





MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB Item #12

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HEARING DATE: May 21, 2009
TO: Montgomery County Planning Board
VIA:  Rollin Stanley, Director, Montgomery County Planning Department
FROM:  Josh Sloan, Planner Coordinator, Development Review
PURPOSE: Introduction to a new mixed-use development district—The Commercial/Residential (CR) District – for use by the White Flint Sector Plan and the other pending master plans.

Summary

Current commercial and mixed use zoning in the County is a myriad of approaches often at contradictory purposes to current smart growth principles. Beginning with the White Flint Sector Plan, planning staff are recommending a new zoning category that can replace the many current zones. The other master plans in the current work plan will closely follow, using this new zoning approach as well.

This approach is equally applicable to any commercial or mixed use area, where it allows for the flexibility of densities and mixing uses to reflect neighborhood characteristics. For example, the floor area limits would be higher near a transit station such as White Flint, than they would be along the commercial corridor in Kensington.

The Commercial/Residential (CR) District (draft attached) is being developed to foster sustainability through planning, design, and mobility options. The category is applicable to areas where any mix of commercial and residential uses is desired. The approach is to consider through the sector plan, an appropriate mix of uses to balance housing, employment, and the provision of daily retail needs and services. To do so, the district is flexible in its application of floor area limits, heights, and public amenity requirements, but within defined requirements like absolute height limits. The CR approach is a logical evolution of the CBD zones which are beginning to show the need for replacement due to issues with the predictability of building size and the mixing of uses.

Overview

The characteristics of the CR zones are as follows:

- Encourage a mix of uses to enhance the sustainability of new projects, where people have an option to work and live in the same building or area and enjoy a diversity of services and activities all within walking district;
- Provide an absolute height limit that both residents and builders know at the outset;
- List incentives to provide public amenities that would be negotiated within a set range, where the incentives may be prioritized through the public engagement process and the sector plan; and
- Create a zoning category that can easily migrate to all commercial and mixed use areas, allowing for mixed uses in any of these areas to help create more sustainable growth.

CR Highlights

- Absolute floor area and height limits.
- Each CR category would establish the most floor area that could be built on a site. The limits would also apply to the mix of uses. Density and height limits set in the zoning category.
- Prescribed incentives for optional method floor area.
- Open space requirements linked to the number of street frontages as well as lot size.
- A project plan would not be required for optional method projects.

Implementation

Drafting of the CR zones has been ongoing for many months. Recently a Zoning Advisory Panel has been formed to assist in the zoning code rewrite. The panel has reviewed the CR draft and made comments that have been included. Larger ideas that require further analysis will be considered by the Panel over the summer and fall. These ideas include the following.

- Linkage fees to non residential uses for affordable housing;
- A revised use table list which the Panel is currently considering;
- Process requirements; and
- Creating definitions to reduce the requirements within the CR category.

Discussion and Interpretation:

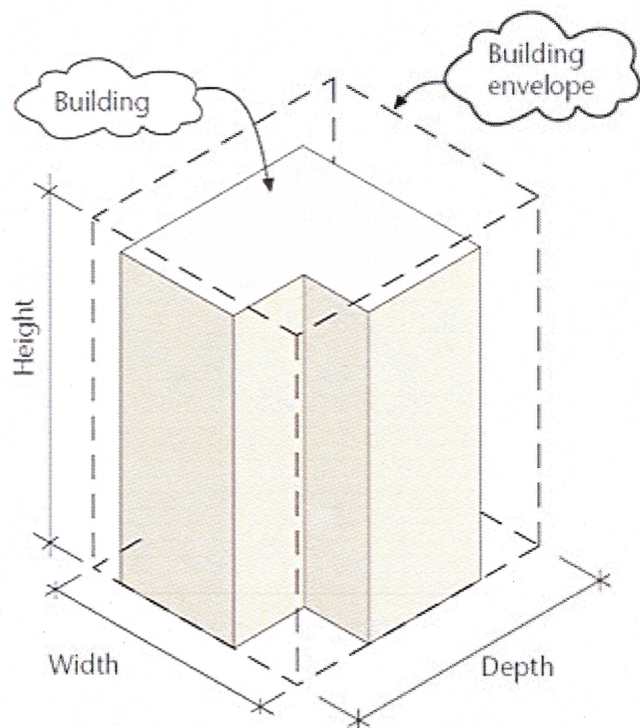
Establishing Zones

The most significant innovation of the CR District is the means by which zones are established. Although a seemingly large paradigm shift, it is not as alien as it may seem. This method basically relies on sectional map amendments to use a range of densities and heights to assign appropriate commercial, residential, and total densities and heights to a property. The establishment of these densities and heights within a district “names” the zone. This method has been introduced to encourage a flexible master plan zoning process without the need for indefinite new zones but to ensure that, once a zone is set, the maximum bulk of a building is precisely determined.

This is how it works. There are 16 density factors (all are FAR calculations) allowed in the district: 0.25, 0.5, 1.0, 1.5, 2.0, 2.5, 3.0, 3.5, 4.0, 4.5, 5.0, 5.5, 6.0, 7.0, 7.5, 8.0. (These densities correspond to the existing range of densities allowed in our current commercial and mixed use zones – from C-1 to CBD-3.) There is also a range of heights allowed in the CR District, from 20 feet to 300 feet. A zone is created within the CR District by combining these factors into a maximum total density allowed, a maximum commercial density allowed, a maximum residential density allowed, and a maximum height allowed.

For example, during the master plan zoning process, it may be determined (for whatever planning, design, or public facility reasons) that an area should have a maximum density of 5.0. The remaining question is whether that area should have an equal ability to develop as an entirely commercial or residential site or whether one or the other type of density should be encouraged (again, for whatever planning, design, or public facility reasons). In the first case, the maximum commercial and residential densities allowed would also be 5.0, which would allow a building to build its entire maximum FAR (5.0) in any or no combination of both. In the latter case, the commercial or residential allowed FAR would be weighted. The extreme case is allowing a commercial FAR of 5.0 and a residential FAR of 0.0 (or vice versa). The typical case would be something in between that encourages a mix based on master plan or area priorities, e.g., commercial 2.0, residential 4.0. This example necessarily entails a mix of uses to obtain the maximum FAR allowed.

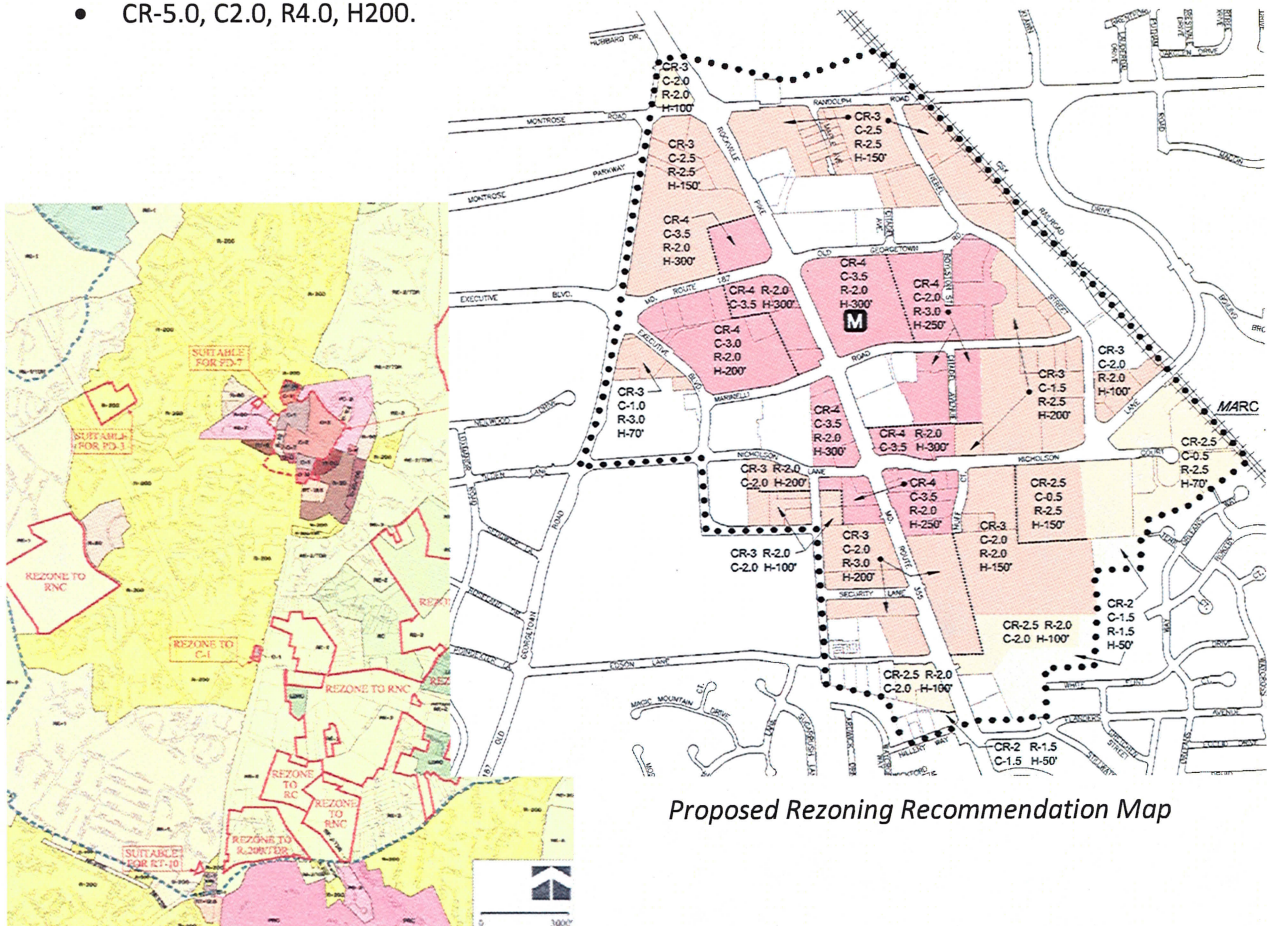
Height for these zones would be modeled on the context and be established with the zone. Thus, an area with large lots could have a high density, but a low height. Conversely, an area



with small lots near transit facilities would allow a high density and tall heights to take advantage of that transit proximity. In the examples above, and FAR of 5.0 would probably average 200 feet, but could be set anywhere between 20 to 300 feet.

These three examples, result in three zones: a zone allowing up to 5.0 FAR in any (or no combination), a zone allowing up to 5.0 FAR of only one type of density, and a zone allowing up to 5.0 FAR with a mix of uses. The zones would be “named”:

- CR-5.0, C5.0, R5.0, H200;
- CR-5.0, C5.0, R0.0, H200;
- CR-5.0, C2.0, R4.0, H200.



Typical Rezoning Recommendation Map

Proposed Rezoning Recommendation Map

All general requirements, restrictions, and development standards are applied uniformly across all zones.

The application of these zones to the applicable properties is made through the master planning process as is the case now. A master plan’s “Recommended Zoning Map” would notate the areas with the proper zones, the County Council would need to approve the rezoning, and the official zoning maps would be created to apply the zones.

There is now not only a named zone on an area, but the map also includes the density allowed and height allowed in the information. Zones are established and maximum densities and heights are set. The community, the developers and property owners, and staff all know what to expect and this is all negotiated during the public master planning and modeling process.

Provisions of the CR District

The description and purposes section are similar to most existing district sections of the code. They broadly describe and set out the objectives of the CR District. The general requirements, however, are more detailed and further the goals of the mixed densities developed by the zoning procedure. In the current ordinance, general requirements entail location of the zone, master plan compliance, or some other restrictions that cover development in any zone within a district. Similarly, the CR District enumerates restrictions and requirements that apply to any zone within the district, but these have been expanded to ensure more sustainable development in accordance with the new goals of the County as described in the Annual Growth Policy. These general requirements are based on four goals: increased connectivity, economic diversity, quality design, and resource protection.

Land Uses

Until the full zoning rewrite is finished, the CR District will refer to the existing TMX land use table.

The only difference in land use regulation is the insertion of general “Operational Restrictions”. These are directly related to reducing the need for automobiles and creating more pedestrian-oriented, walkable commercial sites. For example, operational restrictions require parking and drive-through windows to be placed to the side or behind buildings and restrict outdoor storage similarly.

General Requirements

Although there are various requirements that are currently required of any development in the County, this district appropriately pushes development to be more responsive to the current challenges of economic prosperity and climate change. For example, frontage improvements, WFHU and MPDU provisions, public open space, residential recreation opportunities, master plan conformance, and bicycle facilities are all currently required of development in the county. In addition to these requirements, the proposed general requirements include:



- Parking restrictions with new minimum calculations and maximum permitted parking spaces;
- Pedestrian-oriented building design and location; and
- Commuter shower/change facilities in some buildings; and

Methods of Development

Like many existing commercial, mixed-use, and infill zones, the CR District provides two alternatives for development: a standard “by right” method and an optional method. The standard method has maximum base densities and heights; the optional method has fewer restrictions, allows for the full density as zoned, and is developed according to incentive zoning provisions that detail the types of public amenities and facilities that must be provided to develop to the maximum density allowed.

Development Standards

Development standards in the CR District are limited to density, height, setbacks, public open space, and residential amenity space.

Density

Density is a bit different than currently regulated. In most existing zones that allow a density increase via some type of optional method, the zone (and the maps) do not provide a certainty to the maximum allowed on a lot or parcel. The zone is assumed to begin at the base density and then build up to a maximum allowed, but a more effective and explicit method is to name and map the maximum density and then set a standard method base to work from. This increases understandability and creates the proper expectations for development on a site. As described in the section on the establishment of the zones, the maximum density (and mix) is defined by the zone.

In the CR District, the standard method density is 0.5 in all zones. As mentioned before, the maximum density allowed by the optional method is determined during the master planning process. The difference between the base and the maximum is the “incentive density” that must be offset by providing minimum public benefits, amenities, and facilities to support the increased density.

Height

Height is determined exactly the same way as density; the standard method height is 40 feet. The maximum height is set by the zone according to the map.

Setbacks

Setbacks are regulated only slightly differently in this district. As proposed, setbacks within similarly zoned areas are based more on proximity of buildings with windows than on lot lines. This is in keeping with the fact that impacts are felt from building to building, not building to lot, which may have no relationship at all to the built environment. Agricultural and residential areas protected as currently done with the added benefit of an angular plane restriction. This type of setback is based on solar

exposure, building height, and zoning boundaries to make setbacks more relevant to the built environment rather than “paper” lines.

Public Open Space

Public open space (provided on private land) policy has resulted in a few great public spaces and a lot of adequate open spaces. Currently any project – standard or optional – must provide a minimum amount of public use space on their property based on their net lot. The CR District bases minimum public open space on a matrix comparing the number of road frontages and the area of the lot. This creates a continuum from a 0% requirement to an 10% requirement. Also, explicit provisions regarding what public open space must provide and options for off-site or fee-in-lieu are delineated.

Residential amenity space

Residential amenity space is basically a combination of the current recreation guidelines and the TS-R development standards. These standards simply ensure that multi-family residential developments of 20 or more units provide minimum space for indoor and outdoor recreation and socializing.

Incentive Zoning

As important as the zoning procedure and general requirements, are the provisions for incentive zoning. Incentive zoning is based on the establishment of public amenities and facilities – now explicitly defined – that will support density above the standard method base and up to the maximum zoned. In the existing code, the CBD and TMX zones have single paragraphs describing what must be provided in an optional method project to support “bonus” density. In the proposed scenario, the idea of a “bonus” is no longer applicable. The zone establishes the maximum density allowed, the district sets the base density and standards and incentives that will support the maximum density are enumerated to encourage construction to the maximum.

Like the general requirements, the incentive provisions are based on four topics: connectivity, diversity, design, and the environment. Unlike our existing code, the amenities and facilities are detailed to ensure applicants and citizens know exactly what must be provided if any amenity/facility is to be considered to fulfill the obligations of the optional method. Master plan and design guidelines will provide flexible guidance as to what amenities and facilities are needed or desired in certain areas and site plan review will ensure that the Planning Board finds that a development provides the minimum necessary public benefits to support density to the maximum zoned.

Currently, public amenities are negotiated with the community and builders as a development goes through the process. The new approach includes a list of what those amenities could be. Above the standard method of development, a project would need to include a mix of these benefits in exchange for floor area above the standard method. The amount of floor would be capped as would the height limit.

Neighbors and builders would discuss with planning staff the mix of amenities which may be set out in the applicable master plan and varying “weight” would be applied to the amenities. For example, for sites with good proximity to transit, within ½ mile of a station a percentage extra floor area would be available. This might be combined with constructing a green building with a pedestrian walkway through the site. Each amenity would provide for additional floor area, but in no case could the total exceed the amount of floor area in the CR category.

Amenities and facilities defined by this section include community facilities, community gardens, transit access improvements, local retail protection, floor plate size, historic resource protection, public art, open space, and green site/building design. No project plan is required in the CR District.

Saving Provisions

The district will have grandfathering clauses that ensure consistency with previous approvals.

Comparison of the TSM and CR Zones

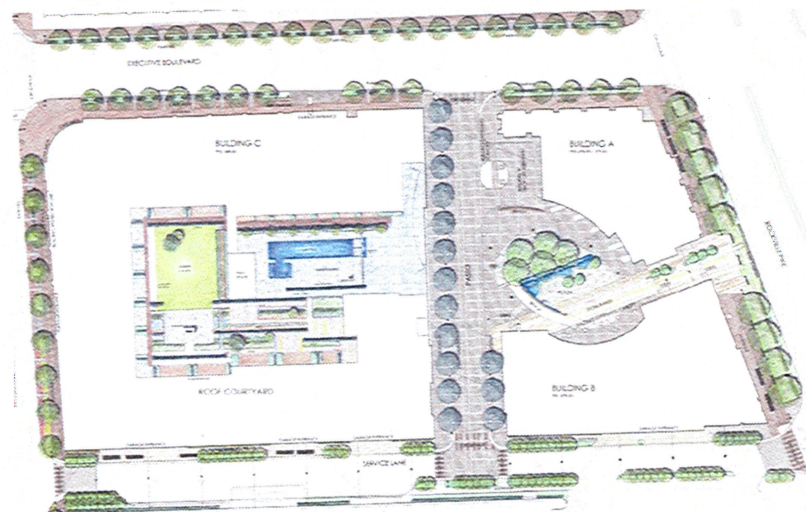


Approved TSM Development Standards & Public Amenities

- 4.33 net acres (5.9 gross acres)
- 589,214 total square feet (2.3 FAR)
- 163,100 commercial sf (0.64 FAR)
- 426,114 residential sf (1.66 FAR)
- 289 feet high
- 10% open space
- 25% recreation space
- 1500 feet from Metro
- 15% MPDUs
- Through-block crossing
- Public art & water feature
- On/Off-site streetscapes
- LEED elements

Required CR-4, C1.5, R3, H300 Development Standards & Amenities

- Meets FAR max
- Meets 40/60 split of commercial/residential
- Meets height max
- On-site streetscape
- Bicycle spaces/shower facilities
- 18% open space
- 5% recreation space
- 12.5% MPDUs
- Incentives met:
 - ¼ to ½ mile from transit
 - 2.5% extra MPDUs
 - Through-block crossing



- Public art
- Off-site streetscape
- Green elements

59-C-15. Commercial Residential District.

59-C-15.1. Zones Established.

59-C-15.11. The Commercial Residential (CR) District establishes zones based on four dimensional standards:

- a) Maximum total floor area ratio (FAR),
- b) Maximum non-residential (C) FAR,
- c) Maximum residential (R) FAR, and
- d) Maximum building height (H); where
 - 1) The maximum total FAR for any zone must be an increment of 0.5 between 0.5 and 8.0 (0.5, 1.0, 1.5, ... 7.0, 7.5, 8.0);
 - 2) The maximum non-residential or residential FAR for any zone must be 0.25 or an increment of 0.5 between 0.5 and 7.0 (0.25, 0.5, 1.0, 1.5, ... 6.0, 6.5, 7.0); and
 - 3) The maximum height for any zone in the CR District must be an increment of 10 feet between 20 and 300 feet (20, 30, 40, ... 280, 290, 300).

59-C-15.12. Any combination of maximum total, non-residential, and commercial density and height is established as a zone in this district following these parameters:

- a) The non-residential and residential floor areas may be equivalent to the total floor area or may be a portion thereof.
- b) The sum of the commercial and residential floor areas do not have to equal the total floor area.
- c) The designation of a CR zone on any zoning map or by any reference is CR-#, C#, R#, H#.
- d) The zoning designation of C, R, and H is the maximum allowed density and height for the optional method of development.
- e) CR Zones must be applied only by Sectional Map Amendment based on a master or sector plan's *Recommended Zoning Map* as approved by the District Council and adopted by the Commission.

Density and Height Parameters of Established CR Zones							
Total FAR	0.5	1.5	2.0	...	7.0	7.5	8.0
Range of Maximum Non-Residential FAR (C)	0.25-0.5	0.25-1.5	0.25-2.0	...	0.25-7.0	0.25-7.5	0.25-8.0
Range of Maximum Residential FAR (R)	0.25-0.5	0.25-1.5	0.25-2.0	...	0.25-7.0	0.25-7.5	0.25-8.0
Range of Maximum Height (Feet)	20-60	20-120	20-300	...	20-300	20-300	20-300

Examples:

- An area zoned CR-2.0, C1.0, R1.0, H80 allows a total FAR of 2.0, but maximum non-residential and residential FARs of 1.0, thereby requiring a mix of uses to obtain the total FAR allowed. The height for any building in this zone is limited to 80 feet.
- An area zoned CR-6.0, C3.0, R5.0, H200 allows a residential FAR up to of 5.0, whereas commercial density is only allowed up to an FAR of 3.0 and a mix of the two uses could yield a total FAR of 6.0. This combination allows for flexibility in the market and shifts in the surrounding context. The height for any building in this zone is limited to 200 feet.
- An area zoned CR-4.0, C4.0, R4.0, H160 allows the ultimate flexibility in the mix of uses and even buildings with no mix because the maximum allowed non-residential and residential FARs are both equivalent to the total maximum FAR allowed. The height for any building in this zone is limited to 160 feet.

59-C-15.2. Provisions of the CR District.**59-C-15.21. Purpose of the District.**

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

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

59-C-15.22. Land Uses.**59-C-15.221. Allowed Land Uses.**

Land uses are allowed in conformance with section 59-C-14.23.

59-C-15.222. Operational Use Restrictions.

Regardless of the use on any lot or parcel, the operation of a drive-through, a surface parking lot, or the outdoor storage of materials is subject to the following provisions:

- a) Drive-Through Services:

- 1) No part of the driveway is located between the street and the main front wall of a building or the side wall of a building on a corner lot;
 - 2) The drive-through service window is screened from visibility from the street by the main building (or the primary street on a corner lot); and
 - 3) Curb cuts to a street are minimized in typical situations to one drive no more than 20 feet in width for two-way traffic or two drive aisles no more than 10 feet in width for one-way traffic. Drive aisles may not cross in front of the main front wall of the building unless the Planning Board finds that no other circulation power is reasonably feasible.
- b) Surface Parking:
- 1) No part of the parking facility at or above grade is located between the street and the main front wall of the building or the side wall of a building on a corner lot;
 - 2) Primary vehicular access to the parking facility is from an alley when the site is bounded by such; and
 - 3) Curb cuts are kept to a minimum and shared by common ingress/egress easements whenever possible.
- c) Outdoor Storage of Materials:
- 1) If located in a parking facility, the minimum number of available parking spaces must still be met;
 - 2) Pedestrian circulation is not blocked or hampered and meets ADA requirements for width;
 - 3) Goods placed within the right-of-way are removed daily at the close of business; and
 - 4) Any part of the storage area facing a street must be fronted with active permitted uses.

59-C-15.23. General Requirements.

The following basic public facilities and amenities are required by any development in the CR District. They are divided into four categories:

- Connectivity and Mobility;
- Design;
- Diversity; and
- Environment.

15.231. Connectivity and Mobility Requirements.

a) Parking Restrictions

- 1) The maximum number of parking spaces allowed is equal to the number established by Article 59-E.
- 2) The minimum number of parking spaces required is equal to the number established by Article 59-E as reduced by the following table:

Minimum Parking Requirements				
	Factor for Required Spaces			
	¼ mile from transit	¼ to ½ mile from transit	½ mile to 1 mile from transit	>1 mile from transit
Number of Spaces determined by Article 59-E	0.20	0.40	0.60	0.80

- 3) Qualifying transit facilities are enumerated in section 59-C-15.263.

- 4) Parking requirements may be met by providing the spaces on the subject lot/parcel, on-street parking constructed by the development, or in a parking facility within 1,000 feet of the subject lot provided that the off-site parking facility is not in an agricultural or residential district.
- 5) Every "car-share" space provided reduces the total number of spaces required by 1 space per 1,000 square feet of non-residential floor area or per 2 dwelling units.
- 6) Landscaping for surface parking facilities must be provided according to the following table:

Minimum Landscape Standards for Surface Parking	
Subject	Requirement
Right-of-Way Screening	6-foot width of continuous soil panel (not including any PUE or PIE) with groundcover or lawn; a minimum 3-foot high continuous evergreen hedge or fence; and one deciduous tree per 40 feet of frontage.
Adjacent to a Property in any Commercial, Industrial, or Mixed-Use District	4-foot width continuous soil panel with groundcover or lawn; one deciduous tree per 40 feet of frontage.
Adjacent to a Property in an Agricultural or Residential District	10-foot width continuous soil panel with groundcover or lawn; 6-foot high continuous evergreen hedge or fence; and one deciduous tree per 40 feet of frontage.
Internal Pervious Area	10% of the parking facility area; pervious areas must be a minimum of 8 feet x 16 feet to be included in the calculation.
Tree Coverage	50% of the parking facility area (at 15 years growth).

b) Pedestrian Oriented Streets

Any street identified as a "main street" or "pedestrian-oriented street" in a master or sector plan must have the following characteristics and meet the following requirements:

- a) On-street parking is provided along the frontage of the building and no surface parking is visible from the street (or the primary street in case of a corner lot);
- b) Display windows and entries must be arranged parallel to the sidewalk;
- c) Shop entrances are not more than 50 feet apart;
- d) Building façade occupies a minimum of 65% of the aggregate length of the frontage;
- e) Building located within a maximum of ten feet of the public right-of-way or five feet if no public utility easement is required;
- f) Fenestration of 60% of the building façade between 3 and 9 feet of height along the sidewalk, measured from grade; and
- g) Entrances face the street.

c) Streetscape

Any building fronting on a right-of-way with recommended streetscape standards must improve that area along its frontage as prescribed by the applicable master plan or sector plan streetscape guidelines or to the standards required by Chapter 49, as amended.

59-C-15.232. Design Requirements.

a) Master Plan & Design Guidelines Conformance

- 1) Any project that does not require a site plan and is constructed and used in compliance with this Division is deemed to be in conformance with the applicable master or sector plan.

- 2) Any project that requires a site plan must be found to be in substantial conformance to the applicable master or sector plan and design guidelines.

59-C-15.233. Diversity Requirements.

a) Affordable Housing

- 1) Any building with 20 or more dwelling units must provide a minimum of 12.5 percent of the market rate units as moderately priced dwelling units.
- 2) Any building with 35 or more dwelling units that is located in a metro-station policy area must provide a minimum of 10 percent of the number of market rate units as workforce housing units.
- 3) Required affordable housing units are calculated in the following manner (calculations of additional affordable housing units for bonus density are enumerated in section 59-C-15.34):
 - a. Total Market Rate Units * 0.125 = # of MPDUs;
 - b. Total Market Rate Units * 0.10 = # of Workforce Housing Units;
 - c. Total MRUs + MPDUs + WFHUs = Total Units.

Example: A development of 100 market rate units must provide an additional 13 MPDUs and 10 WFHUs, which totals 123 units.

59-C-15.234. Environment Requirements.

a) Bicycle Parking Spaces & Commuter Shower/Change Facility

- 1) Bicycle parking spaces must not be provided in individual dwelling units or private balconies.
- 2) Bicycle parking facilities must be secure and accessible to all residents.
- 3) The number of bicycle parking spaces and shower/change facilities required is determined as follows (calculations are rounded to the higher whole number):

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

59-C-15.24. Methods of Development.**59-C-15.231. Standard Method.**

The standard method of development requires compliance with a specific set of development standards as well as the requirements for basic facilities and amenities in this Division. A site plan is only required for a standard method development if it meets or exceeds any one of the following criteria:

- a) Any building in excess of 10,000 square feet in floor area;
- b) Any building or group of buildings containing 6 or more dwelling units; or
- c) Any use that generates in excess of 15 peak-hour trips.

59-C-15.232. Optional Method.

The optional method of development allows greater density and height when supported by additional public benefits, facilities, and amenities. Qualifying benefits, facilities, and amenities are detailed in section 59-C-15.26. Site plan review is required for any application developed under the optional method of development.

59-C-15.25. Development Standards.**59-C-15.251. Density.**

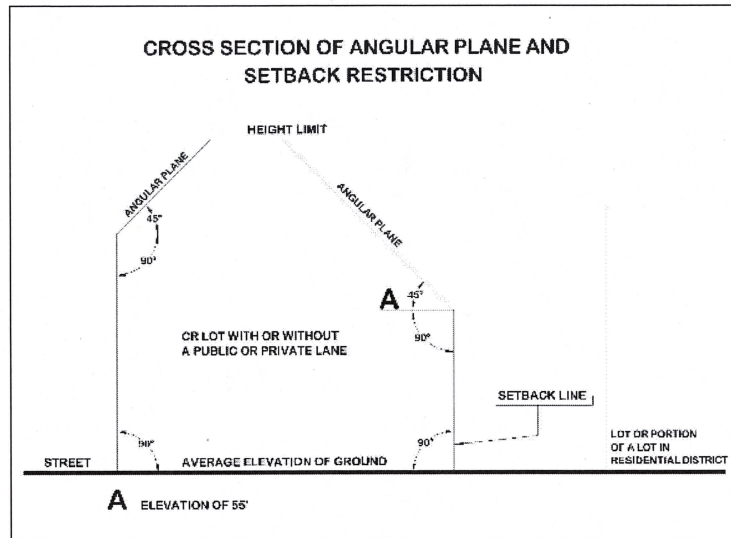
- a) The maximum density for the standard method project is 0.5 FAR.
- b) The maximum density for any optional method project is specified on the official zoning maps of Montgomery County. The difference between the standard method density and the density defined by the zoning maps is defined as the "incentive density" allowed under the provisions of 59-C-15.26.

59-C-15.252. Height.

- a) The maximum height for any standard method project is 40 feet.
- b) The maximum height for any optional method project is specified on the official zoning maps of Montgomery County. The difference between the standard method height and the height defined by the zoning maps is defined as the "incentive height" allowed under provisions of 59-C-15.26.

59-C-15.253. Setbacks.

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



Illustration

59-C-15.254. Public Open Space.

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

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

b) Public open space must be provided according to the following provisions:

- 1) The area is calculated on the net lot area of the site;
- 2) Calculations are rounded to the next highest 100 square feet;
- 3) The area must be easily and readily accessible to the public;
- 4) The area should be provided at the corner of any site that has more than one frontage in order to consolidate useable space;
- 5) A public access easement is placed on the public open space in perpetuity; and
- 6) The area must provide amenities such as seating options, shade, landscaping, or other facilities to ensure a welcoming and comfortable environment for pedestrians.

c) There are two options allowed in lieu of providing on-site public open space subject to Planning Board approval:

- 1) An area equal in size within ¼ mile of the subject site may be improved as public open space in lieu of provision of the area on-site;
- 2) A payment in part or in full may be made to the Public Amenity Fund equal to cost of site improvements added to the current square foot market value of the area required as public open space; but
- 3) Any site greater than 3 acres must provide the minimum required public open space on site and may not use these in-lieu provisions.

59-C-15.255. Residential Amenity Space.

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

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

- b) The requirements of this section do not apply to MPDUs on a site within a metro station policy area or where the Planning Board finds that there is adequate recreation and open space within a ½ mile radius of the subject site.
- c) The requirements of this section are reduced by ½ for WFHUs if the minimum public open space is provided per section 59-C-15.254 or when such units are located within a metro station policy area.
- d) The provision of residential amenity space will be included in the required recreation calculations according the Recreation Guidelines, as amended.

59-C-15.26. Incentive Zoning Provisions.

The Planning Board may approve development that is consistent with the applicable master or sector plan up to the maximum density and height delineated on the official zoning maps for optional method projects that provide additional supporting public benefits, facilities, or amenities.

59-C-15.261. Purpose of Incentive Provisions.

Maximum density and height may granted if the Planning Board finds that the proposed project meets the goals and objectives of the applicable master or sector plan and at least three of the following objectives:

- a) Enhances the health, safety, and welfare of the public through provision of passive and active public open space;
- b) Increases the supply of affordable housing beyond the minimum required;
- c) Broadens the range of housing options;
- d) Improves mobility options for employees, residents, and patrons and reduces dependence on automobiles;
- e) Enhances environmental sustainability and reduces local and regional energy consumption; and
- f) Advances quality building and site design.

59-C-15.262. Incentive Zoning Options.

The FAR and height limits established by the official zoning maps are allowed, upon approval of the Planning Board, provided the following general restrictions and requirements are met:

- a) The additional floor area (“incentive density”) above the standard method limits is based on the provision of the individual public facilities, amenities, and/or benefits described in this section;

- b) Building lot termination easements for any incentive density floor area are provided according to 59-C-15.267(a);
- c) The percentage of optional method density increments in the following table are based on the incentive density FAR; and
- d) Except for the automatic increments related to transit access, a maximum of 30% of the incentive density may be granted for any of the incentive categories.

Optional Method Density Incentives			
Public Benefit, Facility, or Amenity	Percent of Incentive Density		Section Reference / Notes
	Minimum	Maximum	
<i>Automatic Increments</i>			
Adjacent or Confronting Transit Access	n/a	25	15.263
Transit Access within ¼ Mile		20	
Transit Access between ¼ and ½ Mile		15	
Transit Access between ½ and 1 Mile		10	
<i>Connectivity & Mobility</i>			
Community Garden	10	20	15.264(a)
Community Connectivity	10	20	15.264(b)
Parking	15	25	15.264(c)
Pedestrian Walkway	5	10	15.264(d)
Transit Access Improvement	10	20	15.264(e)
<i>Diversity</i>			
Affordable Housing: MPDUs	n/a	Up to 1 FAR excluded from GFA	15.265(a)
Affordable Housing: WFHUs	n/a	Up to 1 FAR excluded from GFA	
Care Center	5	10	15.265(b)
Community Facility	10	20	15.265(c)
Local Retail Preservation	n/a	Area excluded from the GFA.	15.265(d)
Unit Mix and Size	5	10	15.265(e)
<i>Design</i>			
Floor Plate Size	10	20	15.266(a)
Historic Resource Protection	10	20	15.266(b)
Podium/Tower Setback	5	10	15.266(c)
Public Art	10	20	15.266(d)
Public Plaza/Open Space	5	10	15.266(e)
Streetscape, Off-Site	5	10	15.266(f)
Wow Factor	10	20	15.266(g)

<i>Environment</i>			
Building Lot Termination	n/a	Area excluded from GFA	15.267(a)
Conveyed Parkland	n/a	Equal area excluded from GFA up to 1 FAR	15.267(b)
Dark Skies	5	10	15.267(c)
Green Roof/Green Wall	5	10	15.267(d)
LEED Silver/Gold Certification	15	25	15.267(e)
Permeable Area	5	10	15.267(f)
Rainwater Reuse	5	10	15.267(g)
Renewable Energy Generation	10	20	15.267(h)
Stormwater Management BMP	5	10	15.267(g)
Tree Canopy	5	10	15.267(g)

Example: A property zoned CR4.5, C3.0, R4.0, H200 has a base density of 0.5 (as do all CR zones). The difference between the maximum density and the base density is 4.0 – this is the “incentive density”. To build the full 4.0 FAR incentive density, the developer must provide facilities and amenities of a public benefit equal to 100% based on the Optional Method Density Incentives table.

59-C-15.263. Automatic Increments.

Transit access encourages greater transit use and reduces vehicle miles travelled. For the purposes of this section, transit access is defined as a site with ADA-conforming access to an existing or master-plan approved MetroRail, MARC, Purple Line, Corridor Cities Transitway, or a bus-rapid transit station.

59-C-15.264. Connectivity and Mobility Incentives.

a) Community Garden.

Community gardens allow residents to grow their own produce, reduce automobile reliance, increase water and air quality, and foster social interaction. Community gardens are eligible for density incentive floor area if they meet the following standards:

- 1) The garden is located on the subject site or within 500 feet of the subject site;
- 2) Provides at least one 16 square foot garden space that is accessible according to ADA standards for 2% of the total spaces allocated;
- 3) Provides all garden spaces with a minimum of 18” of soil depth and access to water; and
- 4) Provides a minimum of 16 square feet of space for a minimum of 10% of the dwelling units to a maximum of 320 square feet.

b) Community Connectivity.

A building that enhances community connectivity by providing pedestrian retail uses is eligible for density incentive floor area according to the following provisions:

- 1) The pedestrian retail uses are located on a lot within 0.5 miles of either a transit station (existing or proposed in an approved master plan or sector plan) or an existing residential neighborhood with a minimum average density of 30 units per acre;
- 2) Within 0.5 miles there is a minimum of ten existing and/or proposed diverse pedestrian retail uses (including those provided on site) with direct pedestrian access to the main building pedestrian entrance;

- 3) The front setback (and side setback for a corner lot) of the building containing the pedestrian retail uses must be zero, unless a site plan approved by the Planning Board stipulates a larger setback;
- 4) A minimum of 50 percent of the pedestrian retail uses must have a minimum floor area of 5,000 square feet for a period of at least six years after the initial use-and-occupancy permit is issued for the use; and
- 5) The non-residential floor area of any existing business under 10,000 square feet retained or provided for in the redevelopment will be exempted from the FAR limit.

c) Parking.

- 1) On-site provision of only the minimum number of parking spaces required by this division is eligible for incentive density floor area.
- 2) On-site provision of the difference between the minimum number of parking spaces and the maximum number of parking spaces as publicly accessible spaces is eligible for incentive density floor area.

d) Pedestrian Walkway.

Through-block connections enhance pedestrian mobility and help to create interesting spaces, particularly on larger blocks. A pedestrian walkway is eligible for density incentive floor area if it meets the following standards:

- 1) The pedestrian walkway provides direct access between parks, public buildings or facilities, publicly accessible open space, transit facilities, and at least one street;
- 2) The minimum width of the pedestrian walkway must be 20 feet;
- 3) A minimum of 70 percent of the walls facing the interior pedestrian walkway below a height of eight feet must have clear unobstructed glazing for a minimum of 65 percent of its length and be fronted with active pedestrian retail uses for the same percentage of frontage;
- 4) The pedestrian walkway must be open to the public between 8:00 a.m. and 7:00 p.m. and, where it leads to a transit facility or publicly-accessible parking facility, for the hours of operation of the transit and/or parking facility; and
- 5) Retail uses fronting both a pedestrian walkway and a street, shall maintain operable doors from both.

e) Transit Access Improvement.

Transit access improvements are eligible for density incentive floor area if they meet the following standards:

- 1) The improvements must be part of an approved site plan;
- 2) The improvements must be located within 2,500 feet of the subject site or in the case of mobile transit improvements, provide regular access for passengers to the transit station; and
- 3) The improvements may include new access easements, connecting walkways, mezzanines or concourse areas.

59-C-15.265. Diversity Incentives.

a) Affordable Housing.

Floor area for residential uses is eligible for density incentive floor area when a percentage of the additional dwelling units includes affordable housing as either MPDUs and/or WFHUs. The floor area provided for the affordable dwelling units above the minimum required by

the standard method is exempt from the gross floor area up to 1 FAR providing the following standards are met:

- 1) The residential floor area set out in the following table is exempt from the permitted floor area up to 1 FAR as long as the number of dwelling units provided in that floor area includes MPDUs and WFHUs equal to the percentages enumerated:

Bonus Density for Affordable Housing		
Exempt Gross Floor Area	Percentage of Market Rate Units Required to be MPDUs or WFHUs	Percentage of Market Rate Units Required to be MPDUs
0.1	23	12.6
0.2	26	12.7
0.3	29	12.8
0.4	32	12.9
0.5	35	13.0
0.6	38	13.1
0.7	41	13.2
0.8	44	13.3
0.9	47	13.4
1.0	50	13.5

- 2) Both MPDUs and WFHUs must be reasonably distributed throughout the project; and
- 3) Any dwelling units built under this section must be either MPDUs or WFHUs for a minimum period of 99 years and the proportion of MPDUs may not be less than 12.5%;

b) Care Center.

A care center is eligible for density incentive floor area if it meets the following standards:

- 1) A safe drop-off location is provided on site and
- 2) A minimum of 40 percent of the available space in the care center is available to the general public.

c) Community Facility.

A community facility helps meet the needs of residents and workers and is eligible for density incentive floor area if it meets the following standards:

- 1) It is recommended in the appropriate master plan or sector plan;
- 2) It is accepted for use by an appropriate public agency or nonprofit organization;
- 3) It is in addition to any base requirement of this Article;
- 4) The entrance to the community facility is on a street; and
- 5) The building used for the community facility is located at the front lot line and, in the case of a corner lot, on the side lot line facing the flanking street, unless the Planning Board sets a higher setback during the approval of a site plan.

d) Local Retail Preservation.

The non-residential floor area of any existing, locally-based business under 5,000 square feet, retained in a redevelopment, will be exempt from the calculation of gross floor area.

e) Dwelling Unit Mix and Size

Creating residential buildings with a minimum mix of dwelling unit types is eligible for density incentive floor area, provided that a minimum percentage of unit types, rounded to the next higher whole number, is as follows:

- 1) 10 percent as efficiency dwelling units,
- 2) 10 percent as one-bedroom dwelling units,
- 3) 10 percent as two-bedroom dwelling units, and
- 4) 7.5 percent as three-bedroom dwelling units.

59-C-15.266. Design Incentives.**a) Floor Plate Size.**

The provision of the following floor plate restrictions are eligible for density incentive floor area if:

- 1) The floor area of any floor above a height of 120 feet does not exceed 10,000 square feet for residential uses or 17,000 square feet of non-residential uses, or 12,000 square feet of mixed-uses (provided that not more than 60 percent of a mixed-use floor is used for any single use); and
- 2) The exterior of the building facing any street or public open space has a minimum of 70 percent glass.

b) Historic Resource Protection.

Protection of a historic resource as designated in the Master Plan of Historic Preservation is eligible for density incentive floor area provided a preservation plan for the resource is approved by the Historic Preservation Commission.

c) Podium/Tower Setback.

Provision of a tower setback is eligible for density incentive floor area provided that:

- 1) The tower must be set back at or below the 6th floor and
- 2) The setback must be a minimum of 10 feet.

d) Public Art.

Public art is considered a public benefit that enhances the quality of place in a community and is eligible for density incentive floor area if it meets the following provisions:

- 1) It must enhance the general or specific cultural objectives of the applicable master or sector plan;
- 2) It must be well-integrated into a project's open space and architectural design; and
- 3) It must be approved by the Public Arts Trust Steering Committee.

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

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

e) Public Plaza/Open Space.

Plazas are an important public amenity and create interesting spaces and active gathering areas. Any plaza is eligible for density incentive floor area if it meets the following standards:

- 1) The plaza is directly accessible to a street;
- 2) The minimum width of the plaza must be 50 feet;
- 3) The plaza must be open to the public at a minimum between 8:00 a.m. and 9:00 p.m.;
- 4) The plaza should contain seating, trash receptacles, landscaping, and other amenities such as water features, kiosks, and passive recreation areas.
- 5) Where the plaza is provided as part of a redevelopment, buildings facing the plaza must be designed so that:
 - a. The walls of any non-residential floor area facing the plaza must have a minimum of 70 percent glazing below a height of four floors and
 - b. The main entry to any dwelling units is from a wall facing the plaza;
- 6) No loading or parking facilities should be visible below a height of the fourth floor; and
- 7) The plaza must be in addition to any public open space required by the development standards or other minimum open space requirement of this Code.

f) Streetscape, Off-Site.

Streetscape improvements enhance the pedestrian experience and better connect buildings to the public spaces. Streetscape improvements are eligible for density incentive floor area if they meet the following standards:

- 1) The Planning Board makes a finding as part of an approved site plan that the streetscape improvements are in excess of current standards currently required as part of the development process;
- 2) The improvements must be located within 2,500 feet of the subject site;
- 3) The Applicant may make a cash contribution for the value of improvements to a County Agency which will undertake the improvements in full.

g) Wow Factor.

High quality design is important to the welfare of the community and may be eligible for density incentive floor area if it meets the following standards:

- 4) Provides innovative solutions in response to the architectural context and surrounding landscape;
- 5) Creates a sense of place that will serve as a landmark in the community;
- 6) Enhances the public realm in a distinct and original manner;
- 7) Adds to the diversity of the built realm within the community;
- 8) Uses design solutions to make compact/infill living, working, and shopping environments pleasurable and desirable; and
- 9) Integrates environmentally sustainable solutions.

59-C-15.267. Environment Incentives.

a) Building Lot Termination.

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

- 1) Residential development within a metro-station policy area that provides workforce housing is exempt from this section;
- 2) Building lot termination easements must be purchased or a contribution must be made to the Agricultural Land Preservation Fund under Chapter 2B equal to 12.5 percent of the incentive density FAR. One building lot termination is required for every 7,500

square feet of residential floor area above 0.5 FAR or for every 9,000 square feet of non-residential floor area above 0.5 FAR (or 0.5 FAR total for a mixed-use project); and

- 3) When a BLT easement cannot be purchased or the amount of floor area attributed to a building lot termination easement is a fraction of the floor area equivalent, payment must be made to the Ag Land Preservation Fund according to the rate set annually by executive regulation.
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- b) Conveyed Parkland.**

Land conveyed to the MC Department of Parks for inclusion in or provision of parkland, trail area, or other master-planned Parks' use is eligible for commensurate incentive density.
 - c) Dark Skies**

Projects that are built and maintained in conformance with the standards established by the International Dark-Sky Association are eligible for incentive density floor area.
 - d) Green Roof/Green Wall.**

Green roofs and walls are eligible for density incentive floor area provided that:

 - 1) The green roof must cover a minimum of 50% of the roof of the building excluding any space occupied by mechanical equipment;
 - 2) The green wall must be designed, installed, and maintained to cover a minimum of 30% of the area of a blank wall;
 - 3) The green roof and/or wall must be found to add to the aesthetic quality and sustainability of the project; and
 - 4) The vegetation must be maintained for the life of the building and the County will have access to inspect, install, and/or maintain the vegetation at the expense of the owner.
 - e) LEED Silver/Gold Certification.**

A LEED silver or gold (or County-approved equivalent) building is eligible for density incentive floor area provided it meets any continuing requirements necessary to maintain that status.
 - f) Permeable Area.**

Increased permeable area on site is eligible for density incentive floor area provided it meets the following requirements:

 - 1) The permeable area is not used to fulfill any LEED (or equivalent) requirements;
 - 2) The area must be a minimum of 10% of any on-site open space;
 - 3) The area is not counted towards the green roof incentive provisions;
 - 4) The area provides a minimum of 2 feet of soil depth; and
 - 5) The area is planted with well-maintained vegetation.
 - g) Rainwater Reuse; Stormwater Management BMP; Tree Canopy.**

Use of collected rainwater for on-site irrigation or grey-water use; use of stormwater management best-management-practices; and/or provision of tree canopy over at least 25% of the on-site open space is eligible for density incentive floor area unless used to fulfill any LEED (or equivalent) requirements.

h) Renewable Energy Generation.

Use of on-site renewable energy generation is eligible for density incentive floor area provided it meets the following requirements:

- 1) The energy generation is not used to fulfill any LEED (or equivalent) requirements; and
- 2) 10% of a site's energy use requirement is met by the on-site energy generation.

59-C-15.27. Saving Provisions.

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