, landscape, and the urban fabric and through planning of infrastructure at the earliest design stage;
- Encouraging economic growth through public art that is stimulating and accessible;
- Fostering the public's understanding and enjoyment of public art;
- Enhancing the County's image locally, regionally, and nationally by insuring the creation of the highest quality for the public artworks; and
- Encouraging federal, state and private support for the County's public art program.

In 2010, the delegation and structure of the Art Review Panel review process was transferred to the PATSC for the Commercial/Residential zones (CR zones). The policies and procedures previously established in 1988 (*Appendix C*) have been updated and incorporated into the latest draft of the Public Art Trust Policies and Procedures document. Currently the Art Review Panel is a sub-committee of the PATSC that reviews the Optional Method projects for private development and provides professional feedback and recommendations to MNCPPC Staff. The Panel's recommendations are incorporated into the Staff Report of the specific project and presented to the Planning Board in accordance with the standards and findings set forth in the County's Zoning Ordinance. Although the artworks approved through the Optional Method may be public in nature, they are privately owned and maintained.



Sample B: Public art as a statement or landmark for the space.

"The Hand" by Ray Kaskey, 1993; 1315 East West Hwy & Colesville Road; Bronze sculpture/fountain 12'H by 18'W.



M-NCPPC Review Process for Private Development

The Planning Department is the lead agency coordinating review of public art in private development. In anticipation of the CR zone conversion (In accordance with the Master or Sector Plan recommendations), there are several options to meet the requirements under the Incentive Density Implementation Guidelines adopted by the Planning Board (*Appendix D*), including provision of artworks and payments to the AHCMC in accordance with Section 59-C-15.855(d) of the Montgomery County Zoning Ordinance. Typically the initial presentation to the Art Review Panel is completed at the earliest possible design phase. However, in some cases the Planning Board may condition the project's approval based on the initial recommendations of the Art Review Panel. The Applicant may be required by the Planning Board to revise and/or further develop the design details and resubmit to the Art Review Panel. The criteria by which artworks are reviewed or payments may be accepted are established under the incentive Density Implementation Guidelines. Further guidance is provided by the applicable Master or Sector Plan, the Public Art Road Map, and the Public Arts Trust Policies and Procedures document. After a thorough evaluation and review of the artworks, the Panel must provide the Planning Board with its professional recommendation and/or specify conditions of approval regarding the artworks or the fee-in-lieu option.

Montgomery County Public Art Road Map

Public art is most effective as a catalyst for city building, economic development, and beautification when it is integrated and contextualized in its surrounding environment. Where it is located and how it connects to its surroundings and engages viewers can be as important as the design of the artwork itself. A Montgomery County Public Art Road Map will allow the County to better balance the efforts of the public and private sectors and guide private developers who sponsor public art, maximizing the benefits of public art for the public.

Though Montgomery County has long been a patron of public art, there has never been an articulated vision to guide the placement and type of projects across agencies. By adopting a County Public Art Road Map, it will be possible for the County to see the big picture and realize the potential of public art projects sponsored by both the County and private developers. Rather than reacting to individual projects submitted for review, with a Public Art Road Map, the Public Arts Trust would be in the driver's seat to steer projects where they would be most beneficial. In this way, public art could more effectively boost economic development, reinforce community identity, and enhance the daily lives of all of Montgomery County's residents.

A Public Art Road Map created as a joint effort of the Montgomery County Planning Board and the Public Arts Trust would:

- Allow the County to better integrate public art in infrastructure and street and landscape projects at an early phase in design;
- Provide a conceptual framework to contribute to the organization of open spaces, including parks, plazas, setbacks or streetscapes;
- Identify areas where a more detailed public art plan should be developed;
- Help raise the bar to identify the best artists and most creative ways to incorporate public art;
- Use public art to reinforce urban design objectives for the site, street or district as appropriate;
- Ensure there will be a variety of public art types, opportunities and locations;
- Be responsive to community needs and interests;
- Identify conservation and artwork relocation opportunities in the public art road map, offering conservation of artwork as an option for developers
- Link public art projects to County's larger objectives in the realm of public transportation, recreation, economic development, sustainability, and neighborhood improvement.

As a collaborative project of M-NCPPC Staff and the Public Arts Trust, the Public Art Road Map will provide a framework for integrating public art into all aspects of County development so that opportunities are not missed and the best public art projects can happen throughout the County. Public art should not be an afterthought or commissioned in a piece meal fashion. A Road Map providing guidance for identifying prime locations, best practices, and areas under development, will yield the best results for County residents. It is a small investment that will have lasting impact. This is a work in progress and is not up for adoption or approval at this time.



Sample C: Public art used to invite community interaction.

“Silver Creek” by Deirdre Saunder, 2004; 923 Ellsworth Drive; Italian glass tile fountain/mosaic 26’ diameter.

Art Review Panel

The Art Review Panel currently consists of 7 volunteer professionals, all of whom are very knowledgeable regarding their respective fields, have an interest in artistic design, and are directly affiliated with the implementation of public art. The M-NCPPC Panel Coordinator works as a mediator between the Planning Staff, the

Applicant, and the PATSC in order to administer the review process. The group meets bi-monthly for 3-4 hours to review 3-4 projects. Applicants are required to submit a completed application and supplemental illustrative images at least 1 week before the Panel’s specified meeting date. The submittal packages are forwarded to Panel members to give them at least 1 full week to review the packages and/or visit the site before the upcoming meeting. The Applicant presents the overall design concept to the Panel and M-NCPPC Planning Staff on the meeting day. The Panel Coordinator organizes all the comments from the Panel and sends the finalized comments and recommendations to the Lead Reviewer to incorporate into the Staff Report.

M-NCPPC Staff and AHCMC Staff have worked well in the recent years to establish clear lines of communication regarding any new updates to the County’s collections and changes to the Montgomery County Zoning Ordinance. The latest collaborative projects include an Art Review Panel website (http://www.montgomeryplanning.org/development/public_art/index.shtm), a Public Art Registry, and a Montgomery County Public Art Walking Tour. These projects are not only intended to educate the public regarding the importance of public art within their communities, but will also provide early guidance to private developers and Staff when researching types of public art and how to use it most effectively. Public art can serve the interest of the community in several different ways, as shown throughout this staff report.



Sample D: Public art used to invite community interaction.

“Coastline” by Jim Sanborn, 1993; Located 1301 East West Hwy; Materials: Black granite, shells, water; 6ft by 30ft by 75ft

Conclusion

The citizens of Montgomery County interact with public art every day throughout the County. Public artworks are in our schools, parks, plazas, libraries, retail centers, and office buildings. The County’s most notable artworks are installations by Louise Nevelson, Martin Puryear, Jim Sanborn, Heidi Lippman, and Vicki Scuri, just to name a few. This cultural legacy is one of the most important assets in our County and, therefore, should be used to inspire private developers, educate the public, and be preserved for future generations. As a member of the PATSC, M-NCPPC will continue to share the mission to build great communities by uniting our planning efforts to form a more holistic and sustainable public art collection for Montgomery County.

APPENDIX

Appendix A: Draft Public Arts Trust Policies and Procedures Document (November 2012)

Appendix B: Chapter 8 of the Montgomery County Code Article VI Works of Art in Public Architecture (March 2012)

Appendix C: The Optional Method of Development Public Artworks Document (February 1988)

Appendix D: The Incentive Density Implementation Guidelines (July 2012)

Appendix A: Draft Public Arts Trust Policies and Procedures Document (November 2012)

PUBLIC ARTS TRUST POLICIES AND PROCEDURES

Definitions	2
1.0 Purpose	5
2.0 History of Public Art in Montgomery County	5
3.0 The Public Arts Trust	7
4.0 Governance of the Public Arts Trust	8
5.0 Mission, Vision, and Goals	10
6.0 Project Types and Art Forms	10
7.0 Programs	11
8.0 Site and Project Selection Criteria	13
9.0 Artist Selection Process	14
10.0 Collections Management Policy	16
Criteria for Project/Site Selection	Exhibit A
AHCMC Database and Maintenance Information	Exhibit B
Transfer of Title	Exhibit C

DEFINITIONS

For the purposes of this document, the following terms are defined below:

Accessioning: The formal process used to accept an artwork into the County's Collection signifying that the County is the owner of the artwork and therefore responsible for the conservation and/or maintenance of said artwork.

Artist: An adult person who derives her/his livelihood in full or part from the creation of art, i.e. a professional artist, craftsperson or artisan.

Artist Selection Panel ("Panel"): The ad hoc panel of at least 5 members convened by the Public Arts Trust to review a project and select an artist(s) to be commissioned or artwork(s) to be purchased. If a new artwork is being commissioned, the Panel will review the artist's (artists') concept proposal and recommend the final proposal to the Public Arts Trust Steering Committee for final approval.

Arts and Humanities Council of Montgomery County ("AHCMC"): Represents the Department of Recreation as the Trust administrative contractor that provides day-to-day management and oversight of the Trust.

AHCMC Public Art Collection Database ("Database"): The collection management tool that contains written and visual documentation pertaining to every artwork commissioned or acquired by the County or commissioned by a private developer as a public amenity for the County.

Artwork or Work of Art: An original creation by an artist. May be one-of-a-kind or from a limited edition, functional or purely aesthetic, exterior or interior, integrated or stand-alone, temporary, semi-permanent, or permanent. See also Montgomery County Code, Sec. 8-43 for definition of *work of art*. Artworks do not include landscaping, fixtures or features such as grates, streetlights, benches, signs, architectural materials, or other design enhancements—unless designed by an artist as a unique feature for the project.

Client Department: The County department or agency initiating a funded public art project.

Conservation Endowment: 3% of total budget for new commissions will be set aside in a conservation fund to be administered by the Trust at time contract is signed with the artist. This will apply to all projects commissioned after the Fall of 2012.

Contemporary Works on Paper Art Collection: All framed and unframed works of art purchased with County funds and exhibited in public buildings throughout the County.

County, the: Montgomery County, Maryland.

County Capital Improvements Program: A biennial six-year Capital Improvements Program (CIP) outlining public services and fiscal policy.

County-Initiated Project: Public art projects on sites that are funded by County departments or agencies, including Montgomery County government, Montgomery County Public Schools, the Maryland-National Capital Park & Planning Commission, and Montgomery College. These projects may correspond with new construction or renovation projects in concert with the Montgomery County Public Art Road Map.

Deaccessioning: The permanent removal of an artwork from the Public Art Collection and/or from permanent display, usually through sale, exchange, any other transaction by which title of outgoing works of art are transferred from the collection to another institution or individual. Under certain conditions, it may also include disposal by intentional destruction.

Department of Recreation: Administrator of the Trust through oversight provided by the AHCMC.

Design Collaboration: the collaboration of an artist(s) with other design professionals beginning at the conceptual design stage.

Design Team: A group of design professionals (such as an artist, architect, engineer, landscape architect, lighting designer, graphic designer, or others) brought together to work on a specific project.

Montgomery County Public Art Road Map: (“Road Map”) A written document that augments but does not amend the County’s General Plan that identifies appropriate and significant sites or site-selection criteria for the location of permanent, semi-permanent, and temporary public art throughout Montgomery County. This plan will assist the Trust and Planning Board in guiding privately and publically funded public art projects.

Permanent Artwork: An artwork with an anticipated life-span of not less than 15 years.

Public Art: An artwork that is located indoors or outdoors and is visually and/or physically accessible to the public at least eight hours per day. Typologies include site-specific, site-integrated, and site-sensitive works and can be temporary, semi-permanent, or permanent.

Public Art Collection (“Collection”): All public art either owned and maintained by County departments or provided for the County by a private developer and maintained by the private developer under the terms of a Site Plan (as defined in Chapter 59 of the Montgomery County Code), that was reviewed by the Public Arts Trust Steering

Committee and approved by the Montgomery County Planning Board. The Collection also includes the Contemporary Works on Paper Collection.

Public Art Collection Survey: An ongoing survey of the Collection to prioritize conservation needs and ensure maintenance.

Public Art Projects Plan: An annual plan developed by the AHCMC and the Trust submitted to the County Council for approval. Contains a prioritized list with budgets and timelines of new public art projects for implementation by the County and public art projects to be conserved.

Public Arts Trust (“Trust”): The Public Arts Trust is the County’s public art program designed to receive, hold, and pay out public and private funds to buy, display, relocate, and conserve public artworks on County property.

Public Arts Trust Director (“Director”): Leads the Trust and drafts Trust policies and guidelines, oversees the artist selection process for new commissions, collection management, and educational programming around the public art collection. Reports to the AHCMC CEO and the Committee.

Public Arts Trust Steering Committee (“Committee”): A 15 member committee appointed by the AHCMC that serves as an advisory board to the CEO of the AHCMC and Director in the implementation of the Public Arts Trust Public Art Program. A sub-committee of the Committee, the “Panel,” also reviews and makes recommendations on projects sponsored by private developers commissioned through the County’s Zoning Ordinance, where a Site Plan includes a provision for public art.

Semi-Permanent Work of Art: An artwork intended for display for a period of 18 months to 15 years with minimal maintenance required. In some cases, the Trust may elect to retain a semi-permanent work that is particularly valued by the community and will take action to preserve the artwork. Semi-permanent status can only be applied to commissions undertaken after September, 2012.

Site Plan Project: Site Plan, as defined in Chapter 59 of the Montgomery County Code, which includes a requirement to provide Public Art.

Temporary Work of Art: An artwork intended for short-term display up to 18 months.

1.0 PURPOSE

These policies and procedures provide a history of public art in Montgomery County and establish the guidelines for implementing the County's 1995 restoration of the public art program as per Chapter 8 of the Montgomery County Code, Article VI Works of Art in Public Architecture, Sections 8-43 to 8-45.

2.0 HISTORY OF PUBLIC ART IN MONTGOMERY COUNTY

2.1 Public Art in Public Projects

Public art in Montgomery County began when William Hanna, former Mayor of the City of Rockville, became a County Councilmember in 1983. While he was Mayor of Rockville, the City adopted a percent for art program in 1978. When he became a Councilmember, he pursued the possibility of a similar County-wide percent for art program (Bill No. 30-83).

In 1983, the County adopted a percent for art program that mandated that 1% of certain capital projects be set aside for the acquisition and commissioning of artworks. This amount was amended twice—to .5% in 1988 and then to .25% in 1990. This was because the Capital Improvements Program (CIP) approved budgets were much higher than anticipated. The percent for art amount was adjusted to be more in line with the amount that the Council had intended to dedicate to public art.

It was intended in Bill No. 30-83 that the Arts Council of Montgomery County would administer the Art in Architecture program, but in 1985, it was determined that without additional professional staff, the Arts Council could not coordinate the four agencies and adequately track the CIP; however, the Arts Council participated in the selection of artists for projects.

From 1983 to 1991, four separate programs were funded through the percent for art allocation in the County. Separate programs were initiated by the 1) Executive Branch, 2) Montgomery County Public Schools (MCPS), 3) Montgomery College, and the 4) Parks Department of the Maryland-National Capital Park and Planning Commission (M-NCPPC). During this period, more than 200 works were collected and commissioned. Several small pieces were commissioned for various recreation centers, public schools, and libraries, as well as some larger and highly visible pieces such as *Muktasvara Arch* at the Gaithersburg Library by nationally known artist Mary Ann Unger.

A thorough report analyzed these programs in 1991 and found that each County program had its own sets of procedures and applied the legislation differently. There was little or no coordination or information sharing between the programs or with the public art generated through the Optional Method of Development.

The Report recommended that a Task Force be created to establish general guidelines and reporting requirements, as well as policies for artwork inspection, maintenance, site selection, allowed expenses for public art and any restrictions of the number of artworks or the amount which may be expended per site. The Report recommended suspending the percent for art legislation while these guidelines were established.

During the early 1990's, the program as it had been operating was suspended. In 1993, a bill was introduced in the County Council to completely eliminate the program for budgetary reasons. Rather than eliminate the program completely, a new program was proposed (in part by the AHCMC) and approved by the Council. In 1995 legislation establishing a single public art program (the Trust), was adopted. Since the early days of the program in 1983, the County's public art collection has grown to over 300 pieces. The County has also collected over 500 pieces for its Contemporary Works on Paper Collection (see Section 7.4).

2.2 Public Art in Private Development

The acceptance of public artworks as a public amenity that could be provided by private developers in exchange for increased density was established under the "Optional Method" standards of the Zoning Ordinance in 1974. Originally, optional method development only applied to central business district zoning in Bethesda, Silver Spring, Wheaton, and Friendship Heights. These provisions have since expanded to include TMX-2, CR, CRT, RMX, and other zones.

The public goal of the optional method is to create a more attractive urban environment through a package of public amenities provided by private developers to support increased density. To qualify for the optional method, additional filings are required and certain development standards must be met in addition to the provision of a public amenities package. Qualifying facilities and amenities include increased open space, affordable housing, environmental elements, and public art.

Artworks approved under the optional method must be located in publicly accessible and visible locations. These public artworks have traditionally been reviewed by an ad hoc Art Review Panel established by the Planning Board. In 2010, delegation of the review authority was transferred to the Trust for the Commercial/Residential zones and continues to evolve towards a more centralized and formalized review process by a Panel formed under the Committee. The recommendations of the Panel must be approved by the Planning Board in accordance with standards and findings set forth in the zoning Ordinance. Although the artworks approved through the optional method are public in nature, they are privately owned and maintained.

Since establishing the optional method and approving numerous artworks, the Planning Board convened a task force to study issues relating to approval, installation, and maintenance of the artworks. Formed in 1988, the task force reviewed the procedures and made numerous recommendations on policies and procedures. It is intended that

these recommendations be adapted into these Policies and Procedures and the Road Map.

3.0 THE PUBLIC ARTS TRUST

In 1995, a restoration of the public art program occurred with a new law. Chapter 8 of the Montgomery County Code, Article VI Works of Art in Public Architecture, Section 8-45 states that:

Each year the County Council should consider appropriating funds for the next fiscal year to the Public Arts Trust in an amount equal to 0.05% of the combined total approved capital expenditures for the then-current fiscal year for County Government, Public Schools, Montgomery College and Maryland-National Capital Park and Planning Commission.

3.1 Funding

While the legislation indicates a percent for art allocation (.05% or 1/20 of a one percent); this amount is not mandated. In 2002, the allocated amount peaked at \$201,000. Since FY 2003, the actual allocated amount has been significantly lower than the recommended amount. As an example, in FY 2007 the allocated amount was \$140,000; a .05% allocation would have yielded \$208,000. Rather than adhering to the recommended formula, the Trust's budget has been held at \$140,000 since FY 2007, a decision made by the County when the Capital Improvements Budget is reviewed.

3.1.1 Use of Funds

County-appropriated funds as well as monies in the Trust may be used to support temporary, semi-permanent, and permanent artworks for the following:

1. All artists' services, models and design fees, including subconsultant fees, e.g., engineering or other specialty consulting;
2. Art-related materials, fabrication, delivery and installation costs;
3. Acquisition of artworks;
4. Artist selection processes, including jury selection and artist travel costs;
5. Incremental costs of art integrated into infrastructure elements such as sound-walls, utility structures, roadway elements, dedicated lighting, landscape architecture and landscape elements;
6. Identifying plaques/markers;
7. Conservation and maintenance of the collection, including repair, replacement of works damaged beyond repair and not covered by insurance, surveys, curatorial services, re-siting and other conservation work necessary to keep all works of art in the county collection in good condition;
8. Program administration and planning;
9. Community education programs, outreach, and dedications; and
10. Collection management, including software and database training, photo documentation, etc.

3.2 Administration

In 1997, administration of the Trust was assigned to the Arts and Humanities Council of Montgomery County (AHCMC) a non-profit agency designated by law to administer the County's grant funds for arts and humanities programs.

As a program of AHCMC, the Trust has access to broader administrative and marketing opportunities than in the past. The Collection and the Trust are featured on AHCMC's website and in most marketing materials. Staff is provided to the Trust including a part-time Director, with marketing and administrative assistance from AHCMC staff as needed.

4.0 GOVERNANCE OF THE PUBLIC ARTS TRUST

4.1 The Public Arts Trust Steering Committee

To consist of not more than 15 members and serves as an advisory board to the AHCMC's CEO and the Director in the implementation of the Program. By law, the County Chief Administrative Officer (CAO) or a designee must administer the Trust in consultation with the Arts & Humanities Council of Montgomery County, Montgomery County Public Schools, Montgomery College and the Montgomery County Parks Commission.

The Committee shall represent:

1. Montgomery County Public Schools (MCPS)
2. The Maryland-National Capital Park and Planning Commission (M-NCPPC) Department of Parks
3. Montgomery County Department of Recreation
4. Montgomery County Department of Transportation
5. Montgomery County Department of General Services
6. Montgomery College
7. M-NCPPC Department of Planning; and
8. Other invited community and government representatives and arts professionals, including at least one artist, one architect, and one landscape architect.

In addition, a standing Board member of the AHCMC shall serve as a voting member on the Committee.

Nominations of invited community, government and art professionals to the Committee shall be approved by the standing Committee members.

Committee members shall serve three year terms, and may be re-appointed for a second three-year term.

The Committee generally meets on a bi-monthly basis. An annual retreat is normally held in early Fall to discuss projects for the fiscal year.

4.2 Role of the Committee for Review of County-Initiated Projects

The commissioning, purchase, maintenance, acceptance of gifts, and the de-accessioning of public art for County departments and agencies is determined by these Policies and Procedures. The Committee will conduct reviews and develop recommendations regarding projects that may be implemented through the Program.

Keeping in mind the mission and goals of the Program, the Committee will identify and recommend what types of public art projects should be targeted for implementation. A public art project scope and budget should be developed during the facility planning phase of a major capital project, and funding for public art would be available during the detailed design and construction phases of the project. Projects may involve the commissioning or acquisition of permanent works of art as well as temporary art installations and/or exhibitions.

Agency representatives will present candidate projects to the entire Committee prior to completion of the facility plan (or early during the design phase of a small project), in order to determine whether the project is an appropriate candidate for public art. If the Committee approves the project, the Committee will recommend an appropriate artwork budget to be included in the project cost estimate at the facility planning stage. The Committee may choose to contribute Trust funding to a project, or the project may be funded entirely through the agency's project funding. During the design phase of the project, the Director will recommend an appropriate artist selection process for the specific project and will manage the artist selection process. The artist selection committee will include the agency project manager, other appropriate agency representatives, design consultant(s), at least one community representative, and may include other interested members of the Committee. The full artist selection committee will participate in the project at least through the concept design phase for the artwork. The agency representative and Director will provide periodic updates on the status of the project at Committee meetings.

4.3 Role of the Committee for Review of Private Development Projects

The Planning Department is the lead agency coordinating review of public art in private development. Members of the Committee will periodically convene to review artworks provided as public amenities through the optional method. There are several options to meet the requirements under the Incentive Density Implementation Guidelines adopted by the Planning Board, including provision of artwork(s) and payments to the AHCMC in accordance with section 59-C-15.855(d) of the Montgomery County Zoning Ordinance.

The criteria by which artworks are reviewed or payments may be accepted are established under the Incentive Density Implementation Guidelines. Further guidance

will be provided by individual master or sector plans, the Public Art Road Map, and these Policies and Procedures.

The Committee establishes the submittal documents to provide timely reviews of artworks by the Panel, which must be approved by the Planning Department. Typically, a presentation of the artwork(s) to the Committee is completed at the earliest possible design phase. In some cases, however, the Planning Board may require the Applicant to revise or more fully detail the concept and re-submit to the Committee based on their initial recommendations. . After a thorough review of the artwork(s), the Committee must provide the Planning Board with its recommendation on the artwork(s) and/or specify recommended conditions of approval regarding the artwork(s) or the fee-in-lieu option.

5.0 MISSION, VISION, AND GOALS

5.1 Mission Statement

The mission of the Trust is to build and inspire communities through placemaking and to nurture artists engaged in public art.

5.2 Vision Statement

The vision of the Trust is to enhance the quality of community and place through public art projects that:

1. Promote cultural enrichment;
2. Engage diverse communities through projects and dialogue; and
3. Foster emerging and established Montgomery County artists.

5.3 Program Goals

1. To foster community identity and spirit, encourage dialogue, and promote cultural enrichment;
2. To celebrate our community's heritage, ethnicity, commonality and civic pride by stimulating collaboration and understanding between artists and Montgomery's diverse community;
3. To place public art where it will be enjoyed by numerous people, particularly in parts of the County where there is less public art;
4. To create exciting, appealing, and harmonious public spaces by integrating art into architecture, landscape, and the urban fabric and through planning of infrastructure at the earliest design stage;
5. Encourage economic growth through public art that is stimulating and accessible;
6. To foster the public's understanding and enjoyment of public art;
7. To enhance Montgomery's image locally, regionally and nationally by insuring the creation of the highest quality public art; and
8. To encourage federal, state and private support for Montgomery's public art program.

6.0 PROJECT TYPES AND ART FORMS

6.1 The Trust initiates three (3) types of public art projects:

1. Permanent, site-specific, site-integrated, or site-sensitive works commissioned for installation on public property in the County;
2. Semi-permanent and temporary exhibitions, installations, performances and other public art programs and events;
3. The purchase of existing artworks for the Contemporary Works on Paper Art Collection.

6.2 Forms of public art include but are not limited to:

1. Sculpture in the round or in any of the following forms or types: bas-relief, mobiles, fountains, environmental, kinetic, electronic, etc., in any material or combination of materials;
2. Painting in all media, including portable and permanently affixed works such as murals and frescoes;
3. Printing and drawing, including media such as photography, film, graphic arts, any print media (e.g. lithography, etching, etc.), drawing, and calligraphy;
4. Ceramic, fiber and textiles, wood, metal, plastics, glass, stone, mosaics and other materials;
5. Technological media that may develop through artistic pursuit or adaptation of digital, audio, video or graphic media; use of lighting, the internet, and the like; and
6. Mixed media, that is, any combination of forms and media.

7.0 PROGRAMS

7.1 Artist-in-Residence Schools Program

The Trust, with input from MCPS, may periodically select a school in which to create a site specific public art piece. The artist engages the student body to assist with the concept/design and fabrication (if appropriate based on the nature of the artwork and age of the students). The nature and location of the project is determined with the School administration and the Director. Because of limited budgets, projects should be sited indoors or commissioned as semi-permanent artworks if placed outdoors. There is a financial matching requirement of at least \$1,000 for each school (with exceptions made under special circumstances).

Budget cap: \$10,000 per School

7.2 Community Center Public Art Program

The Committee, with input from the County, may periodically select a Community Center in which to create a site specific public art piece. The nature and location of the

project is determined with the Community Center director and the Director. Because of limited budgets, projects should be sited indoors or commissioned as semi-permanent artworks if placed outdoors.

Budget cap: \$10,000 per Center

7.3 Capital Improvements Projects Program

Every two years prior to each CIP cycle, the Trust works with County and M-NCPPC departments to review projects that are potential candidates for public art. These are typically new construction projects or renovations of existing facilities and are brought to the attention of the Committee through Committee members familiar with CIP projects or through other agency representatives invited to a Committee meeting for this purpose.

After presentations of potential projects by the project manager or representatives from the project's department, the Committee identifies appropriate candidates for public art and recommends allocation of Trust funding. Projects that have been previously reviewed and approved by the Committee during facility planning and have funds already allocated for public art in their proposed construction budget do not require additional review. The Trust typically provides funds for the design fee, manages the commissioning process, and holds the initial design contract with the Artist. The Trust is also responsible for ensuring that the materials, fabrication method, and installation method for the artwork are reviewed and vetted by a Conservator to be hired as a Consultant to the Trust prior to fabrication and installation of the artwork. The project manager, the Committee, and the Director determine the nature and the location of the project. Funding varies by project. For public art projects with a construction budget, a design budget of 20% of the base construction budget is standard. 3% of the total art project budget must be set aside by the contracting agency in a conservation fund to be administered by the Trust. Such funds shall be transferred to the Trust for the sole purpose of conservation and ongoing maintenance of the earmarked artwork for the intended lifespan of the artwork.

Because the Trust believes public art projects should be integrated through the Design Collaboration process whenever possible, projects that are in the planning and design stages are preferred and may be given priority over projects that have completed final design.

7.4 Contemporary Works on Paper Art Collection

Originally called the "Works of Art in Public Places" program, the Contemporary Works on Paper Art Collection began in 1975 with \$7,000 from County bond money and matching funds from the National Endowment for the Arts. With the funds, the County purchased works of art from local, area, and national artists. Most pieces purchased are prints, drawings, or collages. The Collection includes pieces from noted artists Jim Dine, Sam Francis, and Milton Avery. It also includes pieces from local artists such as Joseph

Craig English, Raya Bodnarchuk and Mark Leithauser. Works on Paper are collected primarily because of their lower cost and portability. In recent years, the Trust has focused on collecting pieces from Montgomery County artists.

Pieces from the collection are exhibited in public buildings throughout the County and rotated periodically. Since its inception in the mid 1970's, the Collection has grown to over 500 pieces. New pieces were purchased periodically through a juried or selective process.

In 2012, the Trust completed an assessment of the Works on Paper Collection and all documentation has been incorporated into the Database.

The Trust, with some assistance from the Department of General Services, manages the Works on Paper Collection. The Trust will be developing a plan to distribute artworks for public office spaces. The Trust uses Maintenance Funds allocated each year (from the County Operating Budget) to provide long term storage for pieces not currently on exhibit and to frame, maintain, and repair pieces as needed.

8.0 SITE AND PROJECT SELECTION CRITERIA

To assist the Committee in selecting and making recommendations concerning public artworks, the following principles and criteria shall be used:

8.1 Criteria for Site Selection

1. Site is on public property in Montgomery County, for permanent installations;
2. Site is visible and accessible at least eight hours/day;
3. There is an opportunity to incorporate permanent, semi-permanent, or temporary works of art into an existing site;
4. Art can be introduced to a community where it will enhance the quality of community or place;
5. The geographic location has been identified as a focal point in the community; and
6. There is little or no public art in a particular area.

8.2 Criteria for Project Selection

1. It is in keeping with the mission and vision of the Trust;
2. There is an opportunity to incorporate permanent artworks during the planning stage via new construction or renovation;
3. The project can be a catalyst to facilitate financial and other support from the private and public sector for public art;
4. The project presents a good or even unique opportunity to include the work and/or thinking of visual artists in the design and construction;
5. There is support for including an artist in the project design from the agency;

6. Art could turn an existing negative or disruptive project into a community asset;
7. There is an opportunity to form a strong partnership with another agency or jurisdiction which could result in an expanded art project;
8. Some funding will be provided by the host agency/client;
9. The proposed project or design process includes the artist and the artistic process as a central element; and
10. The budget is appropriate for the type of art and/or artistic process envisioned.

In addition, once a site and project are approved, the commissioned artwork shall be guided by the following principles:

8.3 Principles for Trust-initiated and Developer-initiated Public Art

1. Should be made in active response to the character and history of the site and reflect the creative exchange between the artists and the community;
2. Should respect the history and culture of the area;
3. Should make a positive contribution to the community;
4. Should respect the environment/be sustainable;
5. Should be fabricated using the highest professional standards;
6. Approval or recommendation of final design by AHCMC is conditional upon conservator vetting of materials, fabrication and future maintenance. AHCMC will provide conservator consultation services; and
7. Required maintenance is reasonable.

9.0 ARTIST SELECTION PROCESS

Eligibility requirements for each project will be established by the Committee in consultation with the Director. Artists or extant artworks will be selected on the basis of qualifications or quality as demonstrated by past work, appropriateness of the proposal to the particular project, and probability of successful completion. Selection will be based on the criteria listed below in 9.3 and any additional criteria set forth by the Panel.

9.1 Public Art Registry

The AHCMC will create a juried Public Art Registry open to local and national professional artists. The AHCMC will support the Public Art Registry, which will be vetted annually by a panel convened by the AHCMC. The Public Art Registry is intended to assist the County and developers in the selection of artists for public art projects.

9.2 Multiple Commissions

In order to ensure that the program supports a diversity of artists and artistic expressions, it is the intent of the Trust to minimize multiple commissions awarded to the same artist.

9.3 Selection Criteria

Basic criteria for selection of artists, review of designs submitted to the Planning Board, or analysis of existing artworks:

1. Quality/originality: demonstrated capabilities of the artist(s) and the merit of the proposed artwork(s);
2. Suitability: appropriate in scale, material, form, and content for community and physical environment;
3. Durability: demonstrated structural and surface integrity, reasonable maintenance costs and requirements, and resistance to theft and vandalism;
4. Safety/Public Liability: artwork will not present issues in these areas. Artwork(s) will be reviewed by appropriate departments or offices (such as Risk Management, Parks Maintenance, Police, Transportation Planning, etc.) to ensure that the proposed or existing artwork(s) do not present safety hazards; and
5. Meets any additional specific criteria established in an RFP/RFQ or private development regulations.

9.4 The Artist Selection Panel for Public Projects

For each project, the AHCMC will establish an Artist Selection Panel consisting of art experts, agency representatives, and community representatives to identify the best candidate for the project. Panel members may also include representatives from the design firms engaged in the overall project. Members from the Committee will also serve on the Panel. The Panel for a given project will not be less than five members or exceed seven members. The Director will coordinate the Artist Selection Process and will advise the Panel, but will not be a voting member of the Panel.

9.5 Method for Selection of an Artist, Artwork, or Proposal

In most cases, an open call for artists is recommended. This call may be distributed locally, nationally or internationally, depending on the project needs. In cases where there is a specific artistic vision or a more renowned artist is desired, an invitational call may be used. Artist registries may be considered for large multi-year, multi-site projects. Selection methods include:

1. Open competition/Request for Qualifications or Proposals: any artist may apply, subject to any limitations established by the Panel;
2. Limited competition: artists invited by the Panel or already vetted in the Public Artist Registry are invited to submit proposals;
3. Hybrid selection: artists selected through a combination of the above; and
4. Direct selection: artist(s) or artwork(s) chosen directly by the Panel with invited community and departmental stakeholders, where appropriate, based on recommendations from the Trust Director. Generally, direct selection will not be employed except on those projects where an open or limited call would be impractical.

9.6 Selection Objectives

1. Foster a competitive application environment that results in strong proposals from artists and high quality artworks for the County;
2. Conduct artist selection early in the project to maximize the artist's impact on the project. When working with a design team, the artist may be brought on before, with, or after the team. It is preferred that the artist be selected as soon as possible during the design phase;
3. Create opportunities for a wide range of artists including emerging and established;
4. Foster the development of design teams who support artists and select artists who are compatible with the other team members;
5. Select artists who are sensitive to the communities in which they will be working;
6. Keep application and design costs streamlined; and
7. Support an efficient workload for staff, artists and design teams.

9.7 Final Artist Award/Commission

Once a decision by the Artist Selection Panel has been made, the decision of the Panel shall be final. The Director will check references of selected artists before the final award is made to the Artist. In the event concerns arise as a result of reference checks, the Director will share these concerns with the Artist Selection Panel, which will make the final determination about awarding the commission to the selected artist.

10.0 COLLECTIONS MANAGEMENT POLICY

The Collections Management Policy guides the development of the Collection for the enjoyment of the public, with direct focus on balancing accessions/deaccessions against the quality, maintenance and conservation of the collection as a whole. These policies pertain to the Collection as well as the Works on Paper Collection.

10.1 Donation Policy

It is recognized that, in addition to the commissioning and purchasing of artwork(s) for the County, that other parties may wish to donate to the Collection. Due to limited maintenance budgets and limited space, the County may not accept all donations. Artworks may subsequently be accessioned into the Collection based upon recommendation of the Committee.

Individuals or organizations looking to donate an artwork(s) to the County must submit a full packet of information for consideration which includes: photographs of the artwork(s), a written statement, including the name of the artist, title, medium, date of execution and all other known history of the work and artist readily available.

Donations of artworks that require the County to pay installation, storage, framing, restoration or repair are not encouraged. The Trust will evaluate such expenditures at

the time the gift is considered. Artwork(s) requiring high or excessive maintenance are not encouraged and may be declined.

10.1.1 Criteria for Acceptance

Includes, but is not limited to: quality, site availability, safety, and maintenance concerns. Not all art may be found acceptable. It is recognized that although the County is not actively pursuing gifts of art, it welcomes the opportunity to enrich the quality of environment through the addition of appropriate artworks.

10.1.2 Review Period

The Trust requests at least six (6) months to thoroughly review all site options and/or research safety and maintenance concerns.

10.1.3 Final Approval

The Trust and the affected County agency or department will make the final decision to accept or decline the offer.

10.1.4 Tax Deduction

If a value is to be placed on the donated artwork(s) for tax purposes, the responsibility for establishing said value is with the donor.

10.1.5 Donation Process

All persons interested in donating artwork(s) to the County will be required to submit the following information in writing to the Trust:

1. The name, address, phone, fax number and e-mail address of the donor or donor's agent;
2. Motivation/intent of the donor for offering the artwork(s) to the County;
3. Artist's name, resume, birthplace and date, current address if known, gallery representation if any, and examples of artist's previous work;
4. Artwork title, medium, dimensions, weight if applicable, date created, signature/inscriptions;
5. Current owner, statement of ownership, absence of liens, copy of bill of sale;
6. Current location;
7. Current condition including conservation history or a conservator's report;
8. Maintenance manual and schedule prepared by professional conservator, including an estimate of the annual cost of maintenance;
9. Estimated value, as determined by a professional art appraiser (if the artwork is existing);
10. Photographs, drawings, models, or designs of proposed artwork(s); and
11. Description and samples (if available) of materials and colors.
12. Proposed installation schedule;
13. Estimated cost and funding source for installation (donor or the Trust);

14. Contact information for installer and installation plan, including transportation of the artwork to the site;
15. Proof of insurance sufficient to meet the requirements of the County, if applicable; and
16. Building permits, if applicable.

10.1.6 Review Procedure

Acceptance of donations will be decided by the Committee based on the following criteria:

1. Artistic Merit – The inherent quality and excellence of a proposed artwork(s). Other artistic credentials to consider include training and critical or other professional recognition;
2. Context – artwork(s) must be compatible in scale, material, form, and content with its surroundings. Consideration should also be given to the architectural, historical, geographical and social/cultural context of the site or community, as well as the way people may interact with the artwork(s);
3. Relevant Experience of Artist (if applicable) – Experience and professional record of artist/s should provide convincing evidence of ability to successfully complete the project as proposed;
4. Permanence/Maintenance – Due consideration will be given to the structural and surface soundness, operational costs and inherent resistance to theft, vandalism, weathering and excessive maintenance;
5. Technical feasibility and installation method;
6. Budget for installation if not provided by the donor;
7. Cost to accept, insure and maintain the artwork(s)
8. Diversity, in relation to the Collection;
9. The artwork(s) is of a nature and quality as to be consistent and to further the aims of the Trust’s mission;
10. Accessioning the artwork(s) will result in an improvement of the Collection as a whole with particular attention to ease of public access, geographic distribution and variety of medium, scale and dimension; and

10.1.7 Artwork Type and Expected Duration

To the extent foreseeable at the time of acquisition, the artwork(s) will remain in the Collection in one of the following “lifetime” statuses, to be determined at the time of acquisition:

1. Temporary Works: An expected life-span of up to 18 months. Disposal method must be provided at time of accession. Temporary works include but are not limited to murals, installations, exhibitions, performances.
2. Semi-permanent Works: An expected lifespan of up to 15 years. These types of artwork(s) are typically sited at leased spaces, remodeled spaces, or have known deterioration patterns. The artist should be informed of designation as “semi-permanent.” The Trust maintains artwork(s) under a general plan of conservation during this period. After 15 years, the Trust will determine

whether the piece will be deaccessioned, conserved, or remade. A standard guideline is that if conservation exceeds 50% of appraised value, the work is deaccessioned.

3. Permanent Work: Any artwork(s) that is intended and expected to survive as long as possible beyond 15 years. At time of design proposal, a 15 year maintenance plan and estimated costs would be established barring major damage caused by vandalism or catastrophic weather.
4. Site Integrated Works: Artwork(s) that is physically part of the facility and cannot be removed without destroying the artwork(s) or facility. The lifespan may be temporary, semi-permanent, or permanent, but terminates with the destruction of the site or that part of the site which contains the work. It would also terminate with the end of County ownership of the site.

10.1.8 Placement/Site Considerations

If a donor has specified a site, the artwork(s) should significantly contribute to the setting from a functional or design standpoint and significantly enhance the chosen location in a way meaningful to the public. The following factors will be considered:

1. Visibility
2. Traffic patterns (both interior and exterior)
3. Public safety
4. Relationship to existing or planned architectural and natural features
5. Users of the site
6. Future development plans for the area (if known)
7. Landscape design
8. Existing artwork(s) within the proposed site vicinity
9. Environmental concerns
10. Public accessibility to the artwork(s), including ADA requirements
11. Social context (intended use of the work if any)
12. Significance to the proposed artwork(s).

10.1.9 Final Acceptance

Final acceptance of donated artwork(s) will be made by the Committee and acknowledged through a written statement to the donor or donor's agent. Final acceptance will require an Acceptance Agreement.

10.2 Deaccession Policy

The County shall retain the right to remove any County-owned artwork in the Collection. It should be recognized, however, that the deaccession of an artwork(s) before the end of its anticipated lifespan should be a rare and unusual measure. The commissioning or acceptance of a unique artwork should also be an acknowledgement that the creative process entails a level of risk, and that responses to artworks are often varied and subjective.

A recommendation for removal of an individual artwork from the Collection and/or the Works on Paper Collection may be made only after careful consideration of the following criteria by the Trust and approved by the Committee and the Department of Recreation.

The Visual Artists Rights Act, effective June 1, 1991, offers the artist a protection of his or her right of integrity and right of attribution and must be dealt with carefully in the contract.

10.2.1. Conditions for Deaccessioning

It is the policy of the Montgomery County government under the advisement of the Trust that artworks be recommended for removal only in unusual circumstances and only if reasonable cause has been established by one or more of the following:

1. The artwork's present condition poses a safety hazard to the public;
2. The artwork has been damaged or has deteriorated to the point that it can no longer be represented to be the original artwork;
3. The restoration of the artwork's structural or aesthetic integrity is technically not feasible, or the expense of restoring is disproportionate to the original cost of the artwork;
4. The architectural support (building, wall, plaza) is to be destroyed and the artwork cannot be removed intact for relocation;
5. The use of this particular public space may have changed, and/or the artwork may have lost its contextual meaning and it cannot be re-sited;
6. The artwork cannot be re-sited or re-siting the artwork would be inappropriate;
7. The artwork requires excessive and inappropriate conservation and/or maintenance or has faults of design or workmanship which can be termed inherent vice;
8. An artwork is not, or is rarely, on display because of lack of a suitable site.
9. The condition or security of the artwork cannot be reasonably guaranteed in its present location;
10. The County wishes to replace the artwork with a work of more significance by the same artist;
11. The artwork does not meet the mission of the Collection;
12. Removal has been requested by the organization displaying the artwork or by the artist;
13. The artwork is proved to be inauthentic or in violation of existing copyright laws; and/or
14. The artwork has received documented and unabated adverse reaction from a measurably large number of citizens and/or organizations based within the community where the artwork is located over at least five years and modifications of the artwork as per discussions with the artist are not possible.

10.2.3 Deaccessioning Procedures

Periodically, but preferably at a minimum of once every five years, the Committee will review the Collection. A review of the County's Works on Paper Collection shall occur separately.

If necessary, the Committee will designate an advisory Sub-Committee composed of visual arts professionals (e.g., artists, museum curators, conservators, art historians) to review specific items proposed for deaccession and make recommendations to the Committee and the Department of Recreation about the disposition of these works. Procedures for deaccessioning are initiated by a majority vote of the Committee. In some cases, a Sub-Committee shall be appointed by the Committee which will evaluate the artwork based on the Conditions for De-Accession listed in Section 10.2.1. Deaccessioning procedures may begin if the Committee or Sub-Committee determines that the artwork meets one or more of the conditions listed in Section 10.2.1.

Once a deaccessioning determination by the Committee or the Sub-committee has been made, the following procedures will be followed:

1. Trust staff prepares a report which indicates:
 - a. Reviewing any restrictions which may apply to the artwork based on contract review, the condition of the artwork;
 - b. An analysis of the reasons for deaccessioning;
 - c. Options for storage or disposition of the artwork; and
 - d. Appraised value of the artwork, if obtainable.
2. The Committee or Sub-Committee reviews the report. Either of these committees may seek additional information from artists, galleries, conservators and other artist professionals prior to its recommendation.
3. A recommendation for action is sent to the Committee, and if approved, is referred to the Department of Recreation.
4. In the event that a recommendation to deaccession is made by the Trust and approved by the Department of Recreation:
 - a. The artist will be informed in writing of this decision and a plan made for either return of the deaccessioned artwork, including title, to the artist, or for appropriate disposal/destruction of the artwork;
 - b. If the artwork was a donated gift, the donor will be contacted in writing of the intent to deaccession, and similar courtesies followed; and
 - c. Appropriate public notification will be made.
5. After proper public notification, the Committee will consider the following actions: (in order of priority)
 - a. Sale or Trade:
 - Sale through auction, art gallery or dealer resale, or direct bidding by individuals, in compliance with County law and policies governing surplus property;

- Trade through artist, gallery, museum, or other institutions for one or more other artwork(s) of comparable value by the same artist;
 - b. Indefinite loan to another governmental entity
 - c. Destruction of artwork deteriorated or damaged beyond repair at a reasonable cost, and deemed to be of no or only a negligible value, in accordance with national standards for conservation and deaccession. (citation here?)
 - d. Re-donation, sale or other arrangement agreed upon with the donor or artist at the time of the County's acquisition of the artwork.
6. Any financial costs incurred to implement removal and/or disposal of the artwork will be funded by maintenance funds provided by the County

10.3 Relocation of Public Art

From time to time, artworks need to be re-sited due to renovation, construction, or sale of property, or because the context of the original site has changed. In the event of the need to remove an artwork, the Trust staff will work with County agencies and facilities to find an appropriate new location for the Artwork where feasible.

The Artist will be notified of such a need and shall have the opportunity to comment on the proposed new locations, but the Trust will make the final determination. The Trust staff will prepare a recommendation on the new location of the artwork for approval by the Committee and the affected County department or agency, via the Department of Recreation.

Any financial costs incurred to re-locate an artwork will be funded by maintenance funds provided by the County.

10.4 Maintenance and Preservation

The acquisition of artwork(s) carries with it the responsibility for and commitment to maintaining the condition in which it was meant to be enjoyed by the public. The Trust is only responsible for the conservation and maintenance of permanent and semi-permanent artworks that have been formally accessioned into the Collection as well as the Works on Paper collection. Public artworks commissioned by private developers are not the property of the County and therefore cannot be accessioned into the collection and the Trust is not responsible for their conservation and maintenance. The private developer is responsible for the maintenance and/or conservation of all such artworks. To manage the collection, the AHCMC maintains a database that includes information and images of all artworks. All inventory numbers for public artworks in the collection begin with PA; works on paper begin with WP; works donated and on view in public institutions which have not been officially accessioned into the collection begin with ZZ. Artworks commissioned by a private developer include suffix DV at end of inventory number.

The Trust staff is responsible for:

1. Oversight of the Public Art Collection Survey and submittal of the Conservation and Maintenance plan for Trust review every 3 years;
2. All maintenance and curatorial services for the Collection.

The artist is responsible for:

1. Guaranteeing and/or securing manufacturers' warranties for the artwork against all defects of material or workmanship for a period of two years following installation;
2. Providing Trust staff with installation diagrams detailing hardware and foundation structures and detailed instructions regarding routine maintenance of the artwork, which shall become part of the AHCMC Collection Archives and Database; and
3. Responding to opportunities to accomplish necessary repairs and preservation or consult on such repairs, as appropriate.

DRAFT

Exhibit A

Public Arts Trust of Montgomery County

Criteria for Project/Site Selection Template

Date: _____
Project Name: _____
Location: _____
Project Manager: _____
CIP number: _____

Criteria	Maximum points	Evaluation Points
1. Development Opportunities	20	
2. Community visibility	20	
3. Geographic location/does area lack public art?	20	
4. Quality of opportunities for artist(s)	10	
5. Budget—matching funds/funding in CIP project budget?	20	
6. Support of project manager/staff resources	10	
7. Timing—what stage is the project at?	10	
Total	100	

Notes/Questions:

Exhibit B

AHCMC Database and Maintenance Information		
Date:		
Artist Name:		
Artist Email:Artist Phone Number:		
Artist Mailing Address:		
Title of Artwork:		
Inventory Number: (To be assigned by Trust staff)		
Location:		
Address:		
Name of Contact Person at Site:		
Phone Number of Contact Person:		
E-mail of Contact Person:		
Installation date of Artwork:		
Trust Funds:	Agency Funds:	Contract #
Materials Used (be as specific as possible):		
Fabrication Information: Where fabricated? How fabricated?		
Brief Description of Artwork and Edition Number if Applicable (can add attachment):		
Dimensions of Artwork:		
Dimension of Frame or Base:		
Signed:		
Maintenance Required (e.g., washing, waxing, etc.) and Frequency:		
Consulting Conservator and Contact Information:		
Artist Signature:		
Date:		

Transfer of Title

For valuable consideration

This is to certify that _____ has taken possession of the following public Artwork.

This certifies that the project has been completed and the contract has been fulfilled.

Project and/or Title of Piece: _____

Artist: _____

Address: _____

Location: _____

Address: _____

County Representative/Project Manager (print): _____

Signature: _____

AHCMC Representative: _____

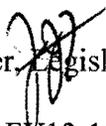
Signature: _____

Date: _____

Appendix B: Chapter 8 of the Montgomery County Code Article VI Works of Art in Public Architecture

MEMORANDUM

TO: Health and Human Services Committee

FROM: Justina J. Ferber,  Legislative Analyst

SUBJECT: Recommended FY13-18 CIP, Culture and Recreation, Public Arts Trust

The following individuals are expected to attend:
Suzan Jenkins, CEO, Arts and Humanities Council
Gabe Alborno, Director, Department of Recreation
Jennifer Bryant, Analyst, Office of Management and Budget
Mary Beck, CIP Coordinator, Office of Management and Budget

Executive Recommendation

For the FY13-18 CIP, the Executive recommends a total of \$560,000 to fund the Public Arts Trust (PAT) with no appropriation scheduled for FY13 and FY14 and \$140,000 for each of the remaining four years of the six-year CIP. The Executive has indicated he will allocate some funding in FY13 in the operating budget for public arts maintenance. The PAT PDF No. 729658 is attached at ©1.

AHCMC Materials and Request

The Public Arts Trust is managed by the Arts and Humanities Council (AHCMC). The AHCMC has provided a memorandum at ©3 with the following information: a) background narrative ©3; b) a summary of PAT activities since February 2010 ©4; c) public arts maintenance report ©4-6; d) PAT project descriptions ©6-7; e) a request for CIP support of \$65,000 ©7; and f) a list of current PAT Steering Committee members ©8. For the worksession, the AHCMC CEO will provide a brief update on the status of the PAT and will be available to respond to Committee questions. The AHCMC requests funds for administration of the PAT which would provide \$30,000 for staffing and \$35,000 for conservation and implementation of a maintenance program. They also request \$10,000 for maintenance in the operating budget.

Public Hearing Testimony and Correspondence

Attached is public hearing testimony and correspondence from the following individuals in support of funding for the Public Arts Trust for FY13 and FY14:

Public Hearing Testimony:

- Suzan Jenkins, CEO, AHCMC, ©11-13
- Dr. Michele Cohen, Custodian of Montgomery County Public Arts, ©14-16

Correspondence:

- Suzan Jenkins, CEO, AHCMC, ©17-18
- Molly Hauck, Kensington, ©20
- Kenneth Lowenberg, Potomac, ©21
- Kathleen Moran, Rockville, ©22

Public Arts Trust Program

The Public Arts Trust was established in 1995 to buy and display works of art on public property in the County, and to sponsor privately-funded temporary or permanent displays of art on public property in the County. The Trust is established under County Code Chapter 8, Article VI, "Works of Art in Public Architecture".

By law the CAO or a designee must administer the Trust in consultation with the AHCMC, MCPS, Montgomery College, and M-NCPPC. The CAO has designated the Department of Recreation as the County's point of contact with the Public Arts Trust. The County contracts with the Arts and Humanities Council to manage the program.

§8-45: Each year the County Council should consider appropriating funds for the next fiscal year to the Public Arts Trust in an amount equal to .05% of the combined total approved programmed capital expenditures for the then current fiscal year for County Government, Public Schools, Montgomery College, and Maryland-National Capital Park and Planning Commission.

This non-binding language is intended as a guideline for appropriations, and permits the Council to appropriate at a level other than the formula amount. The law says that each year the Council should consider funding the Public Arts Trust at the formula level. The PAT is funded with current revenue and the amount of funding has been adjusted each year according to affordability. **The calculated formula for FY13 is \$395,732.** In view of the current fiscal constraints, Council staff would not recommend funding at the formula level.

Budget Background and CE Recommendation

The approved FY09-10 PDF included level expenditures of \$140,000 per year for each of the six years in the CIP period for the PAT. In mid-FY10, the Council approved the Executive's recommendation to reduce PAT funding by \$55,000 for fiscal reasons, leaving a budget of \$85,000 which was then reduced again in FY10 by \$40,000 for a total of \$45,000.

The following was reported from the HHS Committee discussion of the PAT on February 25, 2010 for the FY11-12 CIP: "Ms. Jenkins requested that the Committee recommend a shift of \$15,000 per year from the "Other" category to "Planning, Design, and Supervision" to enable the AHCMC to hire full-time staff to manage the PAT. She said that the AHCMC had determined that the current funding of \$35,000 for a part-time PAT manager was not sufficient to meet the

needs of the Trust including the added responsibility for the “Works on Paper” program. Committee members agreed to support Ms. Jenkins’ request, but emphasized that funding for the PAT may have to be revisited after the Council receives the Executive’s operating budget.” See ©9-10.

The HHS Committee reviewed the PAT again on April 21, 2010. Because of the Executive’s proposed reductions in other areas of the budget and further declines and shortfalls in revenues, funding for the PAT program was deleted. The Committee updated its recommendations to delete full funding in FY11 and FY12, a reduction of \$140,000 per year, and to fund the PAT at \$140,000 per year, with \$50,000 for “Planning, Design, and Supervision”, and \$90,000 for “Other” in years FY13-FY16.

The AHCMC agreed to suspension of the PAT program due to the extreme and unusual fiscal situation with the understanding that the program would be restored after the suspension period. The AHCMC agreed, expecting the PAT to return to level expenditures of \$140,000 per year for FY13-16 as approved by the Council.

For the FY13-18 CIP, the Executive recommends a total of \$560,000 to fund the PAT with no appropriation scheduled for FY13 and FY14 and \$140,000 for each of the remaining four years of the six-year CIP. The Executive has indicated he will allocate some funding in FY13 in the operating budget for public arts maintenance.

Items for Discussion

Maintenance Management: One of the purposes of the PAT project is to protect and maintain the County’s art collection. The suspension of funding in FY11-12 contributes to the deterioration of some pieces in the collection. The County has \$4 million in art assets and expertise is needed to oversee the collection. The lack of funding in FY13-14 will continue for the vacant position that assists in the PAT project. Without funding in the CIP (even if maintenance funds are provided in the operating budget), there is no position to supervise the maintenance of the collection. A small investment could prevent further deterioration of art pieces and reduce the County’s risk and exposure to accidents involving deteriorating art.

According to the HHS Committee discussion in 2010, PAT funds categorized as “Planning, Design and Supervision” in the CIP were used for the administration of the PAT program. The AHCMC is asking that funding be restored. The County Code at ©23-24 allows funds from the PAT to be used to pay the cost of administering the fund.

The PDF indicates that an amount yet to be determined will be allocated to the operating budget for maintenance of the public art that currently exists, but does not address the issue of maintenance management of the collection.

Operating Budget: The PAT is currently funded at \$9,000 in the operating budget and if no additional funding is provided in the CIP, the Executive should be encouraged to provide additional funding for maintenance and maintenance management in the operating budget well beyond the current \$9,000.

Plan: The AHCMC would like to develop a collection and maintenance plan for the PAT. The plan would provide a strategy for preservation and a forecast of how much funding is needed in future years for preservation and maintenance. Funding in the FY13-14 CIP would encourage the development of a collection and maintenance plan and make future funding more predictable.

Council staff recommendation

Council staff recommends funding the PAT at half of the \$140,000 that was promised in the PAT project approved in FY11. Half would be \$70,000 each for FY13 and FY14 – \$50,000 for Planning, Design and Supervision and \$20,000 for “Other” category.

<u>This packet contains:</u>	<u>circle #</u>
FY13-18 CE Recommended PDF	1
FY11-16 Approved PDF	2
AHCMC memorandum, 2/27/12	3
AHCMC memorandum, 9/19/10	9
Public Hearing Testimony:	
Suzan Jenkins, CEO, AHCMC	11
Dr. Michele Cohen, Custodian of MC Public Arts	14
Correspondence:	
Suzan Jenkins, CEO, AHCMC, 9/28/11	17
Molly Hauck, Kensington	20
Kenneth Lowenberg, Potomac	21
Kathleen Moran, Rockville	22
County Code	23

Public Arts Trust -- No. 729658

Category
Subcategory
Administering Agency
Planning Area

Culture and Recreation
Recreation
Recreation
Countywide

Date Last Modified
Required Adequate Public Facility
Relocation Impact
Status

January 09, 2012
No
None.
On-going

EXPENDITURE SCHEDULE (\$000)

Cost Element	Total	Thru FY11	Est. FY12	Total 6 Years	FY13	FY14	FY15	FY16	FY17	FY18	Beyond 6 Years
Planning, Design, and Supervision	217	17	0	200	0	0	50	50	50	50	0
Land	0	0	0	0	0	0	0	0	0	0	0
Site Improvements and Utilities	0	0	0	0	0	0	0	0	0	0	0
Construction	0	0	0	0	0	0	0	0	0	0	0
Other	475	0	115	360	0	0	90	90	90	90	0
Total	692	17	115	560	0	0	140	140	140	140	*

FUNDING SCHEDULE (\$000)

Current Revenue: General	692	17	115	560	0	0	140	140	140	140	0
Total	692	17	115	560	0	0	140	140	140	140	0

DESCRIPTION

Effective April 12, 1995, the County Council enacted legislation providing for the creation of a Public Arts Trust. The purpose of this program is to incorporate art into public facilities and sponsor privately-funded temporary or permanent displays of art on public property. As written, the County Chief Administrative Officer [CAO] administers the trust in consultation with the Arts and Humanities Council of Montgomery County (AHCMC), Montgomery County Public Schools, Montgomery College, and the Montgomery County Parks Commission. The request for County funds for this project will be determined annually. The guidelines state that the annual request for the next fiscal year will be .05 percent of the total approved programmed capital expenditures for the current year Capital Improvements Program of the County Government, Public Schools, Montgomery College, and the Maryland-National Capital Park and Planning Commission. Each year, the County Council should consider appropriating this amount but may appropriate any amount.

COST CHANGE

Funding has been suspended for FY13 and FY14 to allocate an amount to be determined in the operating budget for maintenance of the public art that currently exists. The Montgomery County Arts and Humanities Council has recommended that rather than continue to add to the inventory of art, we must spend funds to maintain the current inventory. Funding for FY17 and FY18 has been added.

JUSTIFICATION

Bill 12-94, a revision to the Art in Public Architecture law, provides for the creation of a Public Arts Trust. The Public Arts Trust is administered by the County Chief Administrative Officer.

FISCAL NOTE

The Public Arts Trust is implemented through the Department of Recreation via an outside contract with the AHCMC.

OTHER DISCLOSURES

- * Expenditures will continue indefinitely.

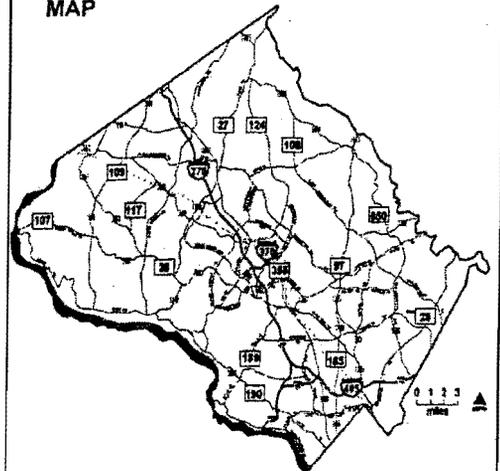
APPROPRIATION AND EXPENDITURE DATA

Date First Appropriation	FY96	(\$000)
First Cost Estimate	FY13	692
Current Scope		
Last FY's Cost Estimate		692
Appropriation Request	FY13	0
Appropriation Request Est.	FY14	0
Supplemental Appropriation Request		0
Transfer		0
Cumulative Appropriation		132
Expenditures / Encumbrances		81
Unencumbered Balance		51
Partial Closeout Thru	FY10	1,751
New Partial Closeout	FY11	0
Total Partial Closeout		1,751

COORDINATION

Arts and Humanities Council of Montgomery County
Montgomery County Public Schools
Montgomery College
M-NCPPC
Department of General Services
County Executive
Chief Administrative Officer

MAP



Public Arts Trust -- No. 729658

Category
Subcategory
Administering Agency
Planning Area

Culture and Recreation
Recreation
Recreation
Countywide

Date Last Modified
Required Adequate Public Facility
Relocation Impact
Status

November 16, 2010
No
None.
On-going

EXPENDITURE SCHEDULE (\$000)

Cost Element	Total	Thru FY10	Rem. FY10	Total 6 Years	FY11	FY12	FY13	FY14	FY15	FY16	Beyond 6 Years
Planning, Design, and Supervision	200	0	0	200	0	0	50	50	50	50	0
Land	0	0	0	0	0	0	0	0	0	0	0
Site Improvements and Utilities	0	0	0	0	0	0	0	0	0	0	0
Construction	0	0	0	0	0	0	0	0	0	0	0
Other	492	0	132	360	0	0	90	90	90	90	0
Total	692	0	132	560	0	0	140	140	140	140	*

FUNDING SCHEDULE (\$000)

Current Revenue: General	692	0	132	560	0	0	140	140	140	140	0
Total	692	0	132	560	0	0	140	140	140	140	0

DESCRIPTION

Effective April 12, 1995, the County Council enacted legislation providing for the creation of a Public Arts Trust. The purpose of this program is to incorporate art into public facilities and sponsor privately-funded temporary or permanent displays of art on public property. As written, the County Chief Administrative Officer [CAO] administers the trust in consultation with the Arts and Humanities Council of Montgomery County (AHCMC), Montgomery County Public Schools, Montgomery College, and the Montgomery County Parks Commission. The request for County funds for this project will be determined annually. The guidelines state that the annual request for the next fiscal year will be .05 percent of the total approved programmed capital expenditures for the current year Capital Improvements Program of the County Government, Public Schools, Montgomery College, and the Maryland-National Capital Park and Planning Commission. Each year, the County Council should consider appropriating this amount but may appropriate any amount.

COST CHANGE

Reduce funding in FY10 by \$40,000 and delete funding for FY11 and FY12. Add funding in FY15 and FY16 to this ongoing project.

JUSTIFICATION

Bill 12-94, a revision to the Art in Public Architecture law, provides for the creation of a Public Arts Trust. The Public Arts Trust is administered by the County Chief Administrative Officer.

FISCAL NOTE

The Public Arts Trust is implemented through the Department of Recreation via an outside contract with the AHCMC. The PDF reflects a reduction in FY10 expenditures and funding for fiscal capacity.

OTHER DISCLOSURES

- * Expenditures will continue indefinitely.

APPROPRIATION AND EXPENDITURE DATA	COORDINATION	MAP																																																
<table border="1"> <tr> <td>Date First Appropriation</td> <td>FY96</td> <td>(\$000)</td> </tr> <tr> <td>First Cost Estimate</td> <td></td> <td></td> </tr> <tr> <td>Current Scope</td> <td>FY11</td> <td>813</td> </tr> <tr> <td>Last FY's Cost Estimate</td> <td></td> <td>813</td> </tr> <tr> <td colspan="3"> </td> </tr> <tr> <td>Appropriation Request</td> <td>FY12</td> <td>0</td> </tr> <tr> <td>Supplemental Appropriation Request</td> <td></td> <td>0</td> </tr> <tr> <td>Transfer</td> <td></td> <td>0</td> </tr> <tr> <td colspan="3"> </td> </tr> <tr> <td>Cumulative Appropriation</td> <td></td> <td>132</td> </tr> <tr> <td>Expenditures / Encumbrances</td> <td></td> <td>128</td> </tr> <tr> <td>Unencumbered Balance</td> <td></td> <td>4</td> </tr> <tr> <td colspan="3"> </td> </tr> <tr> <td>Partial Closeout Thru</td> <td>FY09</td> <td>1,630</td> </tr> <tr> <td>New Partial Closeout</td> <td>FY10</td> <td>121</td> </tr> <tr> <td>Total Partial Closeout</td> <td></td> <td>1,751</td> </tr> </table>	Date First Appropriation	FY96	(\$000)	First Cost Estimate			Current Scope	FY11	813	Last FY's Cost Estimate		813				Appropriation Request	FY12	0	Supplemental Appropriation Request		0	Transfer		0				Cumulative Appropriation		132	Expenditures / Encumbrances		128	Unencumbered Balance		4				Partial Closeout Thru	FY09	1,630	New Partial Closeout	FY10	121	Total Partial Closeout		1,751	<p>Arts and Humanities Council of Montgomery County Montgomery County Public Schools Montgomery College M-NCPPC Department of General Services County Executive Chief Administrative Officer</p>	
Date First Appropriation	FY96	(\$000)																																																
First Cost Estimate																																																		
Current Scope	FY11	813																																																
Last FY's Cost Estimate		813																																																
Appropriation Request	FY12	0																																																
Supplemental Appropriation Request		0																																																
Transfer		0																																																
Cumulative Appropriation		132																																																
Expenditures / Encumbrances		128																																																
Unencumbered Balance		4																																																
Partial Closeout Thru	FY09	1,630																																																
New Partial Closeout	FY10	121																																																
Total Partial Closeout		1,751																																																

County Council



officers

Jacqueline Manger
*West Creek Capital
Chair & Chair of Governance*

Erica A. Leatham, Esq.
*Ballard Spahr LLP
Vice Chair & Co-Chair of
Development*

Mara Walker
*Americans for the Arts
Treasurer & Chair of Finance*

Joan Griggs
*Griggs Associates
Secretary & Chair of Grants*

Steven Snapp
*Snapp Strategic Partners, LLC
Advocacy Chair*

Mara Mayor, Ph.D.
*Education Consultant
Audit Chair*

**chief executive
officer**

Suzan E. Jenkins, MBA

board of directors

Michael Bobbitt
Adventure Theatre

Kim Baich
How Sweet It Is

Lyn Chiet
Cornucopia Designs

Sandra Eskin
Pew Charitable Trusts

Amy Harbison
*Open Window
Creative Strategies LLC*

Melvin L. Hardy
Millennium Arts Salon

Charles Jensen
Poet

Martin Mayorga
Mayorga Coffee Roasters

Gary Rosenthal
The Gary Rosenthal Collection

Ricardo Trujillo, CPA, CITP
*Grassberg Certified
Public Accountants*

Leslie S. Whipkey, CFP, CRPC
*Merrill Lynch
Global Wealth Management*

Ronald F. Wolfsheimer
Calvert Group, Ltd.

**adjunct to the
board**

Kenneth A. Lechter, Esq.
Legal Counsel

MEMORANDUM

To: Councilmember George Leventhal, Chair, HHS Committee

CC: Justina Ferber, Legislative Analyst

From: Suzan Jenkins, CEO, Arts and Humanities Council, Montgomery County

Re: CIP Allocation for the Public Arts Trust #729658

Date: February 27, 2012

Thank you for the opportunity to highlight the contributions and activities of the Public Arts Trust (PAT), a program managed by the Arts and Humanities Council of Montgomery County under contract with the County Department of Recreation.

The mission of the Public Arts Trust is to build and inspire communities through place-making, to nurture artists engaged in public art, and care for the County's extensive collection of public art. Artwork under the jurisdiction of Trust is ALL OVER the county, in schools, parks, plazas, libraries, office buildings: the EOB, the COB, the Judicial Center, Health and Human Services. The people of Montgomery County interact with it every day. Among the County's notable works are sculptures and installations by Louise Nevelson, Martin Puryear, Jim Sanborn, Heidi Lippman, and Vicki Scuri--a cultural legacy that must be preserved for future generations. Through our recent work we have identified that there are 868 works of art in the Public Art Collection (568 works on paper, 300 sculpture/murals) by nationally known and significant local artists. .

The Public Arts Trust, in its current form, has been managed by the Arts and Humanities Council since 1995 when the law creating the Trust was enacted. Chapter 8 of the Montgomery County Code, Article VI, "Works of Art in Public Architecture," Section 8-45 states that, "Each year the County Council should consider appropriating funds for the next fiscal year to the Public Arts Trust in an amount equal to 0.05% of the combined total approved capital expenditures for the then-current fiscal year for County Government, Public Schools, Montgomery College and Maryland-National Capital Park and Planning Commission."

801 ellsworth drive
silver spring, md 20910-4438
301.565.3805
fax: 301.565.3809
www.creativemoco.com

The Public Arts Trust is currently guided by a Steering Committee (see attached list) comprised of private sector representatives with expertise in public art, representatives of government agencies including the Department of Recreation, the Department of Housing and Community Affairs, the Department of Public Works and Transportation, City of Gaithersburg, City of Rockville, Maryland-National Capital Park and Planning Commission, and community representatives. Funds for Public art staff were eliminated in FY11 and permanent staff was dismissed.

Although limited funding was available for public art during FY11, and no funding was appropriated for FY12, the Steering Committee has been committed to improving the public art program and has focused on three areas: private developers, the County Capital Improvements Program (C.I.P.), and advocacy to spur support for public art.

- The Private Developer Subcommittee convened a focus group of developers to determine their interests and continues to work on the issues identified, including creating guidelines for site identification, artist selection, and ongoing maintenance..
- The C.I.P Subcommittee determined that a recommendation for public art needs to be introduced in the initial planning stage, known as a "Program of Requirements," for each facility. To do this, two audiences need to be persuaded of the importance of public art. First are County government staff who plan facilities and second are the Citizen Advisory Boards (CABs) which are organized by regions corresponding to the Regional Service Centers. The subcommittee recommended meeting with both these groups prior to the C.I.P. preparation in the fall.
- Advocacy became the focus of the committee as a whole when it was decided that not just the County government staff and CABs need to be educated about public art, but rather the entire community. It was agreed that, without community advocacy, the budget for public art would suffer. Raising the profile of the public art program became the advocacy objective. To accomplish this, AHCMC worked to improve the visibility of public art on the AHCMC website and to implement a "promo" for the public art program which is now displayed on our website and used for presentations to County staff and community members.

NEW PUBLIC ART: One new project was budgeted for FY11--public art for the Evans Parkway Neighborhood Park. The construction and installation of the work is budgeted in the Parks Department, while the Public Art Trust was responsible for selecting and paying the artist for the design. No new projects were budgeted for FY12.

PUBLIC ART MAINTENANCE: \$9,000 in funds for public art maintenance was provided in the FY12 AHCMC operating budgets. These funds were used to repair several small projects such as the *Turning Point Mural*, *Penguin Rush Hour*, and to store public art pieces that need major conservation, like the *Gateway to the Mind* piece by Mary Ann Unger, which a conservator has determined will cost \$25,000 to clean, repair, and reassemble. Other pieces earmarked for assessment and treatment include:

- 1) **Inventory Number:** PA 1051
Artist: Muriel Castanis (1926-1986) represented by O.K. Harris Gallery
Title: *Spirit of Freedom*, 1990-92
Medium: bronze, originally patinated green, on concrete base

Size: Slightly over life-size

Location: Rockville, Montgomery District Court, S Washington St. now on side of building. .

About 50% of original green patina is gone.

- 2) **Inventory Number:** PA 1159
Artist: Joseph A. McDonnell
Title: *Alba Rosa*, 1988
Medium: granite, concrete
Location: Silver Spring Garage #7
Fenwick Lane near Second Ave.
Note: Granite slabs forming pyramidal base have shifted and are unstable

- 3) **Inventory Number:** PA 1154
Artist: Albert Paley
Title: *Criss-Cross*, 1992
Medium: painted steel
Size: Tallest element, about 14' h
Location: Silver Spring, Fenton and Burlington, relocated there in 2004
Note: See current photos. New foundation and site should be considered as part of treatment.

- 4) **Inventory Number:** PA 1126
Artist: Lisa Kaslow
Title: *Cogi-Gate*, 1990
Medium: painted steel
Size: approx. 12' x 12'
Location: Silver Spring, Northwood High School
Note: Sculpture has been repainted wrong color and 50% of the painting is peeling.

- 5) **Inventory Number:** PA 1008
Artist: Azriel and Irene Awret
Title: *Space Horses*, c. 1990
Medium: bronze
Location: Germantown, Clopper Mill E.S.

- 6) **Inventory Number:** PA 1008A **Due:** by April 1, 2012, weather permitting
Artist: Azriel and Irene Awret
Title: *Leap Frog*, c. 1990
Medium: bronze
Size:
Location: Germantown, Clopper Mill E.S.

Sculptures to be treated, budget permitting

- 7) **Inventory Number:** PA 1031 **Due:** by June 30, 2012
Artist: Marcia Billig
Title: *The Juggler*, 1989
Medium: bronze

Size: approx. 6-1/2' h on 1-1/2' h base

Location: Silver Spring, Woodside Park

Note: Bronze needs to be cleaned and waxed and missing elements need to be refabricated.

8) **Inventory Number:** PA 1020

Artist: Marcia Billig

Title: *The Lion*, 1989

Medium: bronze

Size: approx. 6-1/2' h on 1-1/2' h base

Location: Silver Spring, on corner in front of library on Colesville Road

Note: Bronze needs to be cleaned and waxed. Staining on pedestal needs to be cleaned.

9) **Inventory Number:** PA 1303 **Due:** by June 30, 2012

Artist: Peter King

Title: *Synchronicity*, 1989

Medium: Ceramic

Size: approx. 12'h

Location: Silver Spring, AHCMC, 801 Ellsworth Drive

PUBLIC ART TRUST PROJECTS: In FY12, we continued working with the County's Department of General Services to provide technical expertise to address the compromised condition and safety hazard posed by Julio Treichberg's piece at the Germantown Community Center, which will have to be removed. We are also working with DGS to re-install the mural titled *Penguin Rush Hour* that was removed from the Silver Spring Metro Station when reconstruction of the station began and will be reinstalled when construction is completed. We received a \$5000 grant from Maryland State Arts Council for the reinstallation and matching funds will come from the "Pennies for Penguins" fund that is managed by AHCMC.

In September 2011 AHCMC launched the FaceBook version of the *Where's Ike* Campaign and Contest to bring local and national attention to our public art collection. We also hired an experienced Public Art Trust Consultant, Dr. Michele Cohen. As the founding Director of New York City's Public Art for Public Schools program for twenty years, Dr. Cohen inventoried the collection, instituted a collection management system, formulated guidelines for new commissions, and oversaw hundreds of new commissions and conservation projects.

We also hired an experienced Works on Paper Consultant, Crystal Polis. As the Curator of the Naval Historical Center, Navy Art Collection from 2002-2006, Crystal cared for a collection of approximately 15,000 works of art (paintings, works on paper, and sculpture) and managed the loan program of artwork to Pentagon, military bases, museums and U.S. government offices and conducted research for publishers, scholars and the general public.

As a result of this work done by the Steering Committee and the Consultants, we have developed a data base to manage all aspects of the collection, including curatorial information, current condition, and ownership responsibilities; created a partnership with Montgomery College and other area colleges and universities to implement an intern program to survey the current condition of the collection; computerized the survey form on portable tablets to allow for easy future surveys; hired a staff

conservator to provide condition assessments of most endangered artworks, perform conservation, and work with public art contractor, Dr. Michele Cohen, to train appropriate county staff to perform basic maintenance.. We are also in the process of developing a deaccession policy and public art commission and conservation guidelines for developers.

PUBLIC SAFETY MEMORIAL: AHCMC was instrumental in sourcing and hiring a designer for the *Public Safety Memorial* and managing the funds necessary to match the \$150,000 State bond for construction. The *Public Safety Memorial* was completed in December, 2011. It is a deeply moving tribute to those who have made the ultimate sacrifice. The dedication is planned for Spring 2012 with a date in April 2012 TBD.

REQUEST FOR SUPPORT OF THE FY13/14 PAT CIP: Considering the initial \$4M investment made with taxpayer dollars into the collection, AHCMC now needs funds to manage and conserve the County's collection. As the old adage goes, "An Ounce of Prevention is Worth a Pound of Cure." Just as we expect developers to maintain public art on private property, we must set an example. Deteriorating artworks in schools and community centers sends a negative message to County residents. Of even greater concern, is danger to public safety.

As of the 2003 maintenance report, 41 pieces were listed in the worst condition; we estimate that the real number is close to 50, or 15% of the collection of public art. A significant percentage of the collection is in schools and other public spaces and they must be treated ASAP because they present a safety hazard. The County must act ASAP to protect the collection so that pieces like that of major artist, Brower Hatcher, won't have to be removed as it was several years ago because it was so severely damaged. Conservation for a public agency or arts non-profit requires team effort of knowledgeable administrators, conservators, and cooperation of county maintenance folks. AHCMC now has the momentum to manage the County's public art collection responsibly. Just as County invests funds to maintain buildings, artworks require resources – both human and fiscal – for maintenance as well.

Additionally, on March 9, 2010 the Council tentatively approved the Health and Human Services (HHS) Committee's recommendation "...to approve the Executive's recommended FY11-16 budget for the Public Arts Trust with one change — to shift \$15,000 between cost elements so that Planning, Design, and Supervision would be increased to \$50,000, and "Other" would be decreased to \$90,000." The Committee recommend a shift of \$15,000 per year from the "Other" category to "Planning, Design, and Supervision" to enable the Arts and Humanities Council to hire full time staff to manage the Public Arts Trust. The Arts and Humanities Council has determined that \$35,000 for a part time Public Arts Trust manager is not sufficient to meet the needs of the Trust, including the added responsibility for the "Works on Paper" program.

Councilmember Leventhal, as the County Council considers funds for the Public Art Trust and understanding Montgomery County's current budget constraints, we respectfully ask that you consider a budget of at least \$65,000 for the Trust which would include \$30,000 for staffing and \$35,000 for conservation and the implementation of a maintenance program. We also ask that the full amount for maintenance in our operating budget - \$10,000, be restored to the Arts and Humanities Council General Operating Budget. Such a budget allocation will allow the Arts and Humanities Council to maintain and manage the collection and conserve the County's assets in this most valuable public trust.

Respectfully submitted,
Suzan Jenkins

Public Art Trust Steering Committee

The Trust is guided by a Steering Committee that includes artists, business representatives, at-large members of the community and staff from County departments and agencies, including the County Department of General Services and the Parks Department of M-NCPPC.

Jose Dominguez
Pyramid Atlantic

Hamid Omidvar
Department of Planning and Implementation

Liesel Fenner
Americans for the Arts

Robin Riley
Department of Recreation

Denise Kayser
City of Gaithersburg

Patricia Shepherd
Department of Transportation

Luann Korona
Department of Housing and Community Affairs

Josh Sloan
Department of Planning

Erica Leatham, Esq.
Ballard Spahr LLC and AHCMC Board member

Charlotte Sommers
BlackRock Center for the Arts

Catherine Matthews
Montgomery County, Upcounty Region

Betty Wisda
City of Rockville

Patricia McManus
Maryland National Capital Park & Planning
Commission

officers

Sylvia W. Crowder, Ph.D.
U.S. Department of Education
President

Jacqueline Manger
West Creek Capital
Vice President & Board
Development Chair

Mara Walker
Americans for the Arts
Treasurer

Charles Jensen
The Writer's Center
Secretary

Naomi F. Collins, Ph.D.
Writer and Consultant
Grants Chair

Bobby Donovan
Hyattstown Mill Arts Project
Arts Education Chair

Monica Jeffries Hazangeles
Strathmore
Advocacy Chair

Robert E. Hebda, Esq.
Freddie Mac
Events Chair

Steven Snapp
Snapp Strategic Partners, LLC
Marketing Chair

chief executive officer

Suzan E. Jenkins

board of directors

Lauren Cook
Artist

George Dang
Acacia Financial Advisors, LLC

Laura Gansler, Esq.
Author

Mara Mayor, Ph.D.
Consultant

Jack Rasmussen, Ph.D.
American University Museum

Mary Kay Shartle-Galotto, Ph.D.
Montgomery College

Brad Watkins
Olney Theatre Center

adjunct to the board

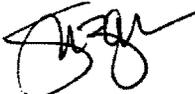
Kenneth A. Lechter, Esq.
Legal Counsel



MEMORANDUM

February 19, 2010

TO: Suzan Maher, Jeffrey Bourne
Department of Recreation

FROM: Suzan Jenkins 

RE: Allocation for the Public Arts Trust
CIP #729658

Per your meeting on September 29, 2009, with Susie Leong and Shellie Williams, I am writing to further the conversation with regard to Allocation for the Public Arts Trust - CIP#729658.

I am writing now to request an increase the amount outlined in the "Planning, Design, and Supervision" portion of the CIP allocation for the Public Arts Trust. The current amount is 25% of the annual allocation. We suggest an increase (minimally) to 39%.

Please note that this is not a request to increase the current County allocation of funding for the Trust, but a request for an adjustment regarding how the funds are apportioned on the bi-annual Program Description Form (PDF) provided by OMB. A change in the allocation would allow for greater flexibility with the annual County contract with AHCMC.

For the past several years, the Trust has been allocated funds for "Planning, Design, and Supervision" and for "Other." (See attached copies of past PDF's.) AHCMC has interpreted "Other" to mean non-administrative costs for the Trust. This includes design fees to artists and construction costs and any direct program costs.

AHCMC has interpreted "Planning, Design, and Supervision" as costs related to administration of the Trust programs. This includes: salaries and payroll taxes, mileage reimbursement, parking, postage, staff development, subscriptions, office supplies and office costs (photocopying and printing). Since 2007, the total annual CIP allocation has been \$140,000 (with an exception/change for FY10 for \$85,000). The portion allowed on the PDF for "Planning, Design, and

801 ellsworth drive
silver spring, md 20910-4438
301.565.3805
fax: 301.565.3809
www.creativemoco.com

Supervision" for that same period has been \$35,000 which represents 25% of the total allocation (41% of \$85,000 for FY10). It is our hope that full funding of \$140,000 will be restored in FY11 as recommended in the County Executive's Budget.

While 25% is not an unreasonable amount to set aside for program administration, \$35,000 does not reflect the true amount necessary to staff and maintain the Trust as needed given the County's size and needs.

Staffing for the Trust currently includes a Director position at 20 hours per week (50% FTE). Additional support is provided by other AHCMC senior staff including the CEO. Due to the low "Planning, Design, and Supervision" allotment in the CIP, AHCMC must pay benefits for the Trust personnel as well as staff time spent on the Trust by supervisory personnel from the AHCMC General Operation budget. This fact has caused an unjustified burden on our General Operation budget.

In addition to providing the services outlined in the annual County contract, which includes providing service to the various departments who seek assistance regarding public art and managing at least three to five new commissions and installations per year, the Director position also manages, maintains, and rotates artwork for the County's Works on Paper Contemporary Art Collection and addresses any maintenance needs/relocation of artwork requests that arise from various departments. For the past five years, the Trust has also managed the Visions Exhibition Space at the North Bethesda Conference Center, selecting and overseeing four exhibitions of professional Montgomery County artists per year. Based on the services and hours needed by the County for its public art program, we believe the current staffing configuration is what is minimally required.

Besides personnel costs, the Trust incurs costs for other administrative needs such as mileage reimbursement, parking, postage, staff development, subscriptions, office supplies, printing and photocopying. As you can see from past actual budgets, the total amount for "Planning, Design, and Supervision" exceeds the amount that has been outlined by the PDF in past years.

An increase in the PDF allocation to 39% would increase the amount allowed for Planning, Design and Supervision to \$54,600 which would more accurately reflect the true cost of administration based on our past and current budget figures.

In conclusion, given the amount of staff time and expertise needed to run a public art program, AHCMC is requesting that the amount on the PDF that is designated for "Planning, Design, and Supervision" be increased to at least 39% of the annual allocation assuming restored funding to \$140,000.

Suzan Jenkins Testimony for the
FY13/FY14 Proposed CIP Budget for the Public Arts Trust
February 9, 2012
Arts and Humanities Council of Montgomery County

Council President Berliner, esteemed members of the County Council, thank you for your past support of the arts and humanities in Montgomery County. I am here today to ask you to appropriate funding for the Public Arts Trust (PAT) in FY13/FY14.

The Arts and Humanities Council (AHC MC) was distressed to learn that appropriation was not included in the FY13/FY14 Public Arts Trust CIP #729658 as this funding is critical to protect and maintain the County's assets of over \$4M already invested in public art. A Cost Change for FY13 and 14 is noted in CIP#729658 to allocate a TBD amount to AHC MC's operating budget for maintenance of assets currently in the Trust.

I ask you now to allocate an appropriate level of funding in the CIP that will allow AHC MC to manage the Trust responsibly. Even funding 50% of the former allocation would be hugely impactful.

As you may recall, funding for the PAT CIP was severely reduced in FY10 and eliminated in FY11 and FY12. As a result, AHC MC eliminated staff hired to manage the Trust, putting the County's \$4M public art assets at risk, and in some cases, potentially putting the public at risk. Many of these public artworks are deteriorating; many of them are in public parks and over half of them are in public schools. What message does this send to our community?

While \$9,000 for maintenance has been appropriated for the PAT in the AHC MC general operating budget, \$9,000 is insufficient to maintain the 868 works of art in the Public Art Collection (568 works on paper, 300 sculpture/murals) by nationally known and significant local artists. These are public assets paid for by taxpayer dollars. The PAT should be funded to protect those assets.

Artwork is ALL OVER the county, in schools, parks, plazas, libraries, office buildings: the EOB, the COB, the Judicial Center, Health and Human Services. The people of our County interact with it every day and it is improving and inspiring the community every day.

Suzan Jenkins Testimony for the
FY13/FY14 Proposed CIP Budget for the Public Arts Trust
February 9, 2012
Arts and Humanities Council of Montgomery County

Over the last year, AHCMC developed a database to manage all aspects of the collection, including curatorial information, current condition and ownership responsibilities. However we have no ongoing staff to manage the collection, database or conservation efforts.

Considering the initial \$4M investment made with taxpayer dollars into the collection, AHCMC now needs funds to manage and conserve the County's collection. As the old adage goes, "An Ounce of Prevention is Worth a Pound of Cure." Just as we expect developers to maintain public art on private property, we must set an example. Deteriorating artworks in schools and community centers sends a negative message to County residents, developers and businesses.

As of the 2003 PAT Maintenance Report, 41 pieces were listed in the "worst" condition; we estimate that real number is now close to 50, or 15% of the collection of public art. A significant percentage of the collection is in schools and other public spaces. The County must act ASAP to protect the collection so that pieces in schools and those like that of major artist, Brower Hatcher, won't have to be removed as it was several years ago because it was so severely damaged.

Conservation for a public agency or arts non-profit requires a team effort of knowledgeable administrators, conservators, and the cooperation of the County. And while AHCMC has the momentum to manage the County's public art collection responsibly, we need funds for the conservation and maintenance of the PAT.

The attached photos of the Julio Teichberg installation at the Germantown Community Center demonstrates the grave need for funds to conserve and maintain taxpayers' investment and the County's assets. Of even greater concern, is danger to public safety. Please let me share a little of that once-wonderful piece of art with you now.

Suzan Jenkins Testimony for the
FY13/FY14 Proposed CIP Budget for the Public Arts Trust
February 9, 2012
Arts and Humanities Council of Montgomery County



Just as County invests funds to maintain buildings, artworks require resources – both human and fiscal – for maintenance as well as conservation.

Councilmembers, I implore you to budget at least \$74,000 for the Public Art Trust which would include \$30,000 for staffing and \$44,000 for conservation and the implementation of a maintenance program. Such a budget allocation will allow the Arts and Humanities Council to maintain and manage the collection and conserve the County's assets in this most valuable public trust. Thank you for the opportunity to present this information to you tonight.

Respectfully submitted,
Suzan Jenkins
CEO
Arts and Humanities Council, Montgomery County

10

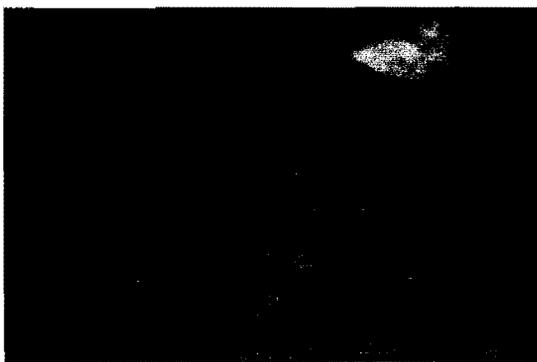
Michele Cohen Testimony for the
FY13/FY14 Proposed Public Arts Trust CIP Budget
February 9, 2012
Arts and Humanities of Council of Montgomery County

Good evening. My name is Dr. Michele Cohen. I was the founding director of New York City's Public Art for Public Schools program for twenty years and I am currently a consultant to the AHCMC, the custodian of Montgomery County's vast collection of public art. I have written books on public art, taught courses about public art, supervised NYC's sculpture inventory, and managed a collection of over 1,200 artworks in NYC schools: I know the challenges of caring for art in the public realm.

Montgomery County has a significant public art collection, including portable works in government offices, murals and sculptural installations in schools, iconic pieces marking courthouses, parks, and community centers—works that add to the quality of life for all of



Corrosion, leaching, and damaged seating element



Rusted bolt and peeling paint

Montgomery County's residents and visitors. Nationally known artists include Muriel Castanis, George Greenamyre, Joseph McDonnell, and Mary Ann Unger. Over the last three decades, many agencies helped form this collection, but none have taken ownership of it. As years of deferred maintenance accrue, the condition of

objects has worsened, and now about 15% or 50 major sculptural installations in public spaces require substantial treatment—more than just hosing down and waxing.

I am here to tell you that deferring maintenance of public art year after year is not economical and discredits the government body responsible for caring for these works of art. Like everything in the built environment, public art requires maintenance. Without it, artworks break, corrode, pit, peel,

Michele Cohen Testimony for the
FY13/FY14 Proposed Public Arts Trust CIP Budget
February 9, 2012
Arts and Humanities of Council of Montgomery County

crack, rust, and crumble. *Instead of being a public amenity, public art becomes an eyesore and a hazard.*



Extreme soiling and paint failure

In 1995 the County created the Public Arts Trust to oversee the various Percent for Art programs that have been operating in the County since 1983.

While the Trust is doing everything in its power to manage the collection responsibly, due to budget constraints, it must do so on a much smaller budget than in previous years. For the Public Arts Trust to

fulfill its function and live up to its name, the County must provide the seed funding to enable the full implementation of the collection inventory and conservation and maintenance plan. Uneven funding in the past has led to aborted attempts to catalogue and institute a maintenance program for the collection; meanwhile, the condition of artworks under the Trust's jurisdiction has worsened, and the County has even had to remove artworks because their compromised condition threatened public safety.

Fortunately there are many successful models to look to when considering how best to fund conservation and ongoing maintenance. One that I am familiar with, the NYC public schools, allocated a percentage of school maintenance money for

conservation of public art in school buildings every year. School administrators of the largest system in the nation recognized that permanent murals, stained glass, and sculptures affixed to school buildings



Joint failure

Michele Cohen Testimony for the
FY13/FY14 Proposed Public Arts Trust CIP Budget
February 9, 2012
Arts and Humanities of Council of Montgomery County

required maintenance just like roofs and boilers. Over two decades of systematic efforts, supported through public and private partnerships, capital and tax-levy funds, grants, and programs like Adopt-A-Monument and Adopt-A-Mural, we treated hundreds of major artworks, dating from the early twentieth century to the present. We preserved this artistic legacy that continues to enrich educational environments. Montgomery County can do that as well. Many of the country's leading public art programs--in Portland, Seattle, Cambridge, Miami, and Arlington--all have conservation and maintenance programs. I urge you to allow the Arts and Humanities Council of Montgomery County to do the right thing--the responsible thing. Let the Public Arts Trust be an effective steward of the collection.

Please support the Council's FY 2013 funding request for the Public Arts Trust to implement a collection management and maintenance plan for this valuable public asset that will protect the collection for future generations to come.

Thank you for your time and attention.



3

Color photo shows current state of sculpture. Black and white insert shows original status. Note missing bronze rings.

HHS

UF

officers

Jacqueline Manger
West Creek Capital
Chair & Chair of Governance

Erica A. Leatham, Esq.
Ballard Spahr LLP
Vice Chair & Co-Chair of
Development

Mara Walker
Americans for the Arts
Treasurer & Chair of Finance

Joan Griggs
Griggs Associates
Secretary & Chair of Grants

Steven Snapp
Snapp Strategic Partners, LLC
Advocacy Chair

Mara Mayor, Ph.D.
Education Consultant
Audit Chair

chief executive officer

Suzan E. Jenkins, MBA

board of directors

Michael Bobbitt
Adventure Theatre

Kim Baich
How Sweet It Is

Lyn Chilet
Comicopia Designs

Sandra Eskin
Pew Charitable Trusts

Amy Harbison
Open Window
Creative Strategies LLC

Melvin L. Hardy
Millennium Arts Salon

Charles Jensen
Poet

Martin Mayorga
Mayorga Coffee Roasters

Gary Rosenthal
The Gary Rosenthal Collection

Ricardo Trujillo, CPA, CTP
Grossberg Certified
Public Accountants

Leslie S. Whipkey, CFP, CRPC
Merrill Lynch
Global Wealth Management

Ronald F. Wolfshelmer
Calvert Group, Ltd.

adjunct to the board

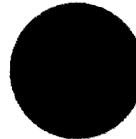
Kenneth A. Lachter, Esq.
Legal Counsel



September 28, 2011

064874

Honorable Valerie Ervin
President
Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850



Dear Ms. Ervin:

I am writing to thank you for your past support of the arts and humanities in Montgomery County and to ask for your support of appropriating funding for the Public Arts Trust (PAT) in FY13/FY14. Appropriation of \$140,000 is included in the FY13/FY14 Public Arts Trust CIP #729658. This funding is critical to help protect and maintain the County's assets of over \$4M already invested in public art, as well as to support current and future projects.

As you may recall, funding for the PAT CIP was severely reduced in FY10 and eliminated in FY11. As a result, the Arts and Humanities Council (AHC MC) had to eliminate staff hired to manage the Trust, putting the County's \$4M public art assets at risk, and in some cases, potentially putting the public at risk. Many of these public artworks are deteriorating; many of them are in public parks and over half of them are in public schools. What message does this send to our community?

While \$9,000 for maintenance has been appropriated for the PAT in the AHC MC general operating budget, \$9,000 is insufficient to maintain the over 325 pieces of public art in public places. Without staff, the Trust has been unable to manage the County's investment in the over 420 pieces in the Works on Paper collection, putting the County at additional risk for loss or damage to its investment. These are public assets paid for by taxpayer dollars. The PAT should be funded to protect those assets.

Another important role of the AHC MC is to provide expertise and staff support to County agencies to engage and select artists, and provide oversight of the quality of artwork in public places. The AHC MC has worked for many years with a very small budget and has managed to leverage this funding in creative ways to support many projects. Since funding for staff has been eliminated, we have been unable to participate in new opportunities and projects as they arise, and our recent initiatives to reorganize and improve our services have lost momentum.

Investment in the PAT is good for the economy in both the short and long term. Investment in the Trust can create jobs right away and increase interest from developers over time.

801 ellsworth drive
silver spring, md 20910-4438
301.565.3805
fax: 301.565.3809
www.creativemoco.com

Public art is attractive to developers – as an amenity and a demonstration that they care about public space and want to give back to the community. Vibrant streets and inviting public spaces are hallmarks of healthy communities. Distinctive features such as tree-lined boulevards, historic buildings and cultural hubs attract high levels of social interaction. This is where Public Art comes in.

Public art enhances the quality of life of our County for residents, workers, and visitors. It represents a tangible commitment to the public environment, making Montgomery County a highly desirable location to live, work, and create. It also attracts businesses and individuals to relocate to and stay in Montgomery County.

Public art is integral to and emblematic of a world-class, great County. It encourages tourism; stimulates the economy; provides opportunities for civic dialogue and serves as a catalyst for revitalization.

Public art invigorates and creates good public spaces and gathering places and attracts a variety of audiences; contributes to vibrant community life; encourages use of the spaces it occupies; strengthens civic pride and identification with the County and endows public spaces with distinctive identities.

Public art is part of our cultural heritage. It celebrates cultural diversity and represents humanity's highest aspiration as a symbol of our collective experience and history and becomes our legacy for generations to come.

Shaping Montgomery County —with landmarks and landscapes, events and ideologies—sets the stage for a critical part of our existence: our connection with our environment; with our past, present, and future; and with other human beings. The Public Arts Trust can help. Please support the \$140,000 appropriation for the Public Art Trust in FY13 and FY14. Thank you.

Sincerely,



Suzan Jenkins
CEO

OBO

The Public Art Trust Steering Committee



801 ellsworth drive, silver spring, md 20910-4438
301.565.3805 x23 • fax: 301.565.3809
suzan.jenkins@creativemoco.com

suzan e. jenkins chief executive officer

Patricia McManus, Chair
Design Section Supervisor, Park Development Division, M-NCPPC

Jose Dominguez, Executive Director, Pyramid Atlantic
Luann Korona, Chief, Community Development Division, Department of Housing & Community Affairs
Erica Leatham, Esq., LEED AP, Ballard Spahr LLP
Catherine Matthews, Catherine Matthews, Director, Montgomery County - Upcounty Region
Hamid Omidvar, Chief, Office of Special Projects, Department of General Services, Montgomery County
Gary Rosenthal, President, The Gary Rosenthal Collection
Patricia Shepard, Senior Planning Specialist, MCDOT, Division of Transportation Engineering
Joshua Sloan, Coordinator, M-NCPPC
Charlotte Sommers, Executive Director, BlackRock Center for the Arts

Public Arts Trust -- No. 729658

Category
Subcategory
Administering Agency
Planning Area

Culture and Recreation
Recreation
Recreation
Countywide

Date Last Modified
Required Adequate Public Facility
Relocation Impact
Status

November 16, 2010
No
None.
On-going

EXPENDITURE SCHEDULE (\$000)

Cost Element	Total	Thru FY10	Rem. FY10	Total 6 Years	FY11	FY12	FY13	FY14	FY15	FY16	Beyond 6 Years
Planning, Design, and Supervision	200	0	0	200	0	0	50	50	50	50	0
Land	0	0	0	0	0	0	0	0	0	0	0
Site Improvements and Utilities	0	0	0	0	0	0	0	0	0	0	0
Construction	0	0	0	0	0	0	0	0	0	0	0
Other	492	0	132	360	0	0	90	90	90	90	0
Total	692	0	132	560	0	0	140	140	140	140	*

FUNDING SCHEDULE (\$000)

Current Revenue: General	692	0	132	560	0	0	140	140	140	140	0
Total	692	0	132	560	0	0	140	140	140	140	0

DESCRIPTION

Effective April 12, 1995, the County Council enacted legislation providing for the creation of a Public Arts Trust. The purpose of this program is to incorporate art into public facilities and sponsor privately-funded temporary or permanent displays of art on public property. As written, the County Chief Administrative Officer [CAO] administers the trust in consultation with the Arts and Humanities Council of Montgomery County (AHCMC), Montgomery County Public Schools, Montgomery College, and the Montgomery County Parks Commission. The request for County funds for this project will be determined annually. The guidelines state that the annual request for the next fiscal year will be .05 percent of the total approved programmed capital expenditures for the current year Capital Improvements Program of the County Government, Public Schools, Montgomery College, and the Maryland-National Capital Park and Planning Commission. Each year, the County Council should consider appropriating this amount but may appropriate any amount.

COST CHANGE

Reduce funding in FY10 by \$40,000 and delete funding for FY11 and FY12. Add funding in FY15 and FY16 to this ongoing project.

JUSTIFICATION

Bill 12-94, a revision to the Art in Public Architecture law, provides for the creation of a Public Arts Trust. The Public Arts Trust is administered by the County Chief Administrative Officer.

FISCAL NOTE

The Public Arts Trust is implemented through the Department of Recreation via an outside contract with the AHCMC. The PDF reflects a reduction in FY10 expenditures and funding for fiscal capacity.

OTHER DISCLOSURES

- * Expenditures will continue indefinitely.

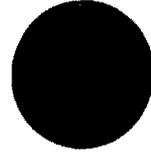
APPROPRIATION AND EXPENDITURE DATA	COORDINATION	MAP												
<table border="1"> <tr> <td>Date First Appropriation</td> <td>FY96</td> <td>(\$000)</td> </tr> <tr> <td>First Cost Estimate</td> <td></td> <td>813</td> </tr> <tr> <td>Current Scope</td> <td>FY11</td> <td></td> </tr> <tr> <td>Last FY's Cost Estimate</td> <td></td> <td>813</td> </tr> </table>	Date First Appropriation	FY96	(\$000)	First Cost Estimate		813	Current Scope	FY11		Last FY's Cost Estimate		813	Arts and Humanities Council of Montgomery County Montgomery County Public Schools Montgomery College M-NCPPC Department of General Services County Executive Chief Administrative Officer	
Date First Appropriation	FY96	(\$000)												
First Cost Estimate		813												
Current Scope	FY11													
Last FY's Cost Estimate		813												
<table border="1"> <tr> <td>Appropriation Request</td> <td>FY12</td> <td>0</td> </tr> <tr> <td>Supplemental Appropriation Request</td> <td></td> <td>0</td> </tr> <tr> <td>Transfer</td> <td></td> <td>0</td> </tr> </table>	Appropriation Request	FY12	0	Supplemental Appropriation Request		0	Transfer		0					
Appropriation Request	FY12	0												
Supplemental Appropriation Request		0												
Transfer		0												
<table border="1"> <tr> <td>Cumulative Appropriation</td> <td></td> <td>132</td> </tr> <tr> <td>Expenditures / Encumbrances</td> <td></td> <td>128</td> </tr> <tr> <td>Unencumbered Balance</td> <td></td> <td>4</td> </tr> </table>	Cumulative Appropriation		132	Expenditures / Encumbrances		128	Unencumbered Balance		4					
Cumulative Appropriation		132												
Expenditures / Encumbrances		128												
Unencumbered Balance		4												
<table border="1"> <tr> <td>Partial Closeout Thru</td> <td>FY09</td> <td>1,630</td> </tr> <tr> <td>New Partial Closeout</td> <td>FY10</td> <td>121</td> </tr> <tr> <td>Total Partial Closeout</td> <td></td> <td>1,751</td> </tr> </table>	Partial Closeout Thru	FY09	1,630	New Partial Closeout	FY10	121	Total Partial Closeout		1,751					
Partial Closeout Thru	FY09	1,630												
New Partial Closeout	FY10	121												
Total Partial Closeout		1,751												

County Council

Guthrie, Lynn

From: Berliner's Office, Councilmember
Sent: Tuesday, February 07, 2012 1:24 PM
To: Montgomery County Council
Subject: FW: Increase the Public Arts Trust maintenance budget

066604



From: Molly Hauck [mailto:mollyphauck@gmail.com]
Sent: Tuesday, February 07, 2012 1:18 PM
To: Berliner's Office, Councilmember
Subject: Increase the Public Arts Trust maintenance budget

To Councilmember Berliner,

I write to you today to voice my support for additional allocations to the Public Arts Trust maintenance budget in the FY13 CIP Budget. The Public Arts Trust, managed by the Arts and Humanities Council of Montgomery County, includes a significant collection of outdoor and indoor art valued at over \$4 million, but is desperately in need of funds to support systematic and immediate maintenance and conservation. This public asset is too important to our County to let it deteriorate any further. Please consider allocating \$60,000 to the FYCIP budget for PAT and protect this cultural legacy for future generations.

Sincerely,

Molly Hauck
4004 Dresden St.
Kensington, MD. 20852

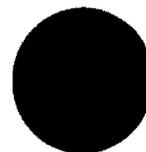
RECEIVED
MONTGOMERY COUNTY
COUNCIL

2012 FEB -7 PM 4:05

Guthrie, Lynn

From: Berliner's Office, Councilmember
Sent: Tuesday, February 07, 2012 11:56 AM
To: Montgomery County Council
Subject: FW: Public Arts Trust

066603



From: Kenneth Lowenberg [mailto:kenlowenberg@verizon.net]
Sent: Tuesday, February 07, 2012 11:45 AM
To: Berliner's Office, Councilmember
Subject: Public Arts Trust

To Councilmember Roger Berliner,

I write to you today to voice my support for additional allocations to the Public Arts Trust maintenance budget in the FY13 CIP Budget. The Public Arts Trust, managed by the Arts and Humanities Council of Montgomery County, includes a significant collection of outdoor and indoor art valued at over \$4 million, but is desperately in need of funds to support systematic and immediate maintenance and conservation.

This public asset is too important to our County to let it deteriorate any further. Please consider allocating \$60,000 to the FYCIP budget for PAT and protect this cultural legacy for future generations.

Sincerely,

Kenneth Lowenberg

8175 Inverness Ridge Road

Potomac, MD 20854-4014

RECEIVED
MONTGOMERY COUNTY
02/07/12

2012 FEB -7 PM 3:49

Delgado, Annette

JF
CC
SBF
LL

From: KMoran@rockvillemd.gov

066631

Sent: Thursday, February 09, 2012 9:19 AM

To: Andrews's Office, Councilmember; Berliner's Office, Councilmember; Elrich's Office, Councilmember; Ervin's Office, Councilmember; Floreen's Office, Councilmember; Rice's Office, Councilmember; Riemer's Office, Councilmember; Leventhal's Office, Councilmember; Navarro's Office, Councilmember; Montgomery County Council

Subject: Public Art

Dear Montgomery County Councilmembers:

I write to you today to voice my support for additional allocations to the Public Arts Trust maintenance budget in the FY13 CIP Budget. The Public Arts Trust, managed by the Arts and Humanities Council of Montgomery County, includes a significant collection of outdoor and indoor art valued at over \$4 million, but is desperately in need of funds to support systematic and immediate maintenance and conservation. This public asset is too important to our County to let it deteriorate any further. Please consider allocating \$60,000 to the FYCIP budget for PAT and protect this cultural legacy for future generations.

I worked to create the Public Arts Trust, I served as the PAT Chairperson for over a decade. I strongly believe that the Montgomery County government has a responsibility to maintain what it owns and this includes the hundreds of works of art - many site specific - each displays as a unique part of a public facility.

Sincerely,
Kathleen Moran
City of Rockville
Civic Center Superintendent
Office 240-314-8662
Cell 240-876-6581
kmoran@rockvillemd.gov
FAX 240-314-8669

Glenview Mansion
Rockville Civic Center Park
603 Edmonston Drive
Rockville MD 20851
Business office 240-314-8660

RECEIVED
MONTGOMERY COUNTY
COUNCIL

2012 FEB 10 AM 9:02

Sec. 8-44. ~~Public~~ ~~arts~~ ~~trust~~.

(a) There is a ~~Public~~ ~~Arts~~ ~~Trust~~ fund within County Government to:

(1) receive, hold, and pay out ~~public~~ and private funds to:

(A) buy and display works of art on ~~public~~ property in the County; and

(B) pay the cost of administering the fund; and

(2) sponsor privately-funded temporary or permanent displays of art on ~~public~~ property in the County.

(b) The Chief Administrative Officer or a designee must administer the ~~trust~~ in consultation with:

(1) ~~Arts~~ and Humanities Council;

(2) Montgomery County ~~Public~~ Schools;

(3) Montgomery College; and

(4) Montgomery County Parks Commission.

(c) The Chief Administrative Officer must report to the County Council:

(1) each quarter on:

(A) new locations selected for works of art to be funded by the ~~Public~~ ~~Arts~~ ~~Trust~~; and

(B) works of art purchased or displayed with ~~Public~~ ~~Arts~~ ~~Trust~~ funds during the quarter; and

(2) each year by January 15 on all other uses of ~~Public~~ ~~Arts~~ ~~Trust~~ funds during the prior calendar year. (1995 L.M.C., ch. 12, § 1; 2001 L.M.C., ch. 28, §§ 2, 15 and 16.)

Editor's note The effective date of the amendments made to this section by 2001 L.M.C., ch. 28, § 2, is the same effective date as 1999 L.M.C., ch. 24, § 1.

☐ **Sec. 8-45. Appropriation for art.**

Each year the County Council should consider appropriating funds for the next fiscal year to the ~~Public~~ ~~Arts~~ ~~Trust~~ in an amount equal to .05% of the combined total approved programmed capital expenditures for the then current fiscal year for County Government, ~~Public~~ Schools, Montgomery College, and Maryland-National Capital Park and Planning Commission. (1984 L.M.C., ch. 1, § 1; 1988 L.M.C., ch. 43, §§ 1--3; 1990 L.M.C., ch. 43, § 1; CY 1991 L.M.C., ch. 9, § 1; 1992 L.M.C., ch. 9, § 1; 1995 L.M.C., ch. 12, §§ 1, 2.)

Appendix C: The Optional Method of Development Public Artworks Document (February 1988)

Optional Method of Development Public Artworks

The Optional Method was created in 1974 as a means of acquiring a number of public facilities and amenities in the intensively developed CBDs of Bethesda, Silver Spring, Wheaton, and Friendship Heights. Section 59-D-2.0 of the County's zoning code provides the M-NCPPC with legal authority to review and approve Optional Method projects.

The public goal of the Optional Method is to create a more attractive urban environment through a package of public amenities provided by private developers to support the increased density of a project. To qualify for the Optional Method, a minimum of 20 percent of the project site area must be set aside for public use and a combination of facilities and amenities must be provided. Facilities and amenities which could be combined to qualify for increasing density include: recreational areas, parks, gardens, lawns, plazas, fountains, walks, pathways, promenades, arcades, streetscaping, public artworks, and day care or other public use facilities.

Artworks approved through the Optional Method, must be located in publicly accessible and visible on-sight locations or off-sight location related to the proposed development. These public artworks are subject to the review and approval of the Planning Board in accordance with standards set forth in the zoning ordinance. Although the artworks approved through the Optional Method are public in nature, they are privately owned.

Since many applications for development under the Optional Method in the mid 1980s had included art projects, the Planning Board convened a task force to study issues relating to approval, installation, and maintenance of the artworks. Formed in February 1988, the task force reviewed M-NCPPC procedures for approving public artworks as an Optional Method amenity and recommended new policies and procedures.

Study Committee on Art in the Optional Method Project

ART REVIEW PANEL

The **Study Committee on Artwork** in the Optional Method Projects prepared and submitted a report to the Planning Board in 1988. The Planning Board approved the policies and procedures and goals and objectives for selecting public art recommended by the Committee. A document containing the complete policies and procedures now in effect is available to the public in the Urban Design Division of The Maryland-National Capital Park and Planning Commission, and the goals and objectives defined by The Study Committee for reviewing proposed artwork are included in this appendix on pages 35 and 36.

The recommendations in the Study Committee's report were based on the following premises:

1. Artwork is a special feature which should be included in optional method projects, because of its unique ability to enrich one's enjoyment of public use space.
2. The recommendations of the committee should in no way extend the amount of time the Commission gives to project plan and site plan review.
3. The likelihood of problems associated with the design/approval, implementation, and maintenance of the artwork can be minimized by recommendations designed to improve communication and understanding of how successful artwork can be achieved.
4. Optional Method Artwork is privately-owned with all the legal rights of property-ownership even though the work is publicly on display and part of the public benefit requirement in exchange for an increase in density.

Members of the Study Committee on Art in the Optional Method Project (1988):

Burt Kubli, Resident Representative
Jane Allan, Legal Representative
Rosalie Silverberg, Resident Representative
Bette Lewis, County Government Representative
Jim Soltesz, Optional Method Developer Representative
Marcia Goldberg, Commission Representative
Ellouise Schoettler, Artist/Resident Representative

Goals and Objectives For Selecting Public Artwork

Goals

1. Achieve aesthetic excellence in approved artwork.
2. Ensure an appropriate interaction between the art and the architectural setting in terms of scale, materials, and context.
3. Ensure public access and invite public participation.
4. Encourage the developer to initiate collaborate planning at the earliest possible time among artists, architects, landscape architects, and engineers.
5. Ensure the long-term durability of permanent artwork by approving work which does not require excessive maintenance.
6. Encourage a rich variety of the arts including permanent as well as temporary pieces, objects as well as programmed special events.
7. Increase public understanding and enjoyment of the art through interpretive information and/or programmed events.
8. Achieve a collection of commissioned art which is unique and potentially contributes in a positive way to the identity of the community.

Objectives

1. The proposed artwork achieves the highest quality of excellence.
2. The proposed artwork shall be the result of a process initiated by the developer which will result in a collaborative effort among the project's artists, architects, landscape architects, developer, and possibly other related arts professionals such as art consultants.
3. The proposed artwork shall be located on-site in a publicly accessible and visible location. Off-site locations can be considered if the proposed location is related to the proposed development such as adjacent sidewalks, traffic medians, bridges, and adjoining parks and plazas. Artwork can be integrated into floors, walls, and even ceilings within the public areas of the projects. Sites within private

space such as office lobbies are not eligible for location of artwork as public amenity.

4. The artist and other design professionals shall be required to demonstrate how the proposed artwork effectively interacts with the specific site and public users of the space, and responds to the urban design relationships of the surrounding area.
5. The artist shall be required to demonstrate the public nature of the artwork. The artwork should be capable of engaging the public interest in a positive way by the work's imaginative concept, form and scale, color, content, and/or choice of media. The artwork shall strive to be contextual to the site, such as relating to any cultural, historical or visually unique aspects. The piece should also encourage physical interaction, if appropriate.
6. The artist shall submit a descriptive text, drawings and/or a maquette with sufficient detail in order to provide clear understanding of the proposal.
7. The majority of artwork shall be permanent in nature so as to be enjoyed on a continuous basis. Programmed arts events, however, are also encouraged to add vitality and generate new public interest.
8. Proposed artwork should be a commissioned work for the specific site and shall not be mass produced or standardized in its design.
9. The artist shall be required to submit a detailed maintenance specification at the time of site plan review to ensure that the developer and the Commission understand the maintenance requirements and consider the specifications to be adequate.
10. The developer shall demonstrate that he/she has contractual agreements with the artist and other design professionals which ensure that the artist is aware of and involved in any required changes in site design which may affect the artwork and which ensure that the artist's proposed work is technically feasible.

The Silver Spring Art Review Panel For Optional Method Projects

The Art Review Panel was established in 1988 and is intended to provide M-NCPPC with an expert evaluation of proposed artwork for Optional Method Projects and to encourage successful public artwork. The panel and staff review are guided by procedures approved by the Planning Board and the goals and objectives included in this booklet on pages 35 and 36.

The Art Panel is advisory to staff and the Planning Commission, and their review comments are incorporated into staff's reports to the Board. Each panel member is appointed by the Planning Director. The current panelists are as follows:

Citizen Representative:

**Mrs. Phyllis Cochran, Teacher
Silver Spring**

Arts Professional:

**Ralph Bennett, Professor of Architecture
University of Maryland**

Arts Professional:

**Cindy Kelly, Arts Consultant
Baltimore**

Arts Professional:

**Burt Kubli
National Endowment for the Arts**

Business Representative:

**Gene Smith
E. M. Smith Associates**

Appendix D: The Incentive Density Implementation Guidelines (July 2012)

Commercial/Residential Zones

Incentive Density Implementation Guidelines

July 2012



Abstract

This document includes text of the CR Zones and the guidelines that explain how to meet the zones' requirements.

Source of copies

The Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910-3760

Online at: http://www.montgomeryplanning.org/development/com_res_zones.shtm

Commercial/Residential Zones

Incentive Density Implementation Guidelines

July 2012

Approved by the Montgomery County Planning Board

contents

purpose	5		
CR and CRT zones overview	6		
process and contents of a sketch plan	7		
public benefits required	8		
public benefit categories	10		
public benefit criteria	11		
general public benefit considerations	11		
Major Public Facilities	12		
Transit Proximity	13		
Connectivity between Uses, Activities, and Mobility Options	15		
neighborhood services	16		
minimum parking	17		
through-block connections	18		
public parking	19		
transit access improvement	20		
trip mitigation	21		
streetscape	22		
advance dedication	23		
wayfinding	24		
Diversity of Uses and Activities	25		
affordable housing	26		
adaptive buildings	27		
care centers	28		
small business opportunities	29		
dwelling unit mix	30		
enhanced accessibility for the disabled	31		
live/work units	32		
		Quality of Building and Site Design	33
		historic resource protection	34
		structured parking	35
		tower step-back	36
		public art	37
		public open space	38
		exceptional design	39
		architectural elevations	40
		Protection and Enhancement of the Natural Environment	41
		building lot termination	42
		energy conservation and generation	43
		vegetated wall	44
		tree canopy	45
		vegetated area	46
		vegetated roof	47
		cool roof	48
		recycling facility plan	49
		habitat preservation and restoration	50
		Retained Buildings	51

purpose

Zoning Ordinance Citation

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

The Planning Board must adopt, publish, and maintain guidelines that detail the standards and requirements for public benefits. The guidelines must:

- (a) be consistent with the objectives of the applicable master or sector plan and the purpose of the CR zones;
- (b) be in addition to any standards, requirements, or rules of incentive density calculation included in this Division, but may not conflict with those provisions; and
- (c) only allow incentive density for those public benefits listed in Section 59-C-15.85.

Use of Guidelines

The Planning Board, Planning Department Staff, applicants, and citizens will use these guidelines when determining the adequacy of public benefits and amenities provided by an optional method application for development on a CR- or CRT-zoned property. The public benefits and amenities are considered within the entire development subject to one sketch plan and may be compelled by a phasing plan on all subsequent site plans.

Limits of Guidelines

These guidelines illustrate and supplement the requirements in the zoning ordinance. Criteria for public benefits are based on best practices, meaningful implementation thresholds, and experience and analysis related to built projects. Alternative criteria may be suggested as long as the standards of the ordinance are met, the intent of the public benefit is achieved, the applicable master or sector plan recommendations are implemented, and an appropriate amount of incentive density is requested. In any case where criteria established by these guidelines conflict with another county regulation, the regulation must be observed and the intent of the criteria must be addressed by other means.

Enforcement

Enforcement of the public benefits provided under these guidelines is governed by Section 59-D-3.h, Failure to comply, under the site plan provision of the Zoning Ordinance. Submittal requirements and conditions of approval may be imposed to ensure compliance and enforcement.

Optional method development is a zoning procedure used in Central Business District (CBD), Residential mixed-use (RMX), Transit mixed use (TOMX and TMX), and Commercial/Residential (CR) Zones that encourages comprehensive planning and mixed-use development. Under the optional method, higher densities are allowed in exchange for significant public amenities and facilities to support that additional density.

A **sketch plan** is a conceptual design that establishes a basic building, open space, and circulation framework for future, more detailed planning approvals. It is an initial agreement between the applicant and the Planning Board about the public benefits that will be provided for the density proposed.

CR and CRT zones overview

Provisions

The Commercial/Residential Zones are a family of mixed-use zones that establish the zoning classification, maximum total density, nonresidential density, residential density, and height. Once the zoning classification and the numbers associated with each of these factors are enacted on a zoning map, the zone is set. These guidelines only apply to CR and CRT Zones because only these zones may develop under the optional method of development requiring public benefits.

Requirements and Standards

There are requirements and standards that must be met by any project in a CR or CRT zone including setbacks, public use space, streetscape improvements, residential amenity space, bicycle parking and shower facilities, parking facility design, and consistency with the applicable master plan and design guidelines. All development must satisfy the standards and requirements in the Zoning Ordinance regardless of any public benefits provided.

CR Zones

CRT 2.0, C 1.0, R 1.5, H 60

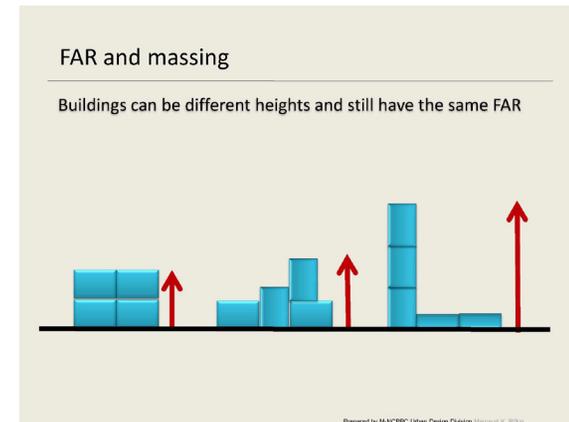
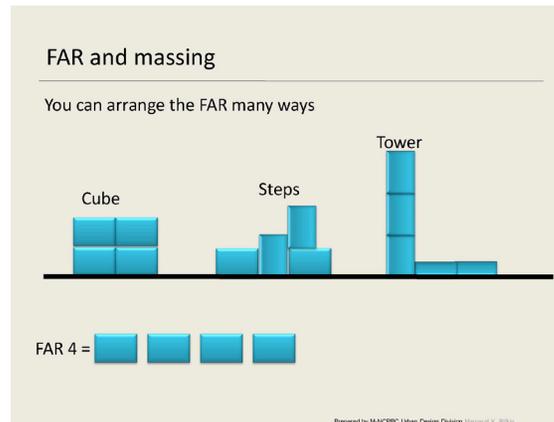
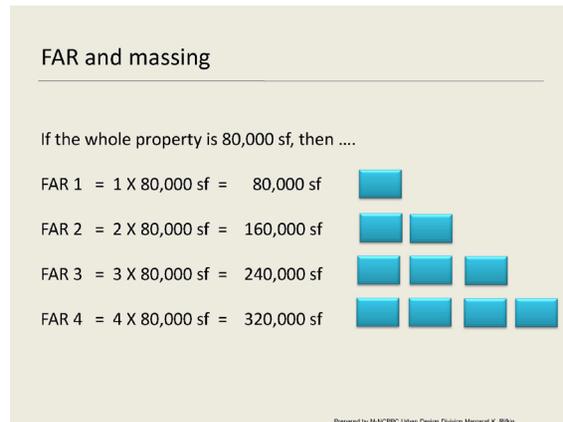
CRT sets the uses and some requirements

2.0 means the building floor ratio (FAR) is a maximum of two times the size of the lot

C 1.0 is the maximum commercial FAR within the total 2.0 FAR

R 1.5 is the maximum residential floor area within the total 2.0 FAR

H 60 is the maximum building height—60 feet



Floor area ratio (FAR) - The ratio of the gross floor area of a building to the area of the lot on which it is located. Parking and non-leasable space of the building are generally excluded from the computation. For example, a building with a gross floor area of 43,560 square feet on a one-acre lot would have a 1.0 FAR.

process and contents of a sketch plan

Provisions

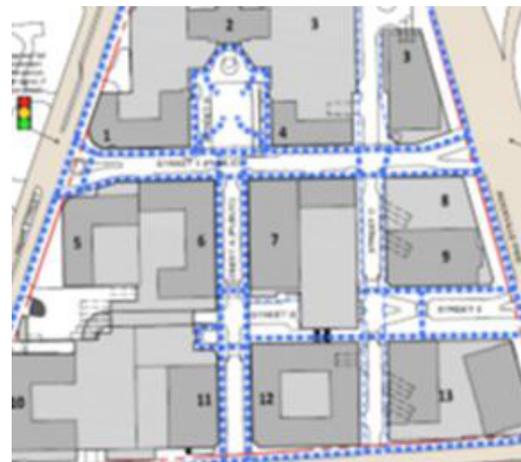
A sketch plan showing the general nature of a development, including all proposed public benefits and amenities, must be presented to the public prior to filing an application. Applicants are encouraged to use this required public meeting to present designs to citizens and staff before hardline engineering of development so that alternatives can be explored and a best fit development can be achieved.

Sketch plans should maintain the minimum level of detail necessary to allow citizens, staff, and the Planning Board to evaluate a proposed development and make the required findings of the ordinance in Section 59-C-15.43.(c). Examples of appropriate levels of detail are included in these guidelines, but more or less detail may be needed, which will become apparent in the early discussions about an application.

It should be remembered by all parties that a sketch plan approval only ensures that an application is “appropriate in concept and appropriate for further detailed review at site plan.” Sketch plans may be modified at site plan with proper notice and upon a showing that the required findings can still be made.

The complete submittal requirements, application forms, and fees are established by the Montgomery County Planning Department and may be obtained on line or at the Information Desk at the Planning Department offices, 8787 Georgia Avenue, Silver Spring, MD 20910. More information is available at www.MontgomeryPlanning.org or at 301-495-4595.

A **site plan** is a detailed plan, required only in certain cases, that shows proposed development on a site in relation to immediately adjacent areas. It indicates roads, walks, parking areas, buildings, landscaping, open space, recreation facilities, lighting, etc. The Planning Board approves the site plan after sketch plan approval and before building permits can be issued.



public benefits required

Density

Development on CR-and CRT-zoned land may proceed under standard or optional method development. Standard method development is limited in density to (whichever is greater) 0.5 FAR or 10,000 square feet in the CR Zones and 1.0 FAR or 10,000 square feet in the CRT Zones. The density between the standard method and the density indicated on the zoning map is defined as the “incentive density.” Any applicant wishing to develop above the standard method density—up to the maximum allowed by the zone—must apply for an optional method development approval. During this application process, the applicant proposes to provide specific public benefits and amenities that support the project’s incentive density. The Planning Board will determine whether the proposed public benefits support the additional density requested.

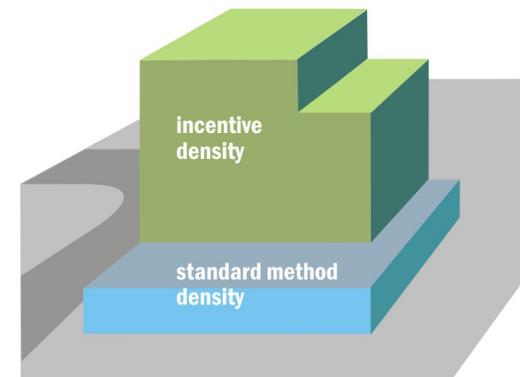
Height

The height on the zoning map (H) is the maximum height allowed under standard or optional method. Any development exceeding 40 feet in height that does not require a sketch plan will require a site plan.

Minimum Points and Categories

Optional method applications must provide public benefits from at least the number of benefit categories and for at least the minimum number of points indicated in the table (59-C-15.82) regardless of whether the full density allowed by the zone is realized. No proportional allocation of density and public benefits is allowed. To ensure that applications are not filed piecemeal to avoid providing public benefits, common ownership of adjoining properties are counted in any application and the applicable number of benefit categories and benefit points is required.

All CR-zoned properties must purchase (or make a payment) for building lot terminations under section 59-C-15.856(a).



Incentive density is the amount of a building’s floor area above the maximum development allowed without public benefits. To support this added floor area, public amenities must be provided and additional public review is required.

Zoning Ordinance Citation

59-C-15.82. Public benefits required.

- (a) Any optional method development must satisfy the minimum public benefit points from the minimum number of benefit categories as shown in Table 1. To determine the minimum number of public benefit points and the minimum number of benefit categories, all land adjoining and abutting the subject property under common ownership when the CR or CRT Zone was applied must be included to determine the area of the site.
- (b) Development in the CR Zones must provide Building Lot Terminations (BLTs) required under Section 59-C-15.856(a) for at least 5 points and provide additional public benefits; the sum of the public benefit points must equal at least 100.

Table 1: Required Public Benefits

zoning classification	Sites smaller than 10,000 square feet of land area or less than 1.5 maximum allowed FAR		Sites equal to or larger than 10,000 square feet of land area or equal to or more than 1.5 maximum allowed FAR	
	public benefit points	number of benefit categories	public benefit points	number of benefit categories
CRT	25	2	50	3
CR	50	3	100	4

Building Lot Termination is a transferable development right created from land that: is at least 25 acres; is capable of being served by an individual sewage treatment unit that meets the requirements of Chapter 27A (Montgomery County Code) and applicable regulations issued under that Chapter; and is located in the Rural Density Transfer (RDT) Zone and could be transferred by a BLT easement under Chapter 59 (Montgomery County Zoning Ordinance). When a BLT easement is recorded in the land records, the easement extinguishes the right to build a dwelling unit in the RDT Zone.

public benefit categories

Zoning Ordinance Citation

59-C-15.81. Incentive Density Categories.

Public benefits must be provided that enhance or contribute to the objectives of the CR and CRT Zones in some or all of the following categories:

- (a) Major public facilities;
- (b) Transit proximity;
- (c) Connectivity between uses, activities, and mobility options;
- (d) Diversity of uses and activities;
- (e) Quality of building and site design;
- (f) Protection and enhancement of the natural environment; and
- (g) Retained Buildings.

Section 59-C-15.85 indicates the individual public benefits that may be accepted in each of these categories.

The CR Zones establish seven categories of public benefits that may be used to support incentive density.

Major Public Facilities, Transit Proximity, and Retained Buildings are self-contained categories. The other categories, Connectivity, Diversity, Quality Design, and Environment, have lists of individual public benefits that an applicant may provide to obtain incentive density. These self-contained categories and the individual public benefits are established by the Zoning Ordinance and certain basic criteria for implementation must be met. Additional standards and rules are established by these guidelines.

Table 2: Public Benefits Categories

Major Public Facilities	
Transit Proximity	
Connectivity Between Uses, Activities, and Mobility Options	
Neighborhood Services	Transit Access Improvement
Minimum Parking	Trip Mitigation
Through-block Connection	Streetscape
Public Parking	Advanced Dedication
Wayfinding	
Diversity of Uses and Activities	
Affordable Housing	Adaptive Buildings
Care Centers	Small Business Opportunities
Dwelling Unit Mix	Enhanced Accessibility for the Disabled
Live-work Units	
Quality of Building and Site Design	
Historic Resource Protection	Structured Parking
Tower Step-Back	Public Art
Public Open Space	Exceptional Design
Architectural Elevations	
Protection and Enhancement of the Natural Environment	
Building Lot Termination (BLT)	Energy Conservation and Generation
Vegetated Wall	Tree Canopy
Vegetated Area	Vegetated Roof
Cool Roof	Recycling Facility Plan
Habitat Preservation and Restoration	
Retained Buildings	

public benefit criteria

Zoning Ordinance Citation

59-C-15.83. General incentive density considerations.

In approving any incentive density based on the provision of public benefits, the Planning Board must not grant incentive density for any attribute required by law and must consider:

- (a) The recommendations, objectives, and priorities of the applicable master or sector plan;
- (b) The CR Zone Incentive Density Implementation Guidelines and any design guidelines adopted for the applicable master plan area;
- (c) The size and configuration of the tract;
- (d) The relationship of the site to adjacent properties;
- (e) The presence or lack of similar public benefits nearby; and
- (f) Enhancements beyond the elements listed in the individual public benefit descriptions or criteria that increase public access to or enjoyment of the benefit.

General Public Benefit Considerations

The foundation of optional method development is that applicants must “provide public benefits in return for increases in density and height above the standard method maximums, up to the maximum permitted by the zone” (59-C-15.8). Three aspects of a public benefit must be analyzed:

- The general considerations required by the zone for all public benefits.
- The zone’s standards required for individual public benefits applicable to the specific benefit.
- The additional criteria required by the guidelines.

Fundamentally, the general considerations establish that a public benefit must be consistent with the Zoning Ordinance and the applicable master plan and design guidelines, and must be appropriate for the particular context. The six considerations listed above must be analyzed for all public benefits, and any additional criteria applied must be consistent with them.

Individual benefits also have specific criteria that are enumerated in subsequent sections. The Planning Board and its staff must consider both the general and specific benefit criteria.

Major Public Facilities

Zoning Ordinance Citation

59-C-15.851. Major public facilities.

Major public facilities provide public services at convenient locations and where increased density creates a greater need for civic uses and greater demands on public infrastructure.

- Major public facilities include, but are not limited to, such facilities as schools, libraries, recreation centers, parks, county service centers, public transportation or utility upgrades, or other resources delineated in an applicable master or sector plan.
- If a major public facility is not recommended in the applicable master or sector plan, the Planning Board must find that the facility or improvement provides the community with a resource that is at least as beneficial as other major facilities recommended in the applicable master or sector plan. Additionally, any infrastructure upgrade may only receive incentive density for improvements beyond those required by any applicable adequate public facilities requirement to complete the proposed development.
- Because of their significance in place-making, the Planning Board may approve incentive density of up to 40 points in the CRT zones and 70 points in the CR zones for (1) the conveyance of a site or floor area for, (2) construction of, and/or (3) making a payment for a major public facility that is accepted for use and/or operation by an appropriate public agency, community association, or nonprofit organization.

Guideline Criteria

Incentive density is limited to a maximum of 40 points in the CRT zones and 70 points in the CR zones.

Incentive density points may be granted for major public facilities if:

- The applicant conveys land and/or floor area for the facility
- Constructs the facility
- Makes a payment towards construction of the facility.

Projects that are not providing simple conveyance and/or construction, choosing for example, a payment, will be granted incentive density based on public review and comment that assesses master plan goals and community priorities.

In the case of a CR-zoned, 8-acre lot that includes provision of floor area and full buildout of satellite library/ community center within the building with no land conveyed, the Zone standards would be applied as follows.

Formula: $\{[(L+F)/N]*2\} + [(C/N)*4]*100$	Example
N (net lot area)	348,480 square feet
L (land area conveyed)	0 square feet
F (floor area conveyed)	20,000 square feet
C (constructed area of facility)	20,000 square feet
	Calculation: 23 points

Minimum Submittal Requirements

Sketch plan: description and calculation

Site plan: final calculation, detailed layout, and agency or association acceptance



Wisconsin Place Community Recreation Center

Transit Proximity

Zoning Ordinance Citation

59-C-15.852. Transit Proximity.

Development near transit facilities encourages greater use of transit, controls sprawl, and reduces vehicle miles traveled, congestion, and carbon emissions, and is eligible for incentive density. The Planning Board may approve incentive density for transit proximity under this section. Transit proximity points are granted for proximity to existing or master planned transit stops based on transit service level and CRT and CR zones as follows:

proximity	adjacent or confronting		within ¼ mile		between ¼ and ½ mile		between ½ and 1 mile	
transit service level	1	2	1	2	1	2	1	2
CRT	25	15	20	12.5	15	10	10	7.5
CR	50	30	40	25	30	20	20	15

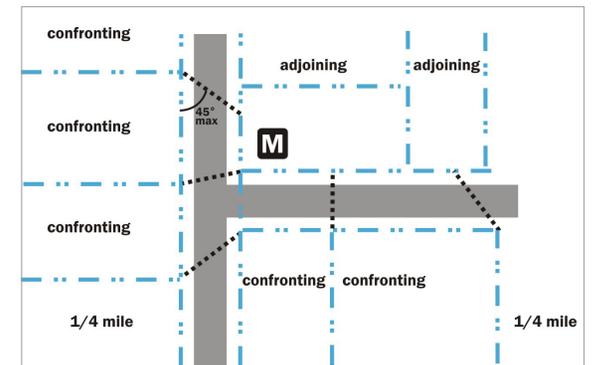
- (a) A project is adjacent to or confronting a transit station or stop if it shares a property line or easement line, or is separated only by a right-of-way from an existing or master-planned transit station or stop, and 100 percent of the gross tract area in a single sketch plan application is within ¼ mile of the transit portal.
- (b) For split proximity-range projects:
1. If at least 75 percent of the gross tract area in a single sketch plan application is within the closer of two proximity ranges, the entire project may take the points for the closer range;
 2. If less than 75 percent of the gross tract area in a single sketch plan is within the closer of two proximity ranges, the points must be calculated as the weighted average of the percentage of area in each range.

Guideline Criteria

Level 1 transit is defined in the zoning ordinance as a Metrorail station; level 2 transit is defined as an existing or master-planned station or stop along a rail or bus line with a dedicated, fixed path (MARC, Purple Line, CCT) (59-C-15.3).

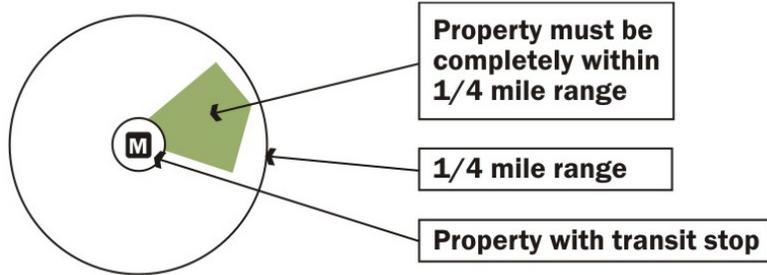
According to subsection a) to qualify for the highest density points, a project must share a property line with or confront a property with a transit station or stop. Further, 100 percent of the tract submitted in a single sketch plan that takes advantage of this proximity must be within ¼ mile of that portal.

Subsection b) ensures that properties are granted incentive density in proportion to their proximity to a transit station or stop when they straddle the ranges. There are two parts to this provision. First, if a property is 75 percent within a proximity range, the entire property is eligible for the density incentive enumerated for that range. Second, if less than 75 percent of a property is within a proximity range, a property is eligible for a weighted average. In this case, the amount of property in each range must be calculated and the density incentive enumerated as a weighted average.



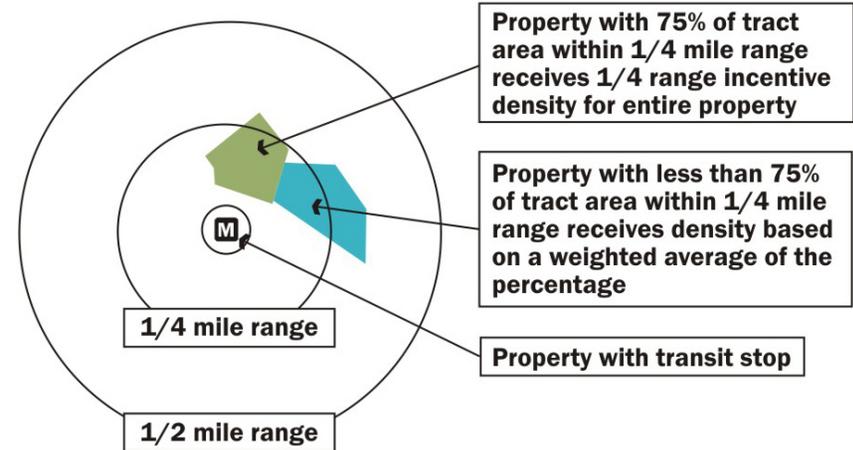
Confronting properties are those that are directly across a right-of-way from each other based on a line between the two properties that is drawn perpendicular to the right-of-way. Properties within a 45 degree diagonal across an intersection are also considered confronting.

To qualify for subsection a):



A split-proximity range project is one that has property with less than 75 percent of its area within a proximity range (for example, within 1/4, 1/2, or one mile of a Metro station).

To calculate under subsection b):



Formula: $[(t1/T)*P1] + [(t2/T)*P2]$	Example
T (total tract area)	80,000 square feet
t1 (tract area within proximity range 1)	55,000 square feet
t2 (tract area within proximity range 2)	25,000 square feet
P1 (points for range 1)	20 points
P2 (points for range 2)	15 points
	Calculation: 18 points

Minimum Submittal Requirements

Sketch plan: scaled plan showing transit portal and entire sketch plan area

Site plan: revised plan with final area calculations

Connectivity between Uses, Activities, and Mobility Options

Zoning Ordinance Citation

59-C-15.853. Connectivity and mobility.

Development that enhances connectivity between uses and amenities; increases mobility options; encourages non-automotive travel; facilitates social interaction; provides opportunities for healthier living; and stimulates local businesses is eligible for incentive density.

- (a) **Neighborhood Services:** When fewer than 10 different basic services are within $\frac{1}{4}$ mile of the subject site, up to 15 points for providing floor area resulting in at least 10 different basic services within $\frac{1}{4}$ mile of the subject site. Of those 10 services, at least 4 must have tenant or owner bays of no more than 5,000 square feet each. However, for all sketch plan applications approved by the Planning Board before October 11, 2011, and for any subsequent related site plan approvals, at least 10 points for safe and direct pedestrian access to at least 10 different retail services on site or within $\frac{1}{4}$ mile, of which at least 4 have a retail bay floor area of no greater than 5,000 square feet.
- (b) **Minimum Parking:** Up to 10 points for providing less than the maximum allowed number of parking spaces, if a maximum is applicable under Section 59-C-15.631.
- (c) **Through-Block Connections:** Up to 20 points for safe and attractive pedestrian connections between streets.
- (d) **Public Parking:** Up to 25 points for providing up to the maximum number of parking spaces allowed in the zone as public parking.
- (e) **Transit Access Improvement:** Up to 20 points for ensuring that access to transit facilities meets County standards for handicapped accessibility.
- (f) **Trip Mitigation:** Up to 20 points for entering into a binding Traffic Mitigation Agreement to reduce the number of weekday morning and evening peak hour trips attributable to the site in excess of any other regulatory requirement; the agreement must result in a non-auto driver mode share of at least 50% for trips attributable to the site.
- (g) **Streetscape:** Up to 20 points for construction of off-site streetscape, excluding any streetscape improvements required by this Division.
- (h) **Advance Dedication:** Up to 30 points for dedicating or providing a reservation for dedication for master-planned rights-of-way in advance of a preliminary or site plan application.
- (i) **Wayfinding:** Up to 10 points for design and implementation of a way-finding system orienting pedestrians and cyclists to major open spaces, cultural facilities, and transit opportunities.

Neighborhood Services

Zoning Ordinance Citation

- (a) **Neighborhood Services:** When fewer than 10 different basic services are within $\frac{1}{4}$ mile of the subject site, up to 15 points for providing floor area resulting in at least 10 different basic services within $\frac{1}{4}$ mile of the subject site. Of those 10 services, at least 4 must have tenant or owner bays of no more than 5,000 square feet each. However, for all sketch plan applications approved by the Planning Board before October 11, 2011, and for any subsequent related site plan approvals, at least 10 points for safe and direct pedestrian access to at least 10 different retail services on site or within $\frac{1}{4}$ mile, of which at least 4 have a retail bay floor area of no greater than 5,000 square feet.

Guideline Criteria

Incentive density of 7.5 points is appropriate for a project that meets Zoning Ordinance criteria. No one use should occupy an excessive amount of frontage and the services should contribute to improving the pedestrian environment.

Up to 5 additional incentive density points may be granted if other criteria are met, such as:

- required number of retail uses is within one block
- more than the minimum number of services are small businesses.



Neighborhood services contribute to an active daily life and reduce the need for vehicle trips.

Qualifying basic services include banks, cafes, care centers, community/civic centers, convenience stores, dry cleaners, hair care services, hardware stores, health clubs, laundromats, libraries, medical and dental offices, parks, pharmacies, police and fire stations, post offices, religious institutions, restaurants, schools, supermarkets, theaters.

Minimum Submittal Requirements

Site plan: map of all qualifying basic services, existing and proposed, within $\frac{1}{4}$ mile of subject site, measured from each residential or office lobby

Minimum Parking

Zoning Ordinance Citation

- (b) **Minimum Parking:** Up to 10 points for providing less than the maximum allowed number of parking spaces, if a maximum is applicable under Section 59-C-15.631.

Guideline Criteria

Incentive density is calculated on a sliding scale from no points for providing the maximum allowable number of spaces on-site to 10 points for providing no more than the minimum number of spaces on site.

Qualifying basic services include banks, cafes, care centers, community/civic centers, convenience stores, dry cleaners, hair care services, hardware stores, health clubs, laundromats, libraries, medical and dental offices, parks, pharmacies, police and fire stations, post offices, religious institutions, restaurants, schools, supermarkets, theaters.

Unbundled parking is parking spaces priced separately from the building rent.

Formula: $[(A/P)/(A/R)]*10$	Example
A (maximum allowed spaces)	100 spaces
R (minimum required spaces)	50 spaces
P (proposed spaces)	60 spaces
	Calculation: 8 points

Minimum Submittal Requirements

Sketch plan: initial estimate of calculation

Site plan: parking layout and uses with calculation approved

Through-Block Connections

Zoning Ordinance Citation

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

Guideline Criteria

Incentive density of 10 points is appropriate for connections that meet the following criteria:

- open-air, non-mechanical climate control (direct access between streets may be provided through the first floor of a building if the property owner grants a public access easement for the walkway)
- at least 15 feet wide
- open to the public at least between 8:00 a.m. and 9:00 p.m. and, where the connection leads to a transit facility or publicly-accessible parking facility within ½ mile, for the hours of operation of the transit or parking facility.

Additional incentive density may be appropriate if other criteria are met, such as:

- at least 35 percent of the walls facing the interior pedestrian connection between three and eight feet have clear, unobstructed windows
- direct connection to parks, transit facilities, or public buildings
- accessible retail uses along a majority of its length
- increased width.

Fewer than 10 incentive density points may be granted if some of the guideline requirements are not provided.



Bethesda Row qualifies for the through-block connection public benefit because, among other attributes, the primarily pedestrian area connects two streets, is non-climate controlled, and has windows and activating uses along each length.

Submittal Requirements

Sketch plan: concept layout and narrative regarding guideline criteria

Site plan: final detailed plan of circulation and site layout

Public Parking

Zoning Ordinance Citation

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

Guideline Criteria

Incentive density is calculated on a sliding scale from zero points if no public parking is provided to 25 points for providing 100 percent of the spaces between the minimum required and the maximum allowed as publicly available spaces.



Public parking areas may be run by a public agency or a private entity and may charge a fee.

Formula: $[P/(T-R)]*25$	Example
P (public spaces provided)	25 spaces
T (total spaces provided)	115 spaces
R (minimum required spaces)	80 spaces
	Calculation: 17 points

Minimum Submittal Requirements

Sketch plan: initial estimate of calculation

Site plan: detailed parking layout with calculation

Transit Access Improvement

Zoning Ordinance Citation

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

Guideline Criteria

Incentive density of 10 points is appropriate for transit access improvements that:

- upgrade pedestrian connections to transit stations or stops to County standards for handicapped accessibility
- are located within ½ mile of the project site or, in the case of mobile transit improvements such as a bus shuttle, provide regular access for passengers within ½ mile
- are not otherwise required on-site or along frontage.

Additional incentive density may be appropriate if other criteria are met, including:

- closer access
- provision of public access easements
- construction of seating areas and shelters.



Upgrades of substandard pedestrian routes to meet County accessibility standards qualify as a transit access improvement public benefit.



Additional points may be awarded for enhancements to transit stations, stops, or routes.

Minimum Submittal Requirements

Sketch plan: layout and narrative of improvements

Site plan: final detailed improvements and approvals by applicable agencies

Trip Mitigation

Zoning Ordinance Citation

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

Guideline Criteria

Incentive density of 10 points is appropriate for trip mitigation agreements (TMA) that meets the zoning ordinance requirements. The TMA must:

- be accepted by M-NCPPC and MCDOT prior to certification of any site plan for development subject to the agreement
- outline the policies, tracking mechanisms, and reporting procedures for car-pooling, transit subsidies, parking restrictions, bicycle facilities, and other mitigation strategies.

Additional incentive density points may be appropriate if greater than 50 percent non-auto drive mode share is proposed.



Facilities that promote walking, biking, carpooling, and transit use may be accepted as part of a trip mitigation agreement.

Minimum Submittal Requirements

Sketch plan: Narrative

Site plan: approved Traffic Mitigation Agreement

Streetscape

Zoning Ordinance Citation

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

Guideline Criteria

Incentive density points for improvements to off-site streetscape are granted on a sliding scale based on the area improved calculated as a percentage of the net lot area. The improvements must follow the applicable master plan recommendations, including providing utilities underground. Construction of streetscape along the property frontage is required and does not qualify for incentive density.

Formula: $(S/N)*100$	Example
S (streetscape improvements)	9,000 square feet
N (net lot area)	78,000 square feet
	Calculation: 11 points



A safe and attractive pedestrian environment encourages walking.

Minimum Submittal Requirements

Sketch plan: conceptual layout

Site plan: final layout, improvement details, and applicable agency approvals

Advance Dedication

Zoning Ordinance Citation

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

Guideline Criteria

The incentive density for advance dedication of right-of-way is calculated on a sliding scale up to 30 points based on the percentage of gross tract area that is dedicated. Right-of-way dedicated in advance of submitting a development application may also be considered part of the gross tract area for FAR calculations. The only advance dedications that will be considered for incentive density in a sketch plan approval are dedications made in anticipation of future development, such as those made prior to filing a site plan or those made within areas that will be developed during later phases of a sketch plan.

For example, the owner of a 75,300 square foot lot dedicates 8,500 square feet for a master-planned bikeway prior to filing a site plan application for that portion of the site:

Formula: $(D/N)*100$	Example
D (dedicated land area)	8,500 square feet
N (net lot after dedication)	75,300 square feet
	Calculation: 11 points

Minimum Submittal Requirements

Sketch plan: conceptual layout at sketch plan

Preliminary plan: final location and area

Prior to site plan: area recorded by plat

Wayfinding

Zoning Ordinance Citation

- (f) **Wayfinding:** Up to 10 points for design and implementation of a way-finding system orienting pedestrians and cyclists to major open spaces, cultural facilities, and transit opportunities.

Guideline Criteria

Incentive density of up to 5 points is appropriate for installing wayfinding signage in proposed open spaces and public spaces. These signs should provide maps and information orienting pedestrians and cyclists to nearby:

- parks and publicly accessible open spaces
- trails and paths
- cultural and governmental facilities
- transit stations and stops
- artworks and landmarks
- special areas, buildings, or facilities of interest.

Additional incentive density points may be appropriate if other criteria are met, including:

- a large number of signs are provided
- the wayfinding system helps fulfill a demonstrated need, such as implementing a municipal program or capital improvement priority.



Legible cities are livable cities.

Minimum Submittal Requirements

Sketch plan: narrative with conceptual layout and design

Site plan: final design, locations, and installation details approved by applicable agencies prior to use-and-occupancy permit

Diversity of Uses and Activities

Zoning Ordinance Citation

59-C-15.854. Diversity of uses and activities.

Development that increases the variety and mixture of land uses, types of housing, economic variety, and community activities; contributes to development of more efficient and sustainable communities; reduces the necessity for automobile use; and facilitates healthier lifestyles and greater social interaction is eligible for incentive density.

(a) **Affordable Housing:**

- (1) All residential development must comply with the requirements of Chapter 25A for the provision of Moderately Priced Dwelling Units (MPDUs).
- (2) MPDU Incentive Density: Provision of MPDUs above the minimum number of units required by Chapter 25A.
 - (A) MPDU units above the minimum number of units required, but not more than 15 percent of all units, entitles the applicant to 12 incentive density points for each 1 percent increase in MPDUs. Any fraction of 1 percent increase in MPDUs entitles the applicant to an equal fraction of 12 points.
 - (B) Above 15 percent of MPDUs, each 1 percent of additional MPDUs entitles the applicant to an additional 2 benefit points; any fraction of 1 percent increase in MPDUs entitles the applicant to an equal fraction of 2 points.
 - (C) MPDUs under this subsection may be provided in any manner allowed by Chapter 25A.

- (b) **Adaptive Buildings:** Up to 15 points for constructing commercial or mixed-use buildings with minimum floor-to-floor heights of at least 15 feet on any floor that meets grade and 12 feet on all other floors. Internal structural systems must be able to accommodate various types of use with only minor modifications.
- (c) **Care Centers:** Up to 20 points for constructing a child day care, adult day care, or teen center facility, with spaces for at least 15 users.
- (d) **Small Business Opportunities:** Up to 20 points for providing on-site space for small, neighborhood-oriented businesses.
- (e) **Dwelling Unit Mix:** Up to 10 points for integrating a mix of residential unit types with at least 7.5% efficiency units, 8% 1-bedroom units, 8% 2-bedroom units, and 5% 3-or-more bedroom units.
- (f) **Enhanced Accessibility for the Disabled:** Up to 20 points for constructing dwelling units that satisfy American National Standards Institute A117.1 Residential Type A standards or an equivalent County standard.
- (g) **Live/Work:** Up to 15 points for developments of up to 2.0 FAR total density that provide at least the greater of 3 units or 10% of the total unit count as live/work units.

Affordable Housing

Zoning Ordinance Citation

(a) Affordable Housing:

- (1) All residential development must comply with the requirements of Chapter 25A for the provision of Moderately Priced Dwelling Units (MPDUs).
- (2) MPDU Incentive Density: Provision of MPDUs above the minimum number of units required by Chapter 25A.
 - (A) MPDU units above the minimum number of units required, but not more than 15 percent of all units, entitles the applicant to 12 incentive density points for each 1 percent increase in MPDUs. Any fraction of 1 percent increase in MPDUs entitles the applicant to an equal fraction of 12 points.
 - (B) Above 15 percent of MPDUs, each 1 percent of additional MPDUs entitles the applicant to an additional 2 benefit points; any fraction of 1 percent increase in MPDUs entitles the applicant to an equal fraction of 2 points.
 - (C) MPDUs under this subsection may be provided in any manner allowed by Chapter 25A.

Guideline Criteria

The calculations for incentive density for affordable housing are provided in the zoning ordinance and chapter 25A and must comply with all applicable regulations. MPDUs are calculated as a percent of the total number of dwelling units.

Formula for 12.6% to 15% MPDUs:	Example
12 points per 1% MPDUs	
Total units proposed	100 units
MPDUs percent provided	14.5% units
MPDUs required	15
MPDUs above minimum 12.5%	2
	Calculation: 24 points

Formula for greater than 15% MPDUs:	Example
2 points per 1% MPDUs	
Total units proposed	100 units
MPDUs percent provided	20% units
MPDUs required	20
MPDUs above minimum 15%	5
	Calculation: 10 points (in addition to 24 points above)

Minimum Submittal Requirements

Sketch plan: initial calculation

Site plan: final approval per the Department of Housing and Community Affairs' Agreement to Build

Adaptive Buildings

Zoning Ordinance Citation

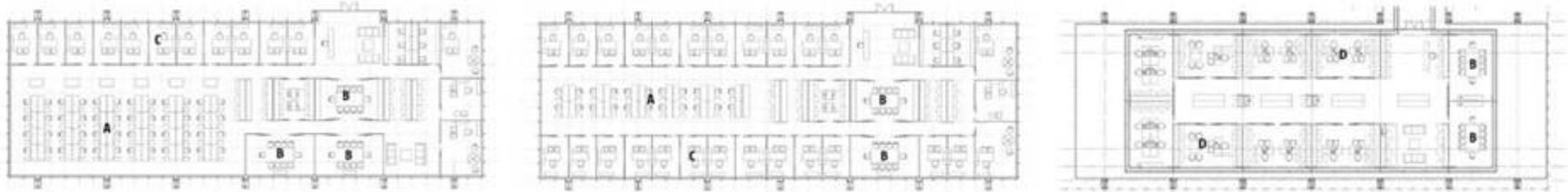
(b) **Adaptive Buildings:** Up to 15 points for constructing commercial or mixed-use buildings with minimum floor-to-floor heights of at least 15 feet on any floor that meets grade and 12 feet on all other floors. Internal structural systems must be able to accommodate various types of use with only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

Guideline Criteria

Incentive density of 7.5 points is appropriate for an adaptive building that meets the requirements of the zoning code. Points will be pro-rated per building in multi-building projects.

Additional incentive density points may be appropriate if other criteria are met, including:

- a structural system that can support additional density and height that may be added in the future, up to the maximum permitted density, without demolishing the structure
- an internal layout that allows changes between residential, retail, and office uses by minor modifications.



Minimum Submittal Requirements

Sketch plan: conceptual layout at sketch plan

Preliminary plan: final location and area

Care Centers

Zoning Ordinance Citation

- (c) **Care Centers:** Up to 20 points for constructing a child day care, adult day care, or teen center facility, with spaces for at least 15 users.

Guideline Criteria

Incentive density of 10 points is appropriate for care centers that provide:

- daytime child, teen, or adult care for at least 15 total users
- at least 25 percent of the spaces open to the public at large.

Additional incentive density points may be appropriate if other criteria are met, including:

- the care center is a master plan priority
- serves more than 15 users
- includes an adjacent lay-by or on-site drop-off area
- offers a higher percentage of spaces open to the general public
- provides recreation facilities above those required by law.



Easter Seals' Harry and Jeanette Weinberg Inter-Generational Center in Silver Spring serves children and seniors.

Minimum Submittal Requirements

Sketch plan: narrative and location at sketch plan

Site plan: final size, location, and layout; specific conditions for lease length and monitoring will be determined at site plan

Small Business Opportunities

Zoning Ordinance Citation

(d) **Small Business Opportunities:** Up to 20 points for providing on-site space for small, neighborhood-oriented businesses.

Guideline Criteria

Incentive density of 10 points is appropriate for developments that provide retail bays of no more than 5,000 square feet for:

- at least three small businesses on sites over one acre OR
- all of the commercial spaces on smaller sites.

Further, the approved gross floor space for these businesses must be restricted for a period of six years after the issuance of the initial use and occupancy permits. The six-year time period is binding upon future owners and successors in title and must be stated as a condition of any site plan approved by the Planning Board. Before a building permit is submitted for approval, the applicant must file a covenant in the County land records that reflects these restrictions.

Greater or fewer points are appropriate if more or less spaces are provided. Additional incentive density points are appropriate if small business opportunities are a master plan priority.



Small businesses provide jobs, keep dollars in communities, and provide diverse products and services.

Minimum Submittal Requirements

Sketch plan: conceptual layout and location with narrative

Site plan: final layout, design, and location approved

Prior to building permit: recorded covenant

Prior to use-and-occupancy: as-built floor plans

Dwelling Unit Mix

Zoning Ordinance Citation

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

Guideline Criteria

Incentive density of 5 points is appropriate for providing residential buildings with a mix of dwelling unit types (calculated by rounding to the next higher whole number) with a minimum of:

- 7.5 percent efficiency dwelling units
- 8 percent one-bedroom dwelling units
- 8 percent two-bedroom dwelling units
- 5 percent three-bedroom or larger dwelling units.

Incentive density of 10 points is appropriate for providing residential buildings with a mix of dwelling unit types (calculated by rounding to the next higher whole number) with a minimum of:

- 10 percent efficiency dwelling units
- 10 percent one-bedroom dwelling units
- 10 percent two-bedroom dwelling units
- 7.5 percent three-bedroom or larger dwelling units.



Minimum Submittal Requirements

Sketch plan: conceptual layout and location with narrative

Site plan: final layout, design, and location approved at site plan

Prior to use-and-occupancy: as-built floor plans

Enhanced Accessibility for the Disabled

Zoning Ordinance Citation

- (f) **Enhanced Accessibility for the Disabled:** Up to 20 points for constructing dwelling units that satisfy American National Standards Institute A117.1 Residential Type A standards or an equivalent County standard.

Guideline Criteria

Provision of dwelling units that satisfy ANSI A117.1 Residential Type A standards, or an equivalent County standard, is eligible for incentive density points on a sliding scale calculated as a percentage of complying units up to 20 points. Each percent of units is worth 3 points, thus, provision of seven percent of all units would be worth the full 20 points.



Simple changes in fixtures and facilities allow people with disabilities to live comfortably and independently.

Formula: $(A/T)*300$	Example
A (ANSI 117.1 units)	12 units
T (total units)	200 units
	Calculation: 18 points

Minimum Submittal Requirements

Sketch plan: conceptual layout at sketch plan

Site plan: final location and area

Live/Work Units

Zoning Ordinance Citation

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

Guideline Criteria

Incentive density of 7.5 points is appropriate for developments that provide live work units equal to at least 10 percent of their total units or three live/work units if the development provides up to 30 total units. This benefit may be used only when the CR or CRT Zone allows no more than 2.0 FAR maximum total density.

Incentive density of 15 points is appropriate for developments that provide live/work units equal to at least 15 percent of their total units if the development provides more than 30 total units or five live/work units if the development provides up to 30 total units.



Live/work units integrated into mixed-use communities provide products and services convenient to home.

Minimum Submittal Requirements

Sketch plan: conceptual layout and location with narrative

Site plan: final layout, design, and location

Quality Building and Site Design

Zoning Ordinance Citation

59-C-15.855. Quality building and site design.

High quality design is especially important in urban, integrated-use settings, to ensure that buildings and uses are visually compatible with each other and adjacent communities and to provide a harmonious pattern of development, and is eligible for incentive density. Due to increased density in these settings, buildings tend to be highly visible; high quality design helps attract residents, patrons, and businesses to these areas. Location, height, massing, façade treatments, and ornamentation of buildings affect sense of place, orientation, and the perception of comfort and convenience. The quality of the built environment affects light, shadow, wind, and noise, as well as the functional and economic value of property.

- (a) **Historic Resource Protection:** Up to 20 points for the preservation and/or enhancement of, or payment towards preservation or enhancement of a historic resource or a contributing element within a historic district designated in the Master Plan for Historic Preservation.
- (b) **Structured Parking:** Up to 20 points for placing parking within above- or below-grade structures.
- (c) **Tower Step-Back:** Up to 10 points for stepping back a building's upper floors by a minimum of 6 feet behind the first floor façade. The step-back must begin at a height no greater than 72 feet.
- (d) **Public Art:** Up to 15 points for installing public art reviewed for comment by, or paying a fee accepted by, the Arts and Humanities Council.
- (e) **Public Open Space:** Up to 20 points for providing, or making a payment for, open space in addition to the minimum public use space required by this Division.
- (f) **Exceptional Design:** Up to 10 points for building or site design whose visual and functional impacts enhance the character of a setting and the purposes delineated in this Section.
- (g) **Architectural Elevations:** Up to 20 points for providing elevations of architectural façades and agreeing to be bound by particular elements of design, such as minimum amount of transparency, maximum separation between doors, awning provisions, sign restrictions, or lighting parameters that affect the perception of mass or pedestrian comfort, or enhance neighborhood compatibility.

Historic Resource Protection

Zoning Ordinance Citation

- (a) **Historic Resource Protection:** Up to 20 points for the preservation and/or enhancement of, or payment towards preservation or enhancement of a historic resource or a contributing element within a historic district designated in the Master Plan for Historic Preservation.

Guideline Criteria

Incentive density of up to 10 points is appropriate for projects that protect historic resources by one of the following means.

Preservation or enhancement of a historic resource designated in the Master Plan for Historic Preservation or the Locational Atlas and Index of Historic Sites or for contributing elements within a historic district designated in the Master Plan for Historic Preservation on- or off-site through:

- providing capital improvements, interpretive signs, museum-type exhibits
- integrating and constructing context-appropriate landscape and settings
- protecting important viewsheds.

Alternatively, a payment may be made as follows.

- The minimum fee is 1.0 percent of the development's projected cost up to \$100,000.
- The fee is paid prior to the release of the first building permit for the development.
- The fee is used for stabilization, restoration, rehabilitation, or interpretive improvements of publicly owned historic resources on parkland or for the identification, evaluation, documentation, interpretation, or related activities that will lead to a better understanding of the County's historic resources.
- The fee is to be used for a project within or near the policy area where the proposed development is located.

More points will be awarded for preservation and enhancement projects that most closely adhere to the recommendations in the Master Plan for Historic Preservation or Locational Atlas and Index of Historic Sites.

Fewer points will be granted when less than the applicable recommendations are implemented. No points will be awarded if it is determined the resource is compromised by the proposed development.

Minimum Submittal Requirements

Sketch plan: concept and narrative

Site plan: final details and approval by the Historic Preservation Commission



Retaining and enhancing historic buildings is appropriate for the Historic Resource Protection public benefit.

Structured Parking

Zoning Ordinance Citation

(b) **Structured Parking:** Up to 20 points for placing parking within above- or below-grade structures.

Guideline Criteria

Structured parking may be granted incentive density points on a sliding scale based on the percentage of total on-site spaces provided in above-ground parking multiplied by 10 points plus the percentage of total on-site spaces provided in below-grade parking multiplied by 20 points.



Structured parking should be well integrated and visually pleasing.

Formula: $[(A/T)*10] + [(B/T)*20]$	Example
A (above-grade spaces)	200 spaces
B (below-grade spaces)	145 spaces
T (total spaces)	345 spaces
	Calculation: 14 points

Minimum Submittal Requirements

Sketch plan: initial estimate of calculation

Site plan: detailed parking layout with calculation

Tower Step-Back

Zoning Ordinance Citation

- (c) **Tower Step-Back:** Up to 10 points for stepping back a building's upper floors by a minimum of 6 feet behind the first floor façade. The step-back must begin at a height no greater than 72 feet.

Guideline Criteria

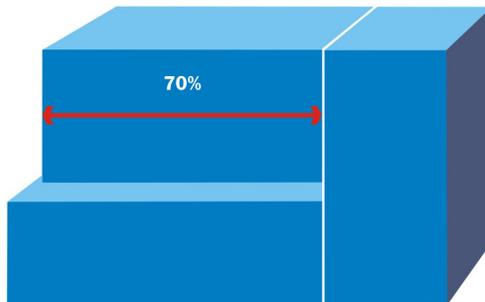
Incentive density of 5 points is appropriate for buildings that meet the requirements of the zoning ordinance. The step-back should be retained across at least 70 percent of the frontage on any right-of-way or open space. Incentive points are pro-rated per building in multi-building projects.

Additional incentive density points may be appropriate if other criteria are met, including:

- greater step-back
- step-back at a lower level
- integration of step-back with reduced floor plate sizes on upper stories.



Tower step-backs decrease wind and shade impacts on open spaces and streets, increasing the comfort of the public realm.



Minimum Submittal Requirements

Sketch plan: concept

Site plan: final layout and step-back established

Public Art

Zoning Ordinance Citation

(d) **Public Art:** Up to 15 points for installing public art reviewed for comment by, or paying a fee accepted by, the Arts and Humanities Council.

Guideline Criteria

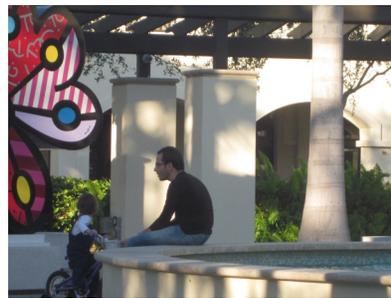
Incentive density of 7.5 points is appropriate for public art that is reviewed for comment by the Public Arts Trust Steering Committee (PATSC) and is found to fulfill at least five of the following goals.

- Achieve aesthetic excellence
- Ensure an appropriate interaction between the art and the architectural setting in terms of scale, materials, and context
- Ensure public access and invite public participation
- Encourage collaboration between the artist(s) and other project designers early in the design phases
- Ensure long-term durability of permanent works through material selection and/or a documented maintenance program
- Encourage a rich variety of arts including permanent installations, revolving temporary works, and event programming
- Increase public understanding and enjoyment of art through interpretive information and/or programmed events
- Contribute to a collection of commissioned art that is unique and fosters a positive community identity

A fee instead of public art may be accepted for incentive density as follows.

- The minimum fee is calculated on 0.5 percent of the development's projected cost up to \$100,000.
- The fee is paid to the PATSC via the Arts and Humanities Council prior to release of a building permit.
- The fee is used for installation, management, and maintenance of public art at the discretion of the PATSC, with preference given to the policy area where the proposed development is located.

More or fewer points may be awarded for projects that fulfill greater or fewer goals, respectively; more points may be awarded for unique works that expand the County's collection regarding types of works, recognized artists, or that provide rotating temporary pieces. Review by the PATSC should be completed prior to any Board hearing on a site plan except as allowed and conditioned by the Planning Board.



Artwork can define a place and become a landmark, as well as enliven community open space.

Minimum Submittal Requirements

Sketch plan: public art concept and narrative (or proposed fee)

Site plan: final details approved after review by the Public Arts Trust Steering Committee

Public Open Space

Zoning Ordinance Citation

- (e) **Public Open Space:** Up to 20 points for providing, or making a payment for, open space in addition to the minimum public use space required by this Division.

Guideline Criteria

Incentive density for public open space above the zone's requirements is granted on a sliding scale based on the percentage of the net lot area. The open space should:

- be directly accessible to a street
- be open to the public between sunrise and sunset
- be designed so that proposed loading or parking facilities are screened or faced with active uses
- contain seating, trash receptacles, landscaping, and other amenities such as water features, kiosks, and passive recreation areas
- be at least 35 feet wide
- be designed so that walls of any nonresidential floor area facing the open space have windows on at least 60 percent of the façade between three and eight feet
- be designed so that main entries to any dwelling units are from a wall facing the open space

A fee-in-lieu of public open space may be accepted for incentive density as follows.

- The fee equals \$35 per square foot plus the development's market rate of land value per square foot for whatever percentage of the net lot is requested for incentive density up to 20 points.
- The fee is paid into an amenity fund or other designated open space construction, renovation, or improvement fund prior to release of a building permit.
- The fee is used for installation, management, and maintenance of public facilities and amenities in part or in full that the Planning Board finds consistent with the goals of the applicable master plan.

More points may be awarded in addition to those established by the formula when open space is a master plan priority or where there is a lack of open space nearby.



Public spaces should be integrated into development, visible and accessible to all users.

Formula: $(P/N)*100$	Example
P (public open space)	6,000 square feet
N (net lot area)	46,000 square feet
	Calculation: 13 points

Minimum Submittal Requirements

Sketch plan: concept layout and narrative regarding guideline criteria
 Site plan: final detailed plan and site layout

Exceptional Design

Zoning Ordinance Citation

- (f) **Exceptional Design:** Up to 10 points for building or site design whose visual and functional impacts enhance the character of a setting and the purposes delineated in this Section.

Guideline Criteria

Incentive density of 5 points is appropriate for development that meets at least four of the following criteria and 10 points for development that meets all of them. Building or site design that:

- provides innovative solutions in response to the immediate context
- creates a sense of place and serves as a landmark
- enhances the public realm in a distinct and original manner
- introduces materials, forms, or building methods unique to the immediate vicinity or applied in a unique way
- uses design solutions to make compact, infill development living, working, and shopping environments more pleasurable and desirable on a problematic site
- integrates low-impact development methods into the overall design of the site and building, beyond green building or site requirements.



Exceptional design can create a community landmark as well as have economic and environmental benefits.

Minimum Submittal Requirements

Sketch plan: narrative and exhibits addressing criteria with specific examples

Site plan: final details, layout, and justification

Architectural Elevations

Zoning Ordinance Citation

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

Guideline Criteria

Incentive density of 10 points is appropriate for development that provides and is bound by architectural elevations as part of a certified site plan showing particular elements of the façade, including:

- minimum amount of transparency on the first floor
- minimum spacing between operable doors
- design priorities of the applicable master plan or implementing design guidelines.

Additional incentive density points may be granted where additional restrictions, such as signage, awning, and lighting design are included, and where architectural elevations are a priority of the applicable master plan.



Adherence to specific façade design elements can be important in neighborhoods concerned about community character.

Minimum Submittal Requirements

Sketch plan: concept and narrative

Site plan: final details and binding elevations

Protection and Enhancement of the Natural Environment

Zoning Ordinance Citation

59-C-15.856. Protection and enhancement of the natural environment.

Protecting and enhancing natural systems and decreasing energy consumption help mitigate or reverse environmental impacts, such as heat island effects from the built environment, inadequate carbon-sequestration, habitat and agricultural land loss, and air and water pollution caused by reliance on the automobile, and are eligible for incentive density.

- (a) **Building Lot Termination (BLT):** Up to 30 points for the purchase of BLT easements or payment to the Agricultural Land Preservation Fund (ALPF). The first 5 points are mandatory for all developments in the CR zones; up to 25 additional points are allowed as an option.
- (b) **Energy Conservation and Generation:** Up to 15 points for constructing buildings that exceed the energy-efficiency standards for the building type by 17.5% for new buildings or 10% for existing buildings. At least 15 points for providing renewable energy generation facilities on site or within ½ mile of the site for a minimum of 2.5% of the projected energy requirement for the development.
- (c) **Vegetated Wall:** Up to 10 points for the installation and maintenance of a vegetated wall that covers at least 30% of any blank wall or parking garage façade that is at least 300 square feet in area and is visible from a public street or open space.
- (d) **Tree Canopy:** Up to 15 points for tree canopy coverage at 15 years of growth of at least 25% of the on-site open space.
- (e) **Vegetated Area:** Up to 10 points for installation of plantings in a minimum of 12 inches of soil, covering at least 5,000 square feet. This does not include vegetated roofs.
- (f) **Vegetated Roof:** Up to 15 points for installation of a vegetated roof with a soil depth of at least 4 inches covering at least 33% of a building's roof, excluding space for mechanical equipment.
- (g) **Cool Roof:** Up to 10 points for constructing any roof area that is not covered by a vegetated roof with a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum SRI of 25 for slopes above 2:12.
- (h) **Recycling Facility Plan:** Up to 10 points for providing a recycling facility plan to be approved as part of a site plan for buildings that must comply with Montgomery County Executive Regulation 15-04AM or Montgomery County Executive Regulation 18-04.
- (i) **Habitat Preservation and Restoration:** Up to 20 points for protection, restoration, or enhancement of natural habitats, on site or within the same local watershed, which are in addition to requirements of the Forest Conservation Law or other county laws.

Building Lot Termination

Zoning Ordinance Citation

- (a) **Building Lot Termination (BLT):** Up to 30 points for the purchase of BLT easements or payment to the Agricultural Land Preservation Fund (ALPF). The first 5 points are mandatory for all developments in the CR zones; up to 25 additional points are allowed as an option.
- (1) In the CR zones, an applicant must purchase BLT easements, or make payments to the ALPF, in an amount equal to 5% of the incentive density floor area under the following parameters:
 - (A) One BLT must be purchased or equivalent payment made for every 20,000 square feet of gross floor area to qualify for the first 5% incentive density floor area;
 - (B) Any private BLT easement must be purchased in whole units; or
 - (C) BLT payments must be made to the ALPF, based on the amount established by Executive Regulations under Chapter 2B; if a fraction of a BLT easement is needed, a payment based on the gross square footage of incentive density must be made for at least the fraction of the BLT easement.
 - (2) Up to 25 points for the purchase of BLTs or equivalent payments to the ALPF may be made for any incentive density above 5%. Each BLT easement purchase or payment is equal to 30,000 square feet of gross floor area, or such proportionate square footage represented by a fractional BLT purchase or payment. This is converted into points by dividing the incentive density floor area covered by the purchase or payment by the total square feet of the incentive density area.
 - (3) In the CRT zones, BLT payments are optional; each BLT easement purchase or payment is equal to 30,000 square feet of gross floor area, or such proportionate square footage represented by a fractional BLT purchase or payment.

Guideline Criteria

Calculations for incentive density for BLTs are provided in Section 59-C-15.87(a) of the zoning ordinance.

From the Ordinance:

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



Public spaces should be integrated into development, visible and accessible to all users.

Minimum Submittal Requirements

Sketch plan: initial calculation

Site plan: final calculation with proof of purchase/
payment prior to building permit

Energy Conservation and Generation

Zoning Ordinance Citation

- (b) **Energy Conservation and Generation:** Up to 15 points for constructing buildings that exceed the energy-efficiency standards for the building type by 17.5% for new buildings or 10% for existing buildings. At least 15 points for providing renewable energy generation facilities on site or within ½ mile of the site for a minimum of 2.5% of the projected energy requirement for the development.

Guideline Criteria

Incentive density points for buildings that exceed the energy-efficiency standards for the building type are granted as follows.

Table 3: Energy Efficiency Requirements

building	Percent Exceeding Standard		
	2.5%	10%	17.5%
new	5 points	10 points	15 points
existing	10 points	15 points	n/a

Additional incentive density points are appropriate for buildings that meet the renewable energy generation requirements of the Zoning Ordinance.

Table 4: Renewable Energy Generation

Percent of Energy Requirements Provided through Renewable Resources	
1.25%	2.5%
10 points	15 points



Solar, wind, biomass, combined heat and power systems, and geothermal systems meet renewable energy generation guidelines.

Minimum Submittal Requirements

Sketch plan: conceptual exhibits and narrative

Site plan: energy use/generation model with comparisons to average use/generation (in kwh) for building type based on Department of Energy standards or as modeled by a LEED-accredited professional

Vegetated Wall

Zoning Ordinance Citation

- (c) **Vegetated Wall:** Up to 10 points for the installation and maintenance of a vegetated wall that covers at least 30% of any blank wall or parking garage façade that is at least 300 square feet in area and is visible from a public street or open space.

Guideline Criteria

Incentive density of 5 points is appropriate for buildings that meet the requirements of the CR Zones.

Additional incentive density points may be appropriate if other criteria are met, including:

- greater percent of coverage
- southern or western exposure
- plants with varying flowering seasons
- integration into an overall energy or environmental site design program.



Vegetated walls have environmental, energy, and aesthetic benefits.

Minimum Submittal Requirements

Sketch plan: conceptual layout and design

Site plan: final details, coverage, location, and design

Tree Canopy

Zoning Ordinance Citation

(d) **Tree Canopy:** Up to 15 points for tree canopy coverage at 15 years of growth of at least 25% of the on-site open space.

Guideline Criteria

Incentive density of 7.5 points is appropriate for development that meets the requirements of the zoning ordinance. Coverage is calculated as 75 percent of 20-year canopy coverage under the M-NCPPC Trees Technical Manual. Canopy used to satisfy Forest Conservation requirements is not eligible for incentive density.

Additional incentive density points may be appropriate if other criteria are met, such as:

- greater coverage
- larger planting size
- increased number of varieties
- use of native species.



Tree canopy provides habitat, shade, stormwater benefits, carbon sequestration, and mitigates the heat island effect.

Minimum Submittal Requirements

Sketch plan: conceptual layout with soil volumes explained

Site plan: final details, layout, and tree type

Vegetated Area

Zoning Ordinance Citation

- (e) **Vegetated Area:** Up to 10 points for installation of plantings in a minimum of 12 inches of soil, covering at least 5,000 square feet. This does not include vegetated roofs.

Guideline Criteria

Incentive density of 5 points is appropriate for development that meets the requirements of the zoning ordinance. This area may not be part of the required public use space or open space used for incentive density. Area within stormwater management easements may not be counted either.

Additional incentive density points may be appropriate if other criteria are met, including:

- area that replaces impervious area
- larger area
- maintenance program is provided
- greater soil depth
- use of vegetated area as a community garden.



Vegetated areas provide garden space, habitat, stormwater benefits, carbon sequestration, and mitigate the heat island effect.

Minimum Submittal Requirements

Sketch plan: conceptual layout with soil volumes explained

Site Plan: final details, layout, and planting design

Vegetated Roof

Zoning Ordinance Citation

- (f) **Vegetated Roof:** Up to 15 points for installation of a vegetated roof with a soil depth of at least 4 inches covering at least 33% of a building's roof, excluding space for mechanical equipment.

Guideline Criteria

Incentive density of 7.5 points is appropriate for development that meets the Zoning Ordinance requirements. Incentive density points may be pro-rated per building for multi-building development.

Additional incentive density points may be appropriate if other criteria are met, including:

- greater coverage
- greater depth
- plant species that provide habitat
- native plant species.



Vegetated roofs save energy costs, reduce the heat island effect, provide habitat, and decrease stormwater run-off.

Minimum Submittal Requirements

Sketch plan: Conceptual layout

Site plan: final details, layout, and planting design

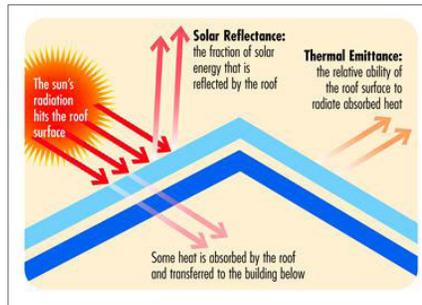
Cool Roof

Zoning Ordinance Citation

- (g) **Cool Roof:** Up to 10 points for constructing any roof area that is not covered by a vegetated roof with a minimum solar reflectance index (SRI) of 75 for roofs with a slope at or below a ratio of 2:12, and a minimum SRI of 25 for slopes above 2:12.

Guideline Criteria

On sites greater than one acre, incentive density of 5 points is appropriate for development that meets the requirements of the Zoning Ordinance. On sites one acre or less, up to 10 points is appropriate. Incentive density points may be pro-rated per total roof area covered for individual or multiple buildings.



Cool roofs keep energy costs down and decrease the heat island effect.

Minimum Submittal Requirements

Sketch plan: concept and narrative
Site plan: final layout and details

Recycling Facility Plan

Zoning Ordinance Citation

- (h) **Recycling Facility Plan:** Up to 10 points for providing a recycling facility plan to be approved as part of a site plan for buildings that must comply with Montgomery County Executive Regulation 15-04AM or Montgomery County Executive Regulation 18-04.

Guideline Criteria

Incentive density of 5 points is appropriate for development that meets the requirements of the zoning ordinance.

Additional incentive density points may be appropriate if other criteria are met, including:

- facilities that exceed the applicable regulations
- facilities that are integrated into building and site design to be readily accessible and easy to find without being visually disruptive.



Facilities that are integrated into site and building design early make it easy to recycle.

Minimum Submittal Requirements

Sketch plan: concept and narrative

Site plan: final layout approved by the Division of Solid Waste Services

Habitat Preservation and Restoration

Zoning Ordinance Citation

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

Guideline Criteria

Up to 20 incentive density points can be granted on a sliding scale for habitat preservation and restoration based on the amount of habitat preserved or restored as a percentage of a site's net lot area. The formula is the same as that used for public open space. The area preserved or restored must meet the following requirements.

- The area must be shown on an exhibit as part of a site plan application.
- Preservation and restoration techniques must at least meet the standards of the M-NCPPC Environmental Guidelines.
- The area must be at least 2,500 square feet.
- The area must be protected by a restrictive easement or covenant recorded in the land records or put in a land trust.



Streams, wetlands, and forests are the primary ecosystems in need of preservation and restoration in Montgomery County.

Minimum Submittal Requirements

Sketch plan: conceptual layout and methods

Site plan: final details, layout, design, and maintenance approved by M-NCPPC and other applicable agencies or organizations

Retained Buildings

Zoning Ordinance Citation

59-C-15.857. Retained Buildings.

Development that:

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

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

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

Guideline Criteria

A project that redevelops a site with existing buildings may be granted incentive density points according to the Zoning Ordinance's requirements and formula. Incentive density points may be pro-rated per building for a multi-building development.

Formula: (R/I)*100	Example
R (retained gross floor area)	150,000 square feet
I (incentive density gross floor area)	250,000 square feet
	Calculation: 60 points



Incorporating building facades into new construction or re-skinning existing buildings keeps material out of landfills and can create local landmarks.

Minimum Submittal Requirements

Sketch plan: concept and initial calculation

Prior to building permit: documentation as required by the Ordinance

Commercial/Residential Zones

Incentive Density Implementation Guidelines

June 2012

Montgomery County Planning Department
 Maryland-National Capital Park and Planning Commission

MontgomeryPlanning.org



512000014