

Monday, July 13, 2009

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

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

By: District Council at Request of the Planning Board

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

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

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

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

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

EXPLANATION:

Boldface indicates a heading or a defined term.

Underlining indicates text that is added to existing laws by the original text amendment.

[**Single boldface brackets**] indicate text that is deleted from existing law by the original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

* * * indicates existing law unaffected by the text amendment.

OPINION

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Monday, July 13, 2009

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

* * *

DIVISION 59-C-15. COMMERCIAL/RESIDENTIAL (CR) ZONES

59-C-15.1. Zones Established.

59-C-15.11. The Commercial/Residential (CR) zones are established, respectively, as combinations of a sequence of four factors: maximum total floor area ratio (FAR), maximum non-residential FAR, maximum residential FAR, and maximum building height. These zones are identified by a sequence of symbols: CR, C, R, and H each followed by a number where,

- The number following the symbol “CR-“ is the maximum total FAR,
- The number following the symbol “C” is the maximum non-residential FAR,
- The number following the symbol “R” is the maximum residential FAR, and
- The number following the “H” is the maximum building height in feet.

Each unique sequence of these symbols is a zone.

59-C-15.12. Any sequence of CR, C, R, and H is established as a zone according to the following rules:

- a) The maximum total FAR must be an increment of 0.5 from 0.5 up to 8.0;
- b) The maximum non-residential and residential FAR must be an increment of 0.5 from 0.5 up to 7.5; and
- c) The maximum height must be an increment of 5 feet up to 300 feet.
- d) The Commercial/Residential (CR) zones are Euclidean zones.

Examples:

- An area zoned CR-2.0, C1.0, R1.0, H80 allows a total FAR of 2.0, with maximum non-residential and residential FARs of 1.0, thereby requiring an equal 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.

39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73

59-C-15.2. Description and Intents of the CR Zones.

The CR zones permit a mix of commercial and residential uses at varying densities and heights. The zones promote economically, environmentally, and socially sustainable development patterns where people can live, work, and have access to services and amenities while minimizing the need for automobile use. CR zones are appropriate where ecological impacts can be moderated by co-locating housing, jobs, and services. The objectives of the CR zones are to:

- a) Implement the policy recommendations of applicable master and sector plans;
- b) Target opportunities for redevelopment of single-use areas and surface parking lots with a mix of uses;
- c) Reduce dependence on the automobile by encouraging development that integrates a combination of housing types, mobility options, commercial services, and public facilities and amenities;
- d) Encourage an appropriate balance of employment and housing opportunities and compatible relationships with adjoining neighborhoods;
- e) Establish the maximum densities and building height for each zone, while retaining appropriate development flexibility within those limits; and
- f) Standardize optional method development by establishing minimum requirements for the provision of the public benefits that will support and accommodate density above the standard method limit.

59-C-15.3. Methods of Development and Approval Procedures.

Two methods of development are available under the CR zones.

59-C-15.31. Standard Method.

Standard method development must comply with the general requirements and development standards of the CR zones. A site plan submission under Section 59-D-3 is required for a standard method development project only if:

- a) The gross floor area exceeds 10,000 square feet;
- b) Any building or group of buildings contains 10 or more dwelling units; or
- c) The proposed development generates 30 or more new peak-hour trips.

59-C-15.32. Optional Method.

Monday, July 13, 2009

74 Optional method development must comply with the general requirements and
75 development standards of the CR zones and must provide public benefits
76 according to Section 59-C-15.7 to obtain the full densities and height allowed
77 by the zone. A sketch plan and site plan are required for any development
78 using the optional method. A sketch plan must be filed under the provisions
79 below; a site plan must be filed under Section 59-D-3. Any required
80 preliminary subdivision plan must be submitted concurrently with the site plan.

81 a) Contents of a sketch plan.

- 82 a. Justification statement for optional method development addressing
- 83 the requirements and standards of this Article.
- 84 b. Conceptual uses and maximum densities per use.
- 85 c. Building massing and height.
- 86 d. General vehicular, pedestrian, and cyclist circulation.
- 87 e. Table of proposed public benefits and incentive density requested per
- 88 each benefit.

89 b) Procedure for a sketch plan.

- 90 a. Before an application for review of a sketch plan, notice of the
- 91 pending submission of the sketch plan, a public meeting to present
- 92 and discuss the sketch plan, and site posting of the submission must
- 93 comply with Section 4 of the Adopted and Approved Manual for
- 94 Development Review Procedures for Montgomery County (Manual),
- 95 as amended.
- 96 b. Review procedure and fees for a sketch plan are the same as for a pre-
- 97 application submission under Section 50-33A(a).

98
99 **59-C-15.4. Land Uses.**

100 No use is allowed except as indicated below:

- 101
- 102 • *Permitted Uses* are designated by the letter “P” and are permitted subject to all
 - 103 applicable regulations.
 - 104 • *Special Exception Uses* are designated by the letters “SE” and may be
 - 105 authorized as special exceptions under Article 59-G.

106 a) Agricultural	
Farmer’s markets	P

Monday, July 13, 2009

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

Monday, July 13, 2009

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

109

110 **59-C-15.5. General Requirements.**

111 Any development in the CR zone must comply with the following requirements.

112

113 **59-C-15.51. Master Plan and Design Guidelines Conformance.**

114 Site plans must be consistent with the applicable master or sector plan and
115 design guidelines.

116

117 **59-C-15.52. Priority Retail Street Frontages.**

118 Any building that requires a site plan and is located on a street defined as a
119 priority retail street frontage must provide the following:

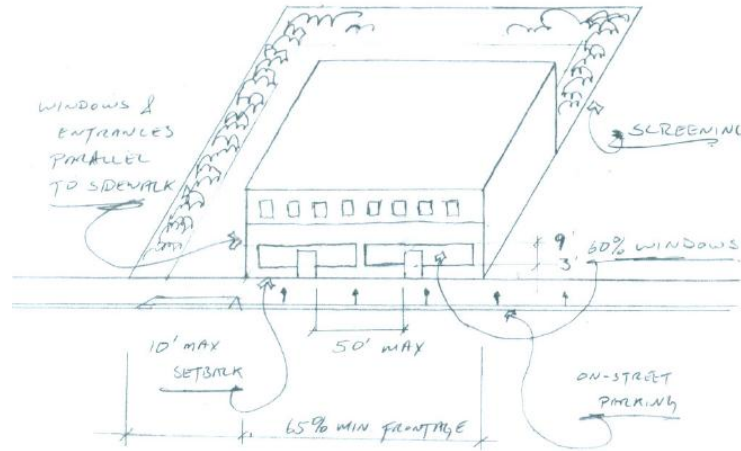
- 120 a) On-street parallel parking, unless specifically denied by the agency
121 maintaining the right-of-way;
- 122 b) Majority of display windows and entrances arranged between zero and 45
123 degrees to the sidewalk;
- 124 c) Shop entrances not more than 50 feet apart within the same development;
- 125 d) Building façade along a minimum of 65% of the aggregate length of the
126 front street right-of-way;
- 127 e) Front building wall no farther than 10 feet from the public right-of-way or 5
128 feet if no public utility/improvement easement (PUE or PIE) is required; and
- 129 f) Windows on 60% of the building façade between 3 and 9 feet above
130 sidewalk grade.

131

Monday, July 13, 2009

132 These provisions may be modified or waived by the Planning Board during the
 133 review of a site plan if found to be unreasonably burdensome to a proposed
 134 development due conditions such as unusual lot size, topography, limited
 135 frontage, or other atypical circumstance.

136



137

Priority Retail Building Requirements Illustrative (Place Holder)

138

139

59-C-15.53. Streetscape.

140

141 Streetscape improvements must satisfy the recommendations of the applicable
 142 approved and adopted master or sector plan.

143

59-C-15.54. Bicycle Parking Spaces and Commuter Shower/Change Facility.

144

145

146 a) Bicycle parking facilities must be free of charge, secure, and accessible to all
 147 residents or employees of the proposed development.

148

149 b) The number of bicycle parking spaces and shower/change facilities required
 150 is shown in the following table (calculations must be 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 per unit, not to be less than 2 spaces up to a maximum of 100 required spaces.

Monday, July 13, 2009

<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 up to a maximum of 100 required spaces.
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 up to a maximum of 100 required spaces. One shower/change facility for each gender.

152
153
154
155
156
157
158
159

59-C-15.55. Parking.

- a) The maximum number of parking spaces provided on site must not exceed the number established under Article 59-E.
- b) The minimum number of parking spaces required is based on transit proximity as defined under 59-C-15.9 and calculated according to the following table:

Minimum Parking Requirements				
	Transit Proximity (Level 1 or 2)			
	¼ mile from transit	¼ to ½ mile from transit	½ mile to 1 mile from transit	>1 mile from transit
Commercial: calculate required spaces according to Article 59-E and multiply by the following factor:	0.20	0.40	0.60	0.80
Residential Uses: calculate required spaces according to Article 59-E and multiply by the following factor:	0.60	0.70	0.80	0.90

160
161
162
163
164
165
166
167
168
169
170

- c) Parking requirements must be met by any of the following:
 - Providing the spaces on site,
 - Constructing on-street parking, or
 - Entering into an agreement for shared parking spaces in a facility within 1,000 feet of the subject lot provided that the off-site parking facility is not in an agricultural, planned unit development, or residential zone.
- d) Every “car-share” space provided reduces the total minimum number of required spaces by six spaces for non-residential use or three spaces for residential use.

Monday, July 13, 2009

171 *Example:* A site requiring a minimum of 100 spaces according to Article 59-E would be
172 required to provide a maximum of 100 spaces on site. If that site was within ¼ to ½ mile of a
173 transit station, the minimum requirement for parking would be 40 spaces ($100 \times 0.40 = 40$). If
174 two car-share spaces were provided, that requirement would be 28 for non-residential use or 34
175 for residential use.

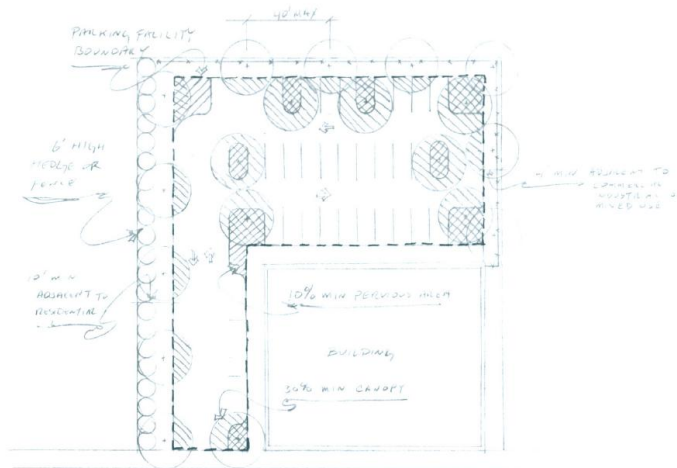
- 176
- 177 e) The design of surface parking facilities must comply with the following:
- 178 1) A parking facility at or above grade must not be located between the
179 street and the main front wall of the building or the side wall of a
180 building on a corner lot unless the Planning Board finds that safe and
181 efficient circulation would be better served by a different arrangement;
- 182 2) When a site is adjacent to an alley, the primary vehicular access to the
183 parking facility must be from that alley; and
- 184 3) Curb cuts must be kept to a minimum and shared by common
185 ingress/egress easements whenever possible.
- 186 f) The design of parking facilities with drive-through services must comply
187 with the following:
- 188 1) The driveway must not be located between the street and the main front
189 wall of a building or the side wall of a building on a corner lot unless the
190 Planning Board finds that safe and efficient circulation would be better
191 served by a different arrangement;
- 192 2) The drive-through service window must be located on the rear wall of the
193 building; and
- 194 3) Curb cuts to a street must be minimized to one drive aisle of no more
195 than 20 feet in width for two-way traffic or two drive aisles each of no
196 more than 10 feet in width for one-way traffic unless the Planning Board
197 finds that safe and efficient circulation would be better served by a
198 different arrangement.
- 199 g) Landscaping for surface parking facilities must satisfy the following
200 requirements:
- 201

Minimum Landscape Standards for Surface Parking	
Subject	Requirement
Right-of-Way Screening	6-foot width of continuous soil panel or stormwater management recharge facility (not including any PUE or PIE) with groundcover, planting bed, or lawn; a minimum 3-foot high continuous evergreen hedge or fence; and one deciduous tree per 30 feet of street frontage or

Monday, July 13, 2009

	per the applicable streetscape standards.
Adjacent to a Property in any Commercial, Industrial, or Mixed-Use Zone	4-foot width continuous soil panel or stormwater management recharge facility with groundcover, planting bed, or lawn; one deciduous tree per 30 feet of frontage.
Adjacent to a Property in an Agricultural or Residential District	10-foot width continuous soil panel or stormwater management recharge facility with groundcover, planting bed, or lawn; 6-foot high continuous evergreen hedge or fence; and one deciduous tree per 30 feet of frontage.
Internal Pervious Area	10% of the parking facility area comprised of individual areas of at least 100 square feet each.
Tree Canopy Coverage	30% of the parking facility area (at 15 years growth).

202



Surface Parking Requirements Illustrative (Place Holder)

203

204

205

59-C-15.6. Development Standards.

The following development standards must be met by any development in the CR zones.

209

59-C-15.61. Density.

- a) The maximum density for any standard method project is 0.5 FAR, which may be entirely commercial, residential, or a combination of both.
- b) The maximum total density and mix of maximum non-residential and residential density for any project using the optional method of development is specified by the zone. The difference between the standard method density and optional method density is defined as “incentive density” and is allowed under the incentive density provisions of 59-C-15.7.

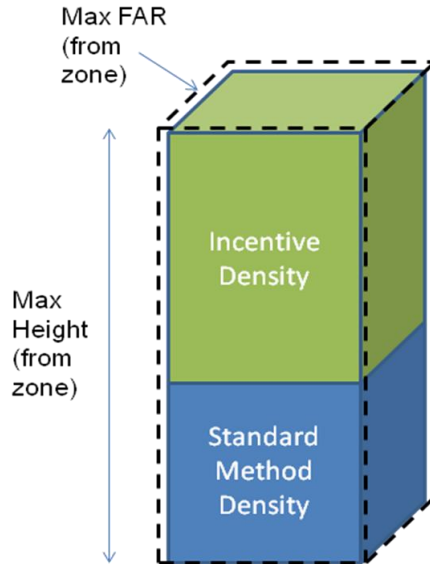
218

59-C-15.62. Height.

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

220

221 b) The maximum height for any optional method project is specified by the
222 zone.



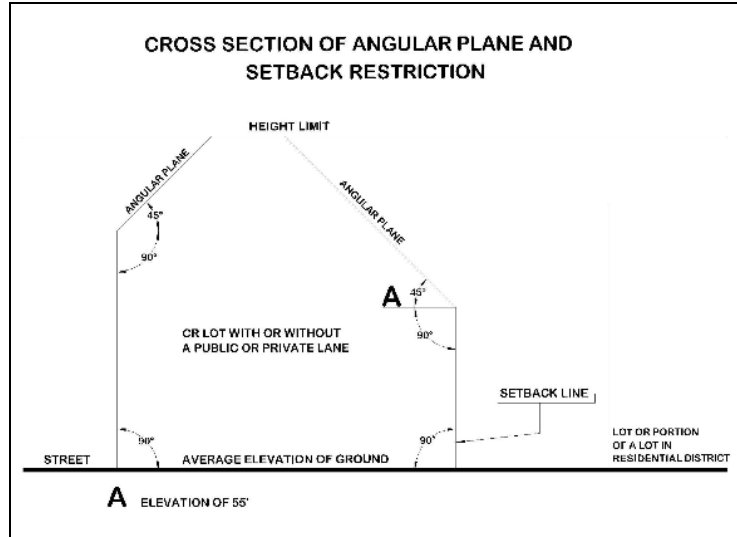
223 *Incentive Density Illustration (Place Holder)*

224
225
226 **59-C-15.63. Setbacks.**

227 A building must not be any closer to a lot line of an agricultural (59-C-9) or
228 residential (59-C-1) zone than:

- 229 a) 25 feet or the setback required by the adjacent lot, whichever is greater, and
- 230 b) The building must not project beyond a 45 degree angular plane projecting
231 over the lot measured from a height of 55 feet at the setback determined
232 above, with the exception of those features exempt from height and setback
233 restrictions under Section 59-B-1.

234



Angular Plan Setback Illustration (Place Holder)

235
236
237
238
239
240
241
242

59-C-15.64. Public Use Space.

- a) The minimum public use space for any standard method project is 10%.
- b) Projects using the optional method of development, must provide public use space as follows:

Minimum Required Public Open Space				
Acres	Street Frontages			
	1	2	3	4+
< 1/2	0	0	4%	6%
1/2 - 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%

243
244
245
246
247
248
249
250
251
252
253

- c) Public use space must be:
 - 1) Calculated on the net lot area of the site;
 - 2) Rounded to the next highest 100 square feet;
 - 3) Easily and readily accessible to the public;
 - 4) Placed under a public access easement in perpetuity; and
 - 5) Contain amenities such as seating options, shade, landscaping, or other similar public benefits.
- d) In lieu of providing on-site public use space, for any site of 3 acres or less, a development may propose the following alternatives, subject to Planning Board approval:

Monday, July 13, 2009

- 254 1) Public use space improvements to an area equal in size within ¼ mile of
255 the subject site; or
256 2) A payment in part or in full to the Public Amenity Fund equal to the
257 average cost of required site improvements added to the current square
258 foot market value of the area required as public use space.

259

260 **59-C-15.65. Residential Amenity Space.**

- 261 a) Any building containing 20 or more dwelling units must provide amenity
262 space for its residents as follows:

263

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

264

- 265 b) The amenity space is not required for Moderately Priced Dwelling Units
266 (MPDUs) on a site within a metro station policy area or where the Planning
267 Board finds that there is adequate recreation and open space within a ½ mile
268 radius of the subject site.

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

- 272 d) The provision of residential amenity space may be counted towards meeting
273 the required recreation calculations under the M-NCPPC Recreation
274 Guidelines, as amended.

275

276 **59-C-15.7. Special Regulations for the Optional Method of Development**

277

278 **59-C-15.71. Incentive Density Provisions.**

279 This section provides incentives for optional method projects to provide public
280 benefits in return for increases in density and height, consistent with the
281 applicable master or sector plan, up to the maximum permitted by the zone.

Monday, July 13, 2009

- 282 a) The incentive density approved for each proposed public benefit is
283 calculated as a percentage of the incentive density, which is the incremental
284 difference between the standard method maximum FAR (0.5) and the
285 maximum FAR in the zone;
- 286 b) The minimum and maximum incentive density percentage increases for each
287 public benefit are established in Section 59-C-15.71(f).
- 288 c) The Planning Board may accept, reject, or modify the requested percentage
289 above the minimum of incentive density established up to the maximum
290 established. Except for those benefits with specific standards, in approving
291 incentive densities above the minimum, the Planning Board must consider:
- 292 i. The size and configuration of the parcel;
 - 293 ii. The policy objectives and priorities of the applicable master or sector
294 plan;
 - 295 iii. The applicable design guidelines;
 - 296 iv. The relationship of the site to adjacent properties;
 - 297 v. The presence or lack of similar benefits nearby; and
 - 298 vi. Quantitative and qualitative enhancements provided exceeding the
299 delineated minimum incentive density standards.
- 300 d) In addition to the public benefits set forth below, an Applicant may propose
301 other public benefits that will further the goals and objectives of the subject
302 master or sector plan for the purpose of obtaining an incentive density
303 increase.
- 304 e) The Planning Board may grant no more than 30% of the total incentive
305 density for the connectivity, design, diversity, or environment incentive
306 categories under (f) below or any public benefit approved under (d) above;
- 307

308 *Example:* A development in a zone with a maximum FAR of 5.5 would base all public benefit
309 calculations on the incentive density of 5.0 FAR (5.5-0.5). Thus, being on a site adjacent to a
310 metro station would yield an automatic incentive density of 2.5 FAR (5.0x.50) and full density
311 would be allowed by providing public benefits equal to an additional 50 percent.

- 312
- 313 e) Provision for inspections, maintenance, and enforcement of public benefits
314 provided in return for incentive density must be established in a Site Plan
315 Enforcement Agreement approved by the Department of Permitting Services

Monday, July 13, 2009

316 and by resolution of the Planning Board prior to the certification of a site
 317 plan.

318 f) Table of density incentives:

Incentive Zoning Table			
Public Benefit	Percent of Incentive Density		Section Reference
	Minimum	Maximum	
<i>Transit Proximity</i>			
Adjacent or Confronting Transit Access	25	50	15.72
Transit Access within ¼ Mile	20	40	
Transit Access between ¼ and ½ Mile	15	30	
Transit Access between ½ and 1 Mile	10	20	
<i>Connectivity & Mobility</i>			
Community Connectivity	10	20	15.731
Community Garden	5	10	15.732
Parking at the Minimum	10	20	15.733
Pedestrian Through-Block Connection	5	10	15.734
Public Parking	20	30	15.735
Transit Access Improvement	10	20	15.736
<i>Diversity</i>			
Adaptive Buildings	15	30	15.741
Affordable Housing: MPDUs	See section reference		15.742
Affordable Housing: WFHUs	See section reference		
Care Center	10	20	15.743
Community Facility	10	20	15.744
Local Retail Preservation	10	20	15.745
Unit Mix and Size	5	10	15.746
<i>Design</i>			
Floor Plate Size	10	20	15.751
Historic Resource Protection	10	20	15.752
Parking Below Grade	10	20	15.753
Podium/Tower Setback	5	10	15.754
Public Art	10	20	15.755
Public Plaza/Open Space	5	10	15.756
Streetscape, Off-Site	5	10	15.757
Wow Factor	10	20	15.758
<i>Environment</i>			
Bio-retention and Stormwater Recharge	5	10	15.761
Conveyed Parkland	10	20	15.762
Dark Skies	5	10	15.763
Energy Efficiency and Generation	10	20	15.764
Green Wall	5	10	15.765
LEED Rating	10	30	15.766
Rainwater Reuse	5	10	15.767
Transferable Development Rights	10	30	15.768
Tree Canopy	10	20	15.769
Vegetated Area	5	10	15.7610
Vegetated Roof	10	20	15.7611
<i>Building Lot Terminations</i>	-	50	15.77

319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353

59-C-15.72. Transit Proximity Incentives.

Development close to transit encourages greater transit use and reduces vehicle miles travelled, congestion, and carbon emissions. Transit proximity is defined under 59-C-15.9 and incentive density is provided as follows:

<u>Proximity</u>	<u>Level 1 Transit</u>	<u>Level 2 Transit</u>
Adjacent or confronting	50%	25%
Within ¼ mile	40%	20%
Between ¼ and ½ mile	30%	15%
Between ½ and 1 mile	20%	10%

59-C-15.73. Connectivity and Mobility Incentives.

Projects that enhance connectivity and mobility encourage pedestrian and other non-auto travel for short and multi-purpose trips as well as for commuting. They facilitate social interaction, provide opportunities for healthier living, and stimulate local businesses.

59-C-15.731. Community Connectivity.

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

- a) at least ten different existing or proposed retail uses with direct pedestrian access are within 1/2 mile and
- b) a minimum of 35% of those uses have a maximum floor area of 5,000 square feet and that any newly provided retail uses remain at or below that area for a period of at least 4 years after the initial use-and-occupancy permit is issued for that use.

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

59-C-15.732 Community Garden.

Monday, July 13, 2009

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

- 358 a) Is located on the subject site or within 500 feet of the subject site;
- 359 b) Provides all garden spaces with a minimum of 12” of soil depth and
360 access to water; and
- 361 c)

362 Provides community garden space at a rate equivalent to one space per 20
363 dwelling units. Each space must be at least 16 square feet. At least one out of
364 each ten spaces must be accessible according to ADA standards.

365 The maximum increase requires additional features such as a composting
366 facility, additional garden space, seating areas, doubling as a green roof, or
367 additional accessible garden plots.

368

369 **59-C-15.733. Parking at the Minimum.**

- 370 a) The minimum incentive density increase requires that sites of one acre or
371 more provide on-site only the minimum required number of parking
372 spaces.
- 373 b) The maximum increase requires that sites of less than one acre provide
374 on-site only the minimum required number of parking spaces.

375

376 **59-C-15.734. Pedestrian Through-Block Connections.**

377 Through-block connections enhance pedestrian mobility and help to create a
378 variety of open spaces, particularly on larger blocks. The minimum
379 incentive density increase for a pedestrian through-block connection requires
380 that:

- 381 a) The pedestrian connection must provide direct access between two or
382 more streets;
- 383 b) The minimum width of the pedestrian connection must be 15 feet;
- 384 c) A minimum of 35 percent of the walls facing the interior pedestrian
385 connection below a height of 8 feet must have clear, unobstructed
386 windows unless an alternative design is found to be at least equally safe;
- 387 d) The pedestrian connection must be open to the public between sunrise
388 and sunset and, where it leads to a transit facility or publicly-accessible

Monday, July 13, 2009

389 parking facility within 1/2 mile, for the hours of operation of the transit
390 and/or parking facility; and

391 e) New retail uses fronting both a pedestrian connection and a street, must
392 maintain operable doors from both unless not required by the Planning
393 Board during site plan review.

394

395 The maximum increase requires additional benefits such as direct connection
396 to parks, transit facilities, or public buildings; the pedestrian connection is
397 animated by retail uses along a majority of its length; the connection is
398 increased in width; or public artworks are integrated into the walk.

399

400 **59-C-15.735. Public Parking.**

401 The minimum increase requires providing on-site the difference between the
402 minimum number of required parking spaces and the maximum number of
403 allowed parking spaces as publicly accessible spaces for free or at a market
404 rate.

405

406 The maximum increase requires providing public parking spaces as required
407 above in combination with additional improvements such as constructing
408 those spaces underground or in a structure.

409

410 **59-C-15.736. Transit Access Improvement.**

411 The minimum incentive density increase for transit access improvements
412 requires that:

- 413 a) The improvements are located within 1/2 mile of the proposed
414 development site or, in the case of mobile transit improvements such as a
415 bus shuttle, that provide regular access for passengers within 1/2 mile and
416 b) The improvements are built to current ADA accessibility standards.

417

418 The maximum increase requires additional benefits such as closer access,
419 new access easements, connecting walkways, mezzanines, seating areas,
420 structures for wind/rain protection, or concourse areas.

421

422 **59-C-15.74. Diversity Incentives.**

423

424 **59-C-15.741. Adaptive Buildings.**

425 Adaptive buildings can adjust to a diversity of uses over time, which makes
426 them more accommodating of mixed uses, more sustainable, and more
427 embedded in the pattern of a community. The minimum incentive density
428 increase for an adaptive building requires that:

- 429 a) The minimum floor to floor dimension is 15 feet for all floors and
- 430 b) The internal floor plan is based on a structural system allowing flexibility
431 of volumes divisible from one open floor plate to any number of parceled
432 volumes.

433
434 The maximum increase requires additional benefits such as that the
435 structural system has additive capacity for any available density and height
436 that is not used by the building without demolition of the structure or the
437 internal layout is built with a flexible cellular system that allows for
438 residential, retail, and office uses to occupy any of the cells.

439
440 **59-C-15.742. Affordable Housing.**

441 All development must comply with the requirements of Chapters 25A and
442 25B for the provision of Moderately Priced Dwelling Units (MPDUs) and
443 Workforce Housing Units (WFHUs).

444
445 Provision of MPDUs above the minimum required grants an incentive
446 density increase providing the following standards are met:

- 447 a) The increase in density is calculated on the incentive density as required
448 by Chapters 25A;
- 449 b) The MPDUs must be reasonably distributed throughout the project; and
- 450 c) Any dwelling units built under this section must be controlled as either
451 MPDUs for a minimum period of 99 years.

452
453 *Example:* Provision of 14.5% MPDUs achieves an incentive density increase of 20% (25-A-
454 5(c)(3)). In the case of a CR4.5, that would equal 0.20×4.0 (the incentive density), which is 0.8
455 FAR.

456
457 Provision of WFHUs grants an incentive density increase at the following
458 rate: 2 times the percentage of units provided as WFHUs up to 30%.

Monday, July 13, 2009

460 *Example:* Provision of 5% WFHUs achieves an incentive density increase of 10%; provision of
461 12% WFHUs achieves an incentive density increase of 24%.

59-C-15.743. Care Center.

462
463
464 The minimum incentive density increase for a center for daytime adult or
465 child care requires that at least 12 slots are provided and a minimum of 25
466 percent of the available slots in the care center is available to the general
467 public.

468
469 The maximum increase requires additional benefits such as additional slots,
470 a safe drop-off area, an increase in slots available to the general public, and
471 recreation facilities provided above those required by law.

59-C-15.744. Community Facility.

472
473 The minimum incentive density increase for a community facility that helps
474 meet the needs of residents and workers requires that:

- 475
476 a) The community facility is recommended in the appropriate master plan
477 or sector plan and
478 b) Is accepted for operation and use by an appropriate public agency,
479 community association, or nonprofit organization;

480
481 The maximum increase requires further benefits such as an entrance to the
482 facility directly on the street, location of the building within 10 feet of a
483 public sidewalk, associated outdoor open space, or integration into an area
484 with a minimum residential FAR of 2.0 or greater (or 30 dwelling units per
485 acre).

59-C-15.745. Local Retail Preservation.

486
487
488 Preservation of locally-owned small businesses on site, as determined by the
489 Small Business Administration's Table of Small Business Size Standards
490 ([SBA Table](#)) is eligible for incentive density according to the following:

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

59-C-15.746. Unit Mix and Size.

Monday, July 13, 2009

495 The minimum incentive density increase for creating residential buildings
496 with a minimum mix of dwelling unit types (calculated by rounding to the
497 next higher whole number) requires provision of at least:

- 498 a) 7.5 percent as efficiency dwelling units,
- 499 b) 8 percent as one-bedroom dwelling units,
- 500 c) 8 percent as two-bedroom dwelling units, and
- 501 d) 5 percent as three-bedroom dwelling units.

502

503 The maximum increase requires provision of at least (rounded to the next
504 higher whole number):

- 505 a) 10 percent as efficiency dwelling units,
- 506 b) 10 percent as one-bedroom units,
- 507 c) 10 percent as two-bedroom units, and
- 508 d) 7.5 percent as three-bedroom units.

509

510 **59-C-15.75. Design Incentives.**

511

512 **59-C-15.751. Floor Plate Size.**

513 The minimum incentive density increase for the provision of floor plate
514 restrictions requires that:

- 515 a) The floor area of any floor above a height of 120 feet does not exceed
516 10,000 square feet for residential uses or 19,000 square feet of non-
517 residential uses, or 12,000 square feet of mixed-uses (provided that not
518 more than 60 percent of a mixed- use floor is used for any single use);
519 and
- 520 b) The exterior of the building facing any street or public open space has a
521 minimum of 60 percent glass on the floors with the reduced floor plate.

522

523 The maximum increase requires additional benefits, such as providing the
524 reduced floor plates in conjunction with the Wow Factor, providing smaller
525 floor plates, combining this incentive with the tower setback, providing a
526 larger percentage of glass, or integrating sustainable technologies into the
527 architecture.

528

529 **59-C-15.752. Historic Resource Protection.**

Monday, July 13, 2009

530 The minimum incentive density increase for the protection of a historic
531 resource as designated in the Master Plan of Historic Preservation requires
532 that a preservation plan for the resource is approved by the Historic
533 Preservation Commission.

534 The maximum increase requires that other benefits are provided, such as
535 interpretive signs/exhibits, integration and construction of context-
536 appropriate landscapes and settings, or protection of important viewsheds.

537

538 **59-C-15.753. Parking Below Grade.**

539 The minimum incentive density increase requires that sites of one acre or
540 more provide all on-site parking spaces below the average grade of the
541 primary street frontage.

542

543 The maximum increase requires that sites of less than one acre provide all
544 on-site parking spaces below the average grade of the primary street
545 frontage.

546

547 **59-C-15.754. Podium/Tower Setback.**

548 The minimum incentive density increase for the provision of a tower setback
549 requires that the tower must be set back from the first floor building frontage
550 at or below 72 feet and the setback must be a minimum of 6 feet.

551

552 The maximum increase requires that the tower setback be at or below 50 feet
553 and that the setback be a minimum of 12 feet.

554

555 **59-C-15.755. Public Art.**

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

- 559 a) It enhances the general or specific cultural objectives of the applicable
560 master or sector plan;
- 561 b) It is approved by the Public Arts Trust Steering Committee.

562

563 The maximum increase requires that, in addition to the above requirements,
564 the artwork fulfill a minimum of five of the eight goals enumerated in the

Monday, July 13, 2009

565 report by the Study Committee on Artwork in the Optional Method Projects
566 report that was approved by the Planning Board, as amended.

567

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

- 570 a) The minimum fee is calculated on 1% of the development's projected
571 cost;
- 572 b) The fee is paid to the Public Arts Trust Steering Committee;
- 573 c) The fee is used for installation, management, and maintenance of public
574 art in the policy area where the proposed development is located; and
- 575 d) The incentive density is equal to a 5% increase for every 1% of projected
576 development cost paid to the Steering Committee up to 20%

577

578 **59-C-15.756. Public Plaza/Open Space.**

579 Plazas are important public amenities and create interesting spaces and
580 active gathering areas. The minimum incentive density increase for any
581 plaza requires that:

- 582 a) The plaza is directly accessible to a street;
- 583 b) The plaza must be open to the public at a minimum between sunrise and
584 sunset;
- 585 c) No proposed loading or parking facilities should be visible below a
586 height of the fourth floor; and
- 587 d) The plaza must be in addition to any public use space required by the
588 development standards or other minimum open space requirement of this
589 Article.

590

591 The maximum increase requires that the above requirements are met in
592 addition to the following:

- 593 a) The minimum width of the plaza must be 50 feet;
- 594 b) Where the plaza is provided as part of a redevelopment, buildings facing
595 the plaza must be designed so that:
- 596 1) The walls of any non-residential floor area facing the plaza must have
597 windows on a minimum of 60 percent of the façade below a height of
598 40 feet and
- 599 2) The main entry to any dwelling units is from a wall facing the plaza;

Monday, July 13, 2009

600 c) The plaza should contain seating, trash receptacles, landscaping, and
601 other amenities such as water features, kiosks, and passive recreation
602 areas.

603

604 **59-C-15.757. Streetscape, Off-Site.**

605 Streetscape improvements enhance the pedestrian experience and better
606 connect buildings to the public spaces. The minimum incentive density
607 increase for streetscape improvements requires that the following criteria are
608 met:

- 609 a) The improvements must be located within 1/2 mile of the subject site and
- 610 b) The improvements are equal to 18 percent of the net lot.

611

612 The maximum increase requires that the improvements be equal to a
613 minimum of 36 percent of the net lot area.

614

615 **59-C-15.758. Wow Factor.**

616 The minimum incentive density increase for high-quality site and
617 architectural design requires that at least three of the following criteria are
618 met. The maximum density increase requires that a least five of the
619 following criteria are met.

- 620 a) Provides innovate solutions in response to the architectural context and
621 surrounding landscape, for example by rotating floor plates for views or
622 reconciling offset street-walls;
- 623 b) Creates a sense of place that will serve as a landmark in the community,
624 for example by creating a distinguishing element that is visible from an
625 important view or at a gateway to an area;
- 626 c) Enhances the public realm in a distinct and original manner, for example
627 by using existing materials and forms in new ways to provide continuity
628 and contrast;
- 629 d) Adds to the diversity of the built realm within the community, for
630 example by introducing new materials, building methods, or design
631 styles;
- 632 e) Uses design solutions to make compact/infill living, working, and
633 shopping environments pleasurable and desirable, for example by
634 retrofitting surface parking lots and single-use retail malls or creating

Monday, July 13, 2009

- 635 multi-use, pedestrian-dominated realms in previous auto-oriented areas;
636 and
637 f) Integrates environmentally sustainable solutions, for example by using
638 bmp stormwater management facilities in an apparent and observable
639 way or integrating passive solar features into the visible structure of a
640 building or site.

641

642 **59-C-15.76. Environment Incentives.**

643

644 **59-C-15.761. Bio-retention and Stormwater Recharge.**

645 The minimum incentive density increase for the use of bio-retention and
646 recharge facilities requires that a minimum of 25% of projected stormwater
647 outfall for a 10-year event be contained and recharged on site or within ¼
648 mile of the site.

649

650 The maximum increase requires that a minimum of 50% of projected
651 stormwater for a 10-year event be contained and recharged.

652

653 **59-C-15.762. Conveyed Parkland.**

654 The minimum incentive density increase for land conveyed to the M-
655 NCPPC Department of Parks for inclusion in or provision of parkland, trail
656 area, or other master-planned Parks' use requires conveyance of at least of
657 15% of the gross lot area. The maximum increase requires conveyance of at
658 least 30% of the gross lot area.

659

660 **59-C-15.763. Dark Skies.**

661 The minimum incentive density increase for dark skies-compliant projects
662 requires that they be built and maintained in conformance with the standards
663 established by the International Dark-Sky Association
664 (<http://docs.darksky.org/Codes/LightingCodeHandbook.pdf>).

665

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

669

Monday, July 13, 2009

670 **59-C-15.764. Energy Efficiency and Generation.**

671 The minimum density incentive increase for the use of on-site renewable
672 energy generation requires that buildings must meet the minimum energy
673 efficiency standards of 17.5% for new buildings or 10.5% for existing
674 buildings and/or generate a minimum of 1.5% of their energy cost on site
675 energy generation.

676
677 The maximum increase requires additional benefits such as greater energy
678 efficiency and the generation of a minimum of 2.5% of energy cost on site.

679
680 **59-C-15.765. Green Walls**

681 The minimum incentive density increase for a green wall requires that:
682 a) It must be designed, installed, and maintained to cover a minimum of
683 30% of the area of a blank wall or parking garage facing a street or plaza;
684 b) It must be found to add to the aesthetic quality and environmental
685 sustainability of the project; and
686 c) It should be on the south or west facades of the building to achieve
687 maximum energy savings.

688
689 The maximum increase requires additional benefits such as a greater percent
690 of coverage, the use of plants with varying flowering seasons, or integration
691 into an overall energy or environmental site design program.

692
693 **59-C-15.766. LEED Rating.**

694 A LEED-rated (or County-approved equivalent) building or site is eligible
695 for an incentive density increase provided it meets any continuing
696 requirements necessary to maintain that status.

697 (<http://www.usgbc.org/Default.aspx>) The amount of incentive density
698 increase is equal to the following:

- 699 a) LEED Silver: 10%
- 700 b) LEED Gold: 20%
- 701 c) LEED Platinum: 30%

702
703 **59-C-15.767. Rainwater Reuse.**

Monday, July 13, 2009

704 The minimum incentive density increase for the collection of rainwater for
705 on-site irrigation, grey-water use, or filtration for re-use, requires that a
706 minimum of 25% of projected rainwater for a 10-year event be collected and
707 used on-site or within ¼ mile of the site.

708
709 The maximum increase requires that a minimum of 50% of projected
710 rainwater for a 10-year event be collected and used.

711

712 **59-C-15.768. Transferable Development Rights**

713 The incentive density increase for the purchase of transferable development
714 rights (TDRs) must meet the following:

- 715 a) The purchase must be executed and recorded prior to approval of a record
716 plat;
- 717 b) The use of this incentive must be for development on land recommended
718 as a TDR receiving area in an approved and adopted master or sector
719 plan;
- 720 c) TDRs must be purchased in groups of 10; and
- 721 d) The incentive density increase is equal to 10% for every 10 TDRs
722 purchased up to 30%.

723

724 **59-C-15.769. Tree Canopy.**

725 The minimum incentive density increase for the provision of tree canopy
726 requires coverage of at least 25% of the on-site open space at 15 years
727 growth.

728

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

731

732 **59-C-15.7610. Vegetated Area.**

733 The minimum incentive density increase for a vegetated area requires that
734 the following criteria are met:

- 735 a) The area must be in addition to any required on-site open space or any
736 vegetated roof incentive;
- 737 b) The area must replace at least 5,000 square feet of impervious area;
- 738 c) The area provides a minimum of 12 inches of soil depth; and

Monday, July 13, 2009

739 d) The area is planted with well-maintained vegetation.

740

741 The maximum increase requires additional benefits such as larger area or
742 greater soil depth.

743

744 **59-C-15.7611. Vegetated Roof.**

745 The minimum incentive density increase for a vegetated roof requires that:

- 746 a) The vegetated roof must cover a minimum of 33% of the roof of the
747 building, excluding any space occupied by mechanical equipment and
748 b) The soil or media depth must be a minimum of 4 inches.

749

750 The maximum increase requires coverage of a minimum of 60% of the roof
751 area.

752

753 **59-C-15.77. Special Regulations for Use of a Building Lot Termination** 754 **(BLT) Development Right.**

755 Building lot termination easements may be purchased for incentive density
756 according to the following provisions:

- 757 a) BLT easements must be purchased or a contribution must be made to the
758 Agricultural Land Preservation Fund under Chapter 2B equal to 12.5 percent
759 of the incentive density FAR;
- 760 b) One BLT is required for every 7,500 square feet of non-residential floor area
761 of the 12.5% incentive density area calculated in (a);
- 762 c) One BLT is required for every 9,000 square feet of residential floor area of
763 the 12.5% incentive density area calculated in (a);
- 764 d) When a BLT easement cannot be purchased or the amount of floor area
765 attributed to a building lot termination easement is a fraction of the floor
766 area equivalent, payment must be made to the Ag Land Preservation Fund
767 according to the rate set annually by executive regulation; and
- 768 e) The maximum incentive density increase is 50%.

769

770 **59-C-15.8. Existing Approvals.**

- 771 a) A lawfully existing building or structure and the uses therein, which predates
772 the applicable sectional map amendment, is a conforming structure or use, and
773 may be continued, renovated, reconstructed to the same size and configuration,

Monday, July 13, 2009

774 or enlarged up to 10 percent above the existing floor areas or 7,500 square feet,
775 whichever is less and does not require a site plan. A larger addition requires
776 compliance with the full provisions of this division.

777 b) A project that received an approved development plan under 59-D-1 or 59-H-
778 2.5 prior to the enactment of the CR zones may proceed according to the
779 binding elements of the development plan and will thereafter be treated as a
780 lawfully existing building under section a) above. Any increase in the total
781 floor area, height, or reduction of setbacks approved by the development plan
782 requires compliance with the full provisions of this division.

783 c) A project which has had a preliminary or site plan approved prior to the
784 applicable sectional map amendment may be built or altered at any time subject
785 to either the full provisions of the previous zone or this division at the option of
786 the owner. If built in accordance with the provisions of the previous approval,
787 it shall thereafter be treated as a lawfully existing building under section a)
788 above.

789

790 **59-C-15.9. Definitions Specific to the CR Zones.**

791 **Car share space:** A parking space that serves as the location of an actively in-
792 service vehicle used by a vehicle-sharing service.

793 **Live/Work unit:** Buildings or spaces within buildings that are used jointly for
794 commercial and residential purposes where the residential use of the space is
795 secondary or accessory to the primary use as a place of work.

796 **Priority retail street frontage:** Frontage along a right-of-way identified in a
797 Master or Sector Plan to be developed with street-oriented retail to encourage
798 pedestrian activity along the.

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

802 **Recreational facilities, participatory, indoor:** Provision of sports or recreation
803 by and for participants for uses conducted within an enclosed building.
804 Spectators would be incidental on a nonrecurring basis. Typical uses include
805 bowling alleys, billiard parlors, indoor tennis and handball courts, and health
806 clubs.

807 **Recreational facilities, participatory, outdoor:** Provision of sports or recreation
808 by and for participants for uses conducted outside of an enclosed building.
809 Spectators would be incidental on a nonrecurring basis. Typical uses include

Monday, July 13, 2009

810 driving ranges, miniature golf courses, swimming pools, and outdoor ice
811 skating rinks.

812 **Retail sales and service, general:** Commercial establishments engaged in selling
813 merchandise to the general public and services incidental to the sale of
814 merchandise. These establishments include, for example, antique shops, drug
815 stores, dry-cleaning pick up stations, duplicating services, florists, grocery
816 stores, health clubs, newsstands, photographic studios, shoe repair shops,
817 specialty shops, and tailoring shops, among many others.

818 **Transit proximity:** Level 1 proximity is based on location within one mile of a
819 Metrorail Station. Level 2 proximity is based on location within one mile of a
820 Marc Station or a transportation corridor with fixed route bus service where
821 service intervals are no longer than 15 minute during peak commute hours. A
822 project shall be considered to be within one mile of transit if all parcels within
823 the project have no more than 25% of their area farther than one mile from a
824 transit stop or corridor and if not more than 10% of the residential units in the
825 project are farther than one mile from the stop or corridor. A planned transit
826 stop or corridor is one that is funded for construction within the first four years
827 of the Consolidated Transportation Program and/or the Capital Improvement
828 Program.

829

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

832

833 This is a correct copy of Council action.

834

835

836 Linda M. Lauer, Clerk of the Council

837

838