

March 11, 2011

**Planning Board Draft CR Zones ZTA**

**“Clean” version with all proposed amendments incorporated and formatted as of March 11, 2011.**

1 **DIVISION 59-C-15. COMMERCIAL/RESIDENTIAL [ ] ZONES**

2  
3 **59-C-15.1. Zones Established.**

4  
5 **59-C-15.11.** The Commercial/Residential zones are established as combinations of a zone  
6 category and a sequence of 4 factors: maximum total floor area ratio (FAR), maximum non-  
7 residential FAR, maximum residential FAR, and maximum building height.

8  
9 (a) There are three commercial/residential (CR) categories with variable uses, density and  
10 height limits, general requirements, development standards, and public benefit  
11 requirements to respond to different settings. These zone categories are:

12  
13 (1) CR Neighborhood (“CRN”);

14  
15 (2) CR Town (“CRT”); and

16  
17 (3) CR Metro (“CR”).

18  
19 (b) The CR category is followed by a number and a sequence of three additional symbols: C,  
20 R, and H, each followed by a number where:

21  
22 (1) the number following the CR category is the maximum total FAR;

23  
24 (2) the number following the “C” is the maximum non-residential FAR;

25  
26 (3) the number following the “R” is the maximum residential FAR; and

27  
28 (4) the number following the “H” is the maximum building height in feet.

29  
30 (c) The Commercial/Residential Zones will be applied on the zoning map that will show, for  
31 each property classified under a CR zone, the zone category and the four regulated factors  
32 (total, non-residential, and residential density and height).

33  
34 (d) This Division uses examples and illustrations to demonstrate the intent of the CR zones.  
35 These examples and illustrations do not add, delete, or modify any provision of this  
36 Division.

40 **59-C-15.12. Density and Height Allocation.**

41

42 **59-C-15.121. Density and Height Limits.**

43

44 (a) Each unique sequence of CRN, CRT, or CR, and C, R, and H is established as a zone  
45 under the following limits:

46

Category	Max Total FAR	Max C or R FAR	Max H
CRN	0.5 to 1.5	0.25 to 1.5	40 to 65
CRT	0.5 to 4.0	0.25 to 3.5	40 to 150
CR	0.5 to 8.0	0.25 to 7.5	40 to 300

47

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

50

51 *Example:* Under the provisions of Sections (a) and (b), above, the CRN zones may establish maximum  
52 total densities of 0.5, 0.75, 1.0, 1.25, or 1.5 FAR and maximum heights of 40, 45, 50, 55, 60, or 65. The  
53 range of densities and heights from which the various CRN zones can be established and mapped  
54 provides guidance to master planners and the County Council in setting zones, and allows a developer to  
55 build at any height and density up to the maximum established on the zoning map. For example, a  
56 property owner whose land is zoned at CRN1.0 C0.5 R1.0 H45 could elect to build at a 1.0 FAR with a  
57 height of 35 feet.

58

59 **59-C-15.122. Density Averaging.**

60

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

63

64 (a) the properties are subject to the same site plan or sketch plan;

65

66 (b) the resulting lots or parcels are created by the same preliminary subdivision plan or  
67 satisfy a phasing plan established by an approved sketch plan;

68

69 (c) the maximum total, non-residential, and residential density limits apply to the entire  
70 development, not to individual lots or parcels;

71

72 (d) no building may exceed the maximum height set by the zone;

73

74 (e) uses are subject to the provisions of the zone category; and

- 75 (f) the total allowed maximum density on a resulting lot or parcel that is adjacent to or  
76 confronting a lot or parcel in an applicable residential zone may not exceed that allowed  
77 by the zone.  
78

79 **59-C-15.13. Applicability.**  
80

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

84 *Examples:*

- 85  An area zoned CRN1.5, C1.0, R1.0, H45 allows a total FAR up to 1.5, with maximum non-  
86 residential and residential FARs of 1.0, thereby requiring a mix of uses to obtain the total FAR  
87 allowed. The height for any building in this zone is limited to 45 feet.
- 88  An area zoned CR6.0, C3.0, R5.0, H200 allows a non-residential FAR up to 3.0, a residential  
89 FAR up to 5.0, and a mix of the two uses could yield a total FAR of 6.0. This combination  
90 allows for flexibility in the market and shifts in the surrounding context. The height for any  
91 building in this zone is limited to 200 feet.
- 92  An area zoned CRT3.5, C3.5, R3.5, H100 allows complete flexibility in the mix of uses,  
93 including buildings with no mix, because the maximum allowed non-residential and residential  
94 FARs are both equivalent to the total maximum FAR allowed. The height for any building in  
95 this zone is limited to 100 feet.

96  
97 **59-C-15.2. Description and Objectives of the CR Zones.**  
98

99 The CRN, CRT, and CR zones permit a mix of residential and non-residential uses at varying  
100 densities and heights. The zones promote economically, environmentally, and socially  
101 sustainable development patterns where people can live, work, recreate, and have access to  
102 services and amenities while minimizing the need for automobile use. The application of the CR  
103 zones is appropriate where ecological impacts can be moderated by co-locating housing, jobs,  
104 and services. The objectives of the CRN, CRT, and CR zones are to:  
105

- 106 (a) implement the policy recommendations of applicable master and sector plans;  
107
- 108 (b) target opportunities for redevelopment of single-use areas and surface parking lots with a  
109 mix of uses;  
110
- 111 (c) reduce dependence on the automobile by encouraging development that integrates a  
112 balanced combination of housing types, mobility options, commercial services, and  
113 public facilities and amenities;  
114

- 115 (d) allow a flexible mix of uses, densities, and building heights appropriate to various
- 116 contexts to ensure compatible relationships with adjoining neighborhoods;
- 117
- 118 (e) integrate an appropriate balance of employment and housing opportunities; and
- 119
- 120 (f) standardize optional method development by establishing minimum requirements for the
- 121 provision of public benefits.
- 122

123 **59-C-15.3. Definitions Specific to the CR Zones.**

124

125 The following words and phrases, as used in this Division, have the meaning indicated. The

126 definitions in Division 59-A-2 otherwise apply.

127

128 **Applicable Residential Zone:** zones governed by Division 59-C-1 and Division 59-C-9 are

129 included in all references in this Division to “an applicable residentially-zoned property” or

130 equivalent phrases.

131

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

133 vehicle-sharing service.

134

135 **Cultural institutions:** public or private institutions or businesses including: art, music, and

136 photographic studios; auditoriums or convention halls; libraries and museums; recreational,

137 performance, or entertainment establishments, commercial; theater, indoor; theater,

138 legitimate.

139

140 **Day care facilities and centers:** facilities and centers that provide daytime care for children

141 and/or adults, including: child daycare facility (family day care, group day care, child day

142 care center); daycare facility for not more than 4 senior adults and persons with disabilities;

143 and day care facility for senior adults and persons with disabilities.

144

145 **Frontage:** a property line shared with an existing or master-planned public or private road,

146 street, highway, or alley right-of-way or easement boundary.

147

148 **Limits of Disturbance:** an area defined by a perimeter within which all construction work must

149 occur as established on a certified site plan.

150

151 **Live/Work unit:** Buildings or spaces within buildings that are used jointly for non-residential

152 and residential purposes.

153

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

157  
158 **Public Arts Trust Steering Committee:** A committee of the Arts and Humanities Council that  
159 allocates funds from the Public Arts Trust.

160  
161 **Public owned or operated uses:** Activities that are located on land owned by or leased and  
162 developed or operated by a local, county, state, or federal body or agency.

163  
164 **Recreational facilities, participatory:** Facilities used for sports or recreation.

165  
166 **Reconstruction:** Building the same or less floor area on or within the footprint of a demolished  
167 or partially demolished building.

168  
169 **Renovation:** An interior or exterior alteration that does not affect a building's footprint.

170  
171 **Seasonal Outdoor Sales:** A lot or parcel where a use or product is offered annually for a limited  
172 period of time during the same calendar period each year. The availability or demand for the  
173 use or product is related to the calendar period, such as Christmas trees, pumpkin patches, or  
174 corn mazes.

175  
176 **Tenant Footprint:** The horizontal area measured within the exterior walls for the ground floor  
177 of the main structure allocated to each non-residential tenant or owner-occupant.

178  
179 **Transit proximity:** Transit proximity is categorized in two levels: 1. proximity to an existing  
180 or planned Metrorail Station; 2. proximity to an existing or planned station or stop along a  
181 rail or bus line with a dedicated, fixed path. All distances for transit proximity are measured  
182 from the transit station or stop portal. To qualify as a planned station or stop the station or  
183 stop must be in the Capital Improvement Program queue.

184  
185 **59-C-15.4. Methods of Development and Approval Procedures.**

186  
187 The CRN zones allow development only under the standard method. The CRT and CR zones  
188 allow development under the standard method and may allow development under the optional  
189 method.

190  
191  
192

193 **59-C-15.41. Standard Method.**

194

195 Standard method development is allowed under the following limitations and requirements.

196

197 (a) In the CRN zones, the maximum total, non-residential, and residential density and  
198 maximum height for any property is set by the zone shown on the zoning map.

199

200 (b) In the CRT and CR zones, the maximum standard method density is the lesser of the  
201 density set by the zone shown on the zoning map or:

202

Category	Maximum Total Density (FAR)
CRT	1.0
CR	0.5

203

204 (c) A site plan approval under Division 59-D-3 is required for a standard method  
205 development only if it:

206

207 (1) is a limited use;

208

209 (2) requests a gross floor area exceeding 10,000 square feet;

210

211 (3) requests a building height exceeding 40 feet; or

212

213 (4) contains 10 or more dwelling units.

214

215 **59-C-15.42. Optional Method.**

216

217 Optional method development is allowed under the following limitations and requirements.

218

219 (a) The maximum total, non-residential, and residential density and height for any property is  
220 set by the zone shown on the zoning map.

221

222 (b) A sketch plan must be submitted under Section 59-C-15.43. Site plan(s) must be  
223 submitted under Division 59-D-3 for any development on a property with an approved  
224 sketch plan.

225

226 (c) Public benefits must be provided under Section 59-C-15.8.

227

228

229 **59-C-15.43. Sketch Plan.**

230

231 Any optional method development in the CRT and CR zones requires an approved sketch plan.

232 Any required preliminary plan of subdivision or site plan may not be submitted before a sketch

233 plan has been approved.

234

235 (a) A sketch plan application must contain:

236

237 (1) a justification statement that addresses how the project meets the requirements  
238 and standards of this Division and describes how the development will further the  
239 objectives of the applicable master or sector plan;

240

241 (2) illustrative plans showing:

242

243 (A) building densities, massing, heights, and the anticipated mix of uses;

244

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

246

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

248

249 (D) relationships between existing or proposed adjacent buildings and rights-  
250 of-way;

251

252 (3) a table of proposed public benefits and the incentive density requested for each;  
253 and

254

255 (4) a general phasing outline of structures, uses, rights-of-way, sidewalks,  
256 dedications, public benefits, and future preliminary and site plan applications.

257

258 (b) Procedure for a sketch plan:

259

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

263

264 (A) notice;

265

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

267



- 268 (C) holding a pre-submittal meeting.  
269
- 270 (2) A public hearing must be held by the Planning Board on each sketch plan  
271 application no later than 90 days after the filing of an optional method  
272 development application, unless a request to extend this period is requested by the  
273 applicant, Planning Board staff, or other interested parties. A request for an  
274 extension must be granted if the Planning Board finds it not to constitute prejudice  
275 or undue hardship on any interested party. A recommendation regarding any  
276 request for extension must be acted upon by the Planning Board on or before the  
277 90-day hearing period expires. Notice of the extension request and  
278 recommendation by Staff must be posted no fewer than 10 days before the item's  
279 agenda date.  
280
- 281 (3) No fewer than 10 days before the public hearing on a sketch plan, Planning Board  
282 staff must submit its analysis of the application, including its findings, comments,  
283 and recommendations with respect to the requirements and standards of this  
284 division and any other matters that may assist the Planning Board in reaching its  
285 decision on the application. This staff report must be included in the record of the  
286 public hearing.  
287
- 288 (4) The Planning Board must act within 30 days after the close of the record of the  
289 public hearing, by majority vote of those present and voting based upon the  
290 hearing record, to:  
291
- 292 (A) approve;  
293
- 294 (B) approve subject to modifications, conditions, or binding elements; or  
295
- 296 (C) disapprove.  
297
- 298 (c) In approving a sketch plan, the Planning Board must determine that the following  
299 elements are appropriate in concept and appropriate for further detailed review at site  
300 plan. The Planning Board must find that the sketch plan:  
301
- 302 (1) meets the objectives, general requirements, and standards of this Division;  
303
- 304 (2) furthers the recommendations and objectives of the applicable master or sector  
305 plan;  
306

- 307 (3) achieves compatible internal and external relationships between existing and  
308 proposed buildings, open space, and uses;  
309
- 310 (4) provides satisfactory general vehicular, pedestrian, and bicyclist access,  
311 circulation, parking, and loading;  
312
- 313 (5) proposes an outline of public benefits that supports the requested incentive  
314 density; and  
315
- 316 (6) establishes a feasible and appropriate provisional phasing plan for all structures,  
317 uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary  
318 and site plan applications.  
319
- 320 (d) During site plan review, the Planning Board may approve modifications to the binding  
321 elements or conditions of an approved sketch plan.  
322
- 323 (1) If changes to a sketch plan are requested by the applicant, notice of the site plan  
324 application must identify those changes requested. The applicant has the burden  
325 of persuading the Planning Board that such changes should be approved.  
326
- 327 (2) Other changes may be requested by Planning Board staff or required by the  
328 Planning Board. If changes are recommended after the application is made but  
329 before posting of Planning Board staff's recommendation, notice of the site plan  
330 hearing must identify changes requested.  
331
- 332 (3) Before approving or requiring a change to a sketch plan element, the Planning  
333 Board must find that the changed element better supports the findings necessary  
334 for site plan approval.  
335

336 **59-C-15.5. Land Uses.**  
337

338 No use is allowed in the CRN, CRT, or CR zones except as indicated below:

- 339 - *Permitted Uses* are designated by the letter "P" and are permitted subject to all  
340 applicable regulations.  
341
- 342 - *Limited Uses* are designated by the letter "L" and are permitted subject to all  
343 applicable regulations and the additional restrictions under Section 59-C-15.51.  
344

345 - *Special Exception Uses* are designated by the letters “SE” and may be authorized  
 346 as special exceptions under Article 59-G.  
 347

Use	CRN	CRT	CR
<b>(a) Agricultural</b>			
Farm and country markets	L	P	P
Farm, limited to crops, vegetables, herbs, and ornamental plants	P	P	P
Nursery, horticultural – retail or wholesale		P	P
Seasonal outdoor sales	P	P	P
<b>(b) Residential</b>			
Dwellings	P	P	P
Group homes, small	P	P	P
Group homes, large	L	P	P
Hospice care facilities	L	P	P
Housing and related facilities for senior adults or persons with disabilities	P	P	P
Life care facilities	P	P	P
Live/Work units	P	P	P
Personal living quarters	P	P	P
<b>(c) Commercial Sales and Service</b>			
Advanced technology and biotechnology		P	P
Ambulance or rescue squads, private	L	L	P
Animal boarding places	SE	SE	SE
Automobile filling stations		SE	SE
Automobile rental services, excluding storage of vehicles and supplies	P	P	P
Automobile rental services, including storage of vehicles and supplies		L	L
Automobile repair and services		L	P
Automobile sales, indoors		L	P
Automobile sales, outdoors		L	P
Clinic	L	P	P
Conference centers		P	P
Eating and drinking establishments	L	P	P
Health clubs and gyms	L	P	P
Home occupations, major	SE	SE	SE
Home occupations, registered and no-impact	P	P	P
Hotels and motels	L	P	P
Laboratories		P	P
Dry cleaning and laundry pick-up stations	P	P	P
Offices, general	P	P	P
Recreational facilities, participatory	L	P	P
Research, development, and related activities		P	P
Retail trades, businesses, and services of a general commercial nature with each tenant footprint up to 5,000sf	P	P	P
Retail trades, businesses, and services of a general commercial nature with each tenant footprint between 5,000sf and 15,000sf	L	P	P
Retail trades, businesses, and services of a general commercial nature with each tenant footprint between 15,000sf and 60,000sf		P	P

Retail trades, businesses, and services of a general commercial nature with each tenant footprint over 60,000sf		L	P
Self-storage facilities		SE	SE
Veterinary hospitals and offices with boarding facilities	SE	L	P
Veterinary hospitals and offices without boarding facilities	P	P	P
Warehousing, not including self-storage, less than 10,000 square feet		P	P
<b>(d) Institutional &amp; Civic</b>			
Charitable and philanthropic institutions	L	P	P
Cultural institutions	L	P	P
Day care facilities and centers with over 30 users	L	L	P
Day care facilities and centers with up to 30 users	P	P	P
Educational institutions, private	L	P	P
Hospitals		P	P
Parks and playgrounds, private	P	P	P
Private clubs and service organizations	L	P	P
Publicly owned or publicly operated uses	P	P	P
Religious institutions	P	P	P
<b>(e) Industrial</b>			
Manufacturing and production, artisan	P	P	P
Manufacturing, compounding, processing, or packaging of cosmetics, drugs, perfumes, pharmaceuticals, toiletries, synthetic molecules, and projects resulting from biotechnical and biogenetic research and development		L	P
Manufacturing and assembly of medical, scientific, or technical instruments, devices, and equipment		L	P
<b>(f) Other</b>			
Accessory buildings and uses	P	P	P
Bus terminals, non-public		P	P
Parking garages, automobile		P	P
Public utility buildings, structures, and underground facilities	P	P	P
Radio and television broadcast studios		P	P
Rooftop mounted antennas and related unmanned equipment buildings, cabinets, or rooms	P	P	P

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

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

- (a) Located adjacent to a property in an applicable residential or agricultural zone; or
- (b) Separated from such a property only by the right-of-way of a primary, secondary, or tertiary residential street.

360 Where these circumstances do not apply, the use is considered a permitted use and Section 59-C-  
 361 15.41(c)(1) does not apply.

362

363 **59-C-15.512. Restrictions and requirements of limited uses.**

364

365 Limited uses must meet the site plan findings required under 59-D-3 and comply with the design  
 366 recommendations of the applicable sector or master plan, and associated design guidelines, to  
 367 ensure compatible relationships between such uses and proximate residential housing through  
 368 mitigating factors including, but not limited to, increased setbacks, sound and visual barriers,  
 369 decreased structural heights, or diminished site lighting.

370

371 **59-C-15.6. General Requirements.**

372

373 Development in the CRN, CRT, and CR zones must comply with the following requirements.

374

375 **59-C-15.61. Master Plan and Design Guidelines Conformance.**

376

377 Development that requires a site plan must be consistent with the applicable master or sector  
 378 plan, unless the Planning Board finds that events have occurred to render the relevant master or  
 379 sector plan recommendation no longer appropriate, and must substantially conform to any design  
 380 guidelines approved by the Planning Board that implement the applicable plan.

381

382 **59-C-15.62. Bicycle Parking Spaces and Commuter Shower/Change Facility.**

383

384 In place of the requirements of Article 59-E regarding bicycle parking spaces, development in the  
 385 CRN, CRT, and CR zones must comply with the following provisions.

386

387 (a) Bicycle Parking Spaces

388

Use	Publicly Accessible Bike Spaces	Private, Secure Bike Spaces
(1) Residential		
In a building containing less than 20 dwelling units	2	4
In a building containing 20 or more dwelling units	0.1 per unit to a maximum requirement of 10	0.5 per unit to a maximum requirement of 100
In any group living arrangement expressly for senior citizens	0.1 per unit, not fewer than 2, to a maximum requirement of 100	0.1 per unit, not fewer than 2, to a maximum requirement of 100

389

Use	Publicly Accessible Bike Spaces	Private, Secure Bike Spaces
(2) Non-Residential		
Total non-residential floor area under 10,000sf	2	2
Total non-residential floor area between 10,000sf and 100,000sf	2 per 10,000sf	1 per 10,000sf, not fewer than 2, to a maximum requirement of 10
Total non-residential floor area greater than 100,000sf	20	1 per 10,000sf, not fewer than 10, to a maximum requirement of 100.

390

391 (b) For office uses with a total non-residential floor area of 100,000sf or greater, one  
 392 shower/change facility is required for each gender available only to employees when the  
 393 building is accessible.

394

395 **59-C-15.63. Parking.**

396

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

401

402 **59-C-15.631. Parking Ratios.**

403

404 Parking spaces must be provided according to the following minimums and maximums. The  
 405 minimum number of spaces required is equal to the number of parking spaces that would  
 406 otherwise be required by Division 59-E-3 multiplied by the applicable factor in the table, or to  
 407 the ratio indicated. When maximums are imposed, no more parking than would otherwise be  
 408 required by Division 59-E-3 may be provided.

409

Use	CRN		CRT		CR			
	Up to ½ mile	Greater than ½ mile	Up to ½ mile	Greater than ½ mile	Up to ¼ mile	¼ to ½ mile	½ to 1 mile	Greater than 1 mile
(a) Residential								
Maximum:	None	None	59-E	None	59-E	59-E	59-E	None
Minimum:	0.8	1.0	0.7	0.8	0.6	0.7	0.8	0.9

410

411

412

413

Use	CRN		CRT		CR			
(b) Retail and restaurant non-residential uses (gross leasable indoor area; no parking spaces are required for outdoor patron area)								
Maximum:	59-E	None	59-E	None	59-E	59-E	59-E	None
Minimum:	0.6	0.8	0.4	0.6	4 per 1,000 sf	4 per 1,000 sf	4 per 1,000 sf	0.8
(c) All other non-residential uses								
Maximum:	59-E	None	59-E	None	59-E	59-E	59-E	None
Minimum:	0.6	0.8	0.4	0.6	0.2	0.4	0.6	0.8

414

415 (d) The appropriate parking rates apply to the gross floor area of each use within each  
416 distance category.

417

418 **59-C-15.632. Accepted Parking Spaces**

419

420 Parking requirements must be met by any of the following:

421

422 (a) providing the spaces on site;

423

424 (b) constructing publicly available on-street parking; or

425

426 (c) participating in:

427

428 (1) a parking lot district;

429

430 (2) a shared parking program established by municipal resolution or;

431

432 (3) entering into an agreement for shared parking spaces in a public or private facility  
433 within ¼ mile of the subject lot, if the off-site parking facility is not in an  
434 agricultural (Division 59-C-9), planned unit development (Division 59-C-7), or  
435 residential (Division 59-C-1) zone, unless otherwise allowed by this Chapter.

436

437 Every “car-share” space provided reduces the total number of required spaces by 6 spaces for a  
438 non-residential use or 3 spaces for a residential use.

439

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

445

446 **59-C-15.633. Parking Space Location and Access.**

447

448 The design of surface parking spaces must comply with the following:

449

450 (a) parking spaces on or above grade must not be located between the street and the main  
451 front wall of the building or the side wall of the main building on a corner lot; and

452

453 (b) if a site is adjacent to an alley, the primary vehicular access to the parking facility must be  
454 from that alley.

455

456 **59-C-15.634. Drive-Through Facility Design.**

457

458 Any drive-through facility must comply with the following:

459

460 (a) no part of a drive-through service facility, including the stacking area, may be located  
461 within 100 feet of a property line shared with an applicable residentially-zoned property;

462

463 (b) no drive-through service window, drive aisle, or stacking area may be located between the  
464 street and the main front wall of the main building;

465

466 (c) no drive-through service window, drive aisle, or stacking area may be located between the  
467 street and the side wall of the main building on a corner lot unless permanently screened  
468 from any street by a 5-foot or higher wall or fence; and

469

470 (d) any development with a drive-through service facility must submit a site plan under  
471 Section 59-D-3.

472

473 **59-C-15.635. Landscaping and Lighting.**

474 Except for areas used for internal driveway or sidewalk connections between lots or parcels that  
475 are not in applicable residential zones, landscaping for surface parking spaces must satisfy the  
476 following requirements:

477

478

479

480

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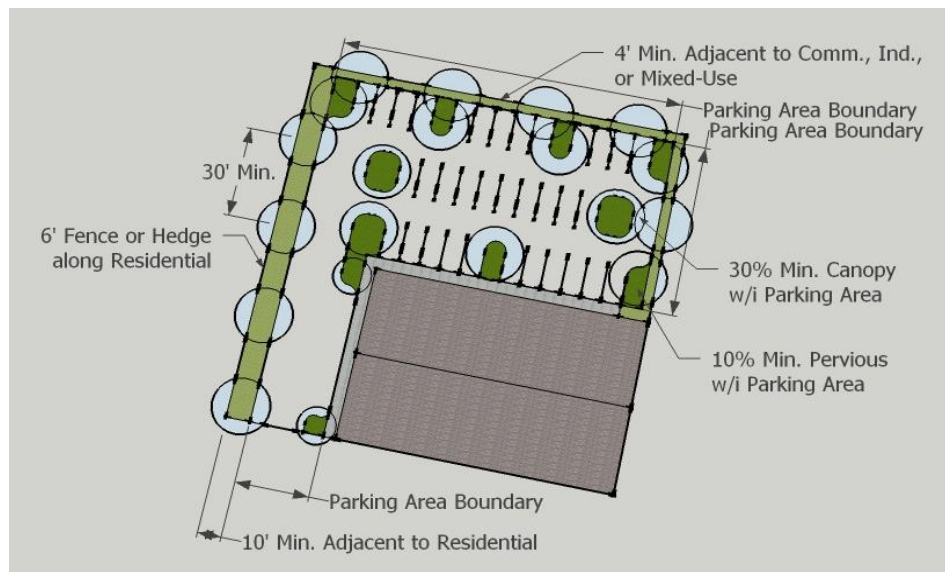
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Minimum Landscape Standards for Surface Parking	
Subject	Requirement
(a) Property line adjacent to a right-of-way	No less than 6-foot wide continuous soil panel (excluding any easements) with stormwater facilities, planting bed, or lawn including a minimum 3-foot high continuous evergreen hedge or fence; plus one deciduous tree per 30 feet of street frontage or per the applicable streetscape standards.
(b) Property line adjacent to a lot or parcel in an applicable residential zone	No less than 10-foot width continuous soil panel (excluding any easements) with stormwater facilities, planting bed, or lawn including a minimum 6-foot high continuous evergreen hedge or fence; plus one deciduous tree per 30 feet of frontage.
(c) Property line adjacent to a lot or parcel in any zone not subject to (b), above	No less than 4-foot width continuous soil panel (excluding any easements) with stormwater facilities, planting bed, or lawn; plus one deciduous tree per 30 feet.
(d) Internal Pervious Area	No less than 10 percent of the parking facility area comprised of individual areas of at least 100 square feet each.
(e) Tree Canopy Coverage	No less than 30 percent of the parking facility area (at 15 years growth).
(f) Lighting	Per the Illuminating Engineering Society of North America standards, or County equivalent, with full or partial cut-off fixtures and no more than 0.5 footcandle illumination at any property line subject to (b), above.

485



*Surface Parking Landscape Requirements Illustrative*

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

490

491 The Director, Planning Board, or Board of Appeals may waive any requirement of Section 59-C-

492 15.63 not necessary to accomplish the objectives of this Division and Section 59-E-4.2, and in

493 conjunction with such a waiver may adopt reasonable mitigating requirements above the

494 minimum standards. At least 10 days notice of any request for a waiver under this Section must  
495 be provided to all adjoining property owners, affected citizen associations, and Planning  
496 Department Staff, if applicable, before a decision may be made.

497

498 **59-C-15.7. Development Standards.**

499

500 Development in the CRN, CRT, and CR zones must comply with the following standards.

501

502 **59-C-15.71. Density and Height.**

503

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

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507 **59-C-15.72. Setbacks.**

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509 (a) Where a property is adjacent to a lot or parcel in an applicable residential zone any  
510 building:

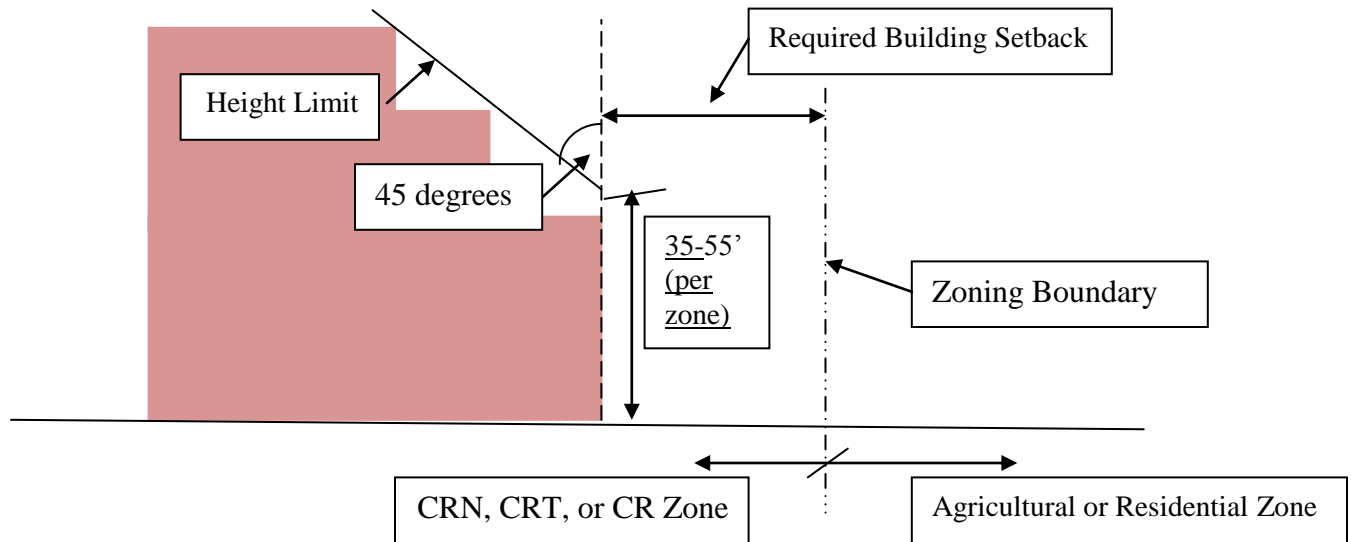
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512 (1) must have a minimum setback of 25 feet or the setback required by the adjacent  
513 property, whichever is greater; and

514

515 (2) must not project beyond a 45 degree angular plane projecting over the subject  
516 property measured from a height of 55 feet in the CR zones, 45 feet in the CRT  
517 zones, or 35 feet in the CRN zones at the setback line determined above, with the  
518 exception of those features exempt from height and setback restrictions under  
519 Section 59-B-1.

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*Angular Plan Setback Illustration*

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- (b) The development of a new building in place of a building existing when a CRN, CRT, or CR zone is applied may be built to the previously allowed setback if the height of the new building is not increased above the height of the former building.

**59-C-15.73. Public Use Space.**

- (a) Public use space is not required for any standard method project that does not require a site plan. If a site plan is required for the proposed project, public use space is required as follows:

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

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

<b>Minimum Required Public Use Space (% of net tract area)</b>				
Acres (Gross)	Number of Existing, Proposed, and Master-Planned Right-of-Way Frontages			
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4+</b>
< 1/2	0	0	0	5
<b>1/2 - 1.00</b>	0	0	5	10
<b>1.01 - 3.00</b>	0	5	10	10
<b>3.01 - 6.00</b>	5	10	10	10
<b>6.01 +</b>	10	10	10	10

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- (c) Public use space must be:
  - (1) rounded to the next highest 100 square feet;
  - (2) be easily and readily accessible to the public; and
  - (3) contain amenities such as seating options, shade, landscaping, artwork, or fountains.
  
- (d) Instead of providing on-site public use space, an applicant may satisfy all or part of the requirement by one or more of the following means, subject to Planning Board approval:
  - (1) implementing public park or public use space improvements of an equal or greater size within or near the applicable master or sector plan area; or
  - (2) making a payment in part or in full for design, construction, renovation, restoration, installation, and/or operation within or near the applicable master or sector plan area if the payment is:
    - (A) equal to the cost of constructing an equal amount of public use space and associated amenities on-site per square foot plus the fair market value of the application property per square foot;
    - (B) used to implement the open space, recreation, and cultural goals of the applicable master or sector plan; and
    - (C) made within 30 days of the release of any building permit for the subject application.

**59-C-15.74. Residential Amenity Space.**

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

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 room(s), at least one of which must contain a kitchen and bathroom.	A minimum of 20 square feet per market-rate unit up to 5,000sf.
Passive or active outdoor recreational space.	A minimum of 20 square feet per market-rate unit, of which at least 400 square feet must adjoin or be directly accessible from the indoor amenity space, up to 5,000sf.

569

570 (b) Additional amenity space is not required for Moderately Priced Dwelling Units (MPDUs)  
 571 or Workforce Housing Units (WFHUs) on a site within a metro station policy area or  
 572 where the Planning Board finds adequate recreation facilities and open space area  
 573 available within ½ mile of the subject site. If such a finding cannot be made, amenity  
 574 space must be provided for each MPDU and WFHU per the rate in the table above.

575

576 (c) The provision of residential amenity space may be counted towards meeting the required  
 577 recreation calculations under the M-NCPPC Recreation Guidelines, as amended.

578

579 **59-C-15.8. Special Regulations for the Optional Method of Development**

580

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

584

585 **59-C-15.81. Incentive Density Categories.**

586

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

589

590 (a) Major public facilities;

591

592 (b) Transit proximity;

593

594 (c) Connectivity between uses, activities, and mobility options;

595

596 (d) Diversity of uses and activities;

597

598 (e) Quality of building and site design; and

599

600 (f) Protection and enhancement of the natural environment.

601

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

604

605 **59-C-15.82. Public Benefits Required.**

606

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

609

610 (a) Development in the CRT zones must provide public benefits worth a minimum total of  
611 50 points; and

612

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

616

617 **59-C-15.83. General Incentive Density Considerations.**

618

619 In approving any incentive density based on the provision of public benefits, the Planning Board  
620 must consider:

621

622 (a) The recommendations and objectives [policy objectives and priorities] of the applicable  
623 master or sector plan;

624

625 (b) The CR Zone Incentive Density Implementation Guidelines and any design guidelines  
626 adopted for the applicable master plan area;

627

628 (c) The size and configuration of the tract;

629

630 (d) The relationship of the site to adjacent properties;

631

632 (e) The presence or lack of similar public benefits nearby; and

633

634 (g) Enhancements beyond the elements listed in the individual public benefit descriptions or  
635 criteria that increase public access to or enjoyment of the benefit.

636

637 *Examples:* Pedestrian activation along a through-block connection, greater vegetated roof or tree  
638 canopy area than required, tower step-backs at a lower height or deeper into the site than the

639                   | minimum necessary to qualify for the benefit, or provision of neighborhood services for more  
640                   | smaller businesses than required.

641

642 **59-C-15.84. CR Zones Incentive Density Implementation Guidelines.**

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

645

646 (a) Consistent with the objectives of this Division;

647

648 (b) In addition to any standards, requirements, or rules of incentive density calculation  
649 included in this Division, but may not conflict with those provisions; and

650

651 (c) Only allow incentive density for those public benefits listed in Section 59-C-15.85.

652

653

654 **59-C-15.85. Individual Public Benefit Descriptions and Criteria.**

655

656 **59-C-15.851. Major Public Facilities.**

657

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

660

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

664

665 (b) If a major public facility is not recommended in the applicable master or sector plan, the  
666 Planning Board must find that the facility or improvement provides the community with a  
667 resource that is at least as beneficial as other major facilities recommended in the  
668 applicable master or sector plan. Additionally, any infrastructure upgrade may only  
669 receive incentive density for improvements beyond those required by any applicable  
670 adequate public facilities requirement to complete the proposed development.

671

672 (c) Because of their significance in place-making, the Planning Board may approve incentive  
673 density of up to 40 points in the CRT zones and 70 points in the CR zones for (1) the  
674 conveyance of a site or floor area for, (2) construction of, and/or (3) making a payment  
675 for a major public facility that is accepted for use and/or operation by an appropriate  
676 public agency, community association, or nonprofit organization.

677

678

679 **59-C-15.852. Transit Proximity.**

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Development near transit facilities encourages greater use of transit, controls sprawl, and reduces vehicle miles traveled, congestion, and carbon emissions. Transit proximity points are granted for proximity to existing or planned transit based on transit service level and CR category as follows:

Proximity	Adjacent or confronting		Within ¼ mile		Between ¼ and ½ mile		Between ½ and 1 mile	
	1	2	1	2	1	2	1	2
Transit Service Level	1	2	1	2	1	2	1	2
CRT	25	15	20	12.5	15	10	10	7.5
CR	50	30	40	25	30	20	20	15

686

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

691

(b) For split proximity-range projects:

693

(1) If at least 75 percent of the gross tract area in a single sketch plan application is within the closer of two proximity ranges, the entire project may take the points for the closer range; but

697

(2) If less than 75 percent of the gross tract area in a single sketch plan is within the closer of two proximity ranges, the points must be calculated as the weighted average of the percentage of area in each range.

701

702 **59-C-15.853. Connectivity and Mobility.**

703

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

707

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

711



- 712 (b) **Minimum Parking:** Up to 10 points for providing less than the maximum allowed  
713 number of parking spaces, if a maximum is applicable under Section 59-C-15.631.  
714
- 715 (c) **Through-Block Connections:** Up to 20 points for safe and attractive pedestrian  
716 connections between streets.  
717
- 718 (d) **Public Parking:** Up to 25 points for providing up to the maximum number of parking  
719 spaces allowed in the zone as public parking.  
720
- 721 (e) **Transit Access Improvement:** Up to 20 points for ensuring that access to transit  
722 facilities meets County standards for handicapped accessibility.  
723
- 724 (f) **Trip Mitigation:** At least 15 points for entering into a binding Traffic Mitigation  
725 Agreement to reduce the number of weekday morning and evening peak hour trips  
726 attributable to the site in excess of any other regulatory requirement; the agreement must  
727 result in a non-auto driver mode share of at least 50% for trips attributable to the site.  
728
- 729 (g) **Streetscape:** Up to 20 points for construction of off-site streetscape excluding any  
730 streetscape improvements required by this Division.  
731
- 732 (h) **Advance Dedication:** Up to 30 points for dedicating or providing a reservation for  
733 dedication for master-planned rights-of-way in advance of a preliminary or site plan  
734 application.  
735
- 736 (i) **Way-Finding:** At least 5 points for design and implementation of a way-finding system  
737 orienting pedestrians and cyclists to major open spaces, cultural facilities, and transit  
738 opportunities.  
739

740 **59-C-15.854. Diversity of Uses and Activities.**  
741

742 Development that increases the variety and mixture of land uses, types of housing, economic  
743 variety, and community activities; contributes to development of more efficient and sustainable  
744 communities; reduces the necessity for automobile use; and facilitates healthier lifestyles and  
745 greater social interaction.  
746

- 747 (a) **Affordable Housing:**
  - 748 (1) All residential development must comply with the requirements of Chapter 25A
  - 749 for the provision of Moderately Priced Dwelling Units (MPDUs) except that
  - 750 achieving bonus density under Section 25A-5(c)(3), as amended from time to

751 time, entitles an applicant to incentive density points under this Division equal to  
752 the bonus density percentage.

753

754 *Example:* Provision of 14.5% MPDUs is awarded 20 points; provision of 13.0% MPDUs is  
755 awarded 5 points.

756

757 (2) Up to 30 points for providing Workforce Housing Units (WFHUs) at a rate of 2  
758 times the percentage of total units, excluding MPDUs.

759

760 *Example:* Provision of 5% WFHUs is awarded 10 points; provision of 12% WFHUs is awarded  
761 24 points.

762

763 (b) **Adaptive Buildings:** Up to 15 points for constructing commercial or mixed use buildings  
764 with minimum floor-to-floor heights of at least 15 feet on any floor that meets grade and  
765 12 feet on all other floors. Internal structural systems must be able to accommodate  
766 various types of use with only minor modifications.

767

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

770

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

773

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

777

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

781

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

784

785 **59-C-15.855. Quality Building and Site Design.**

786

787 High quality design is especially important in urban, integrated-use settings to ensure that  
788 buildings and uses are visually compatible with each other and adjacent communities and to  
789 provide a harmonious pattern of development. Due to increased density in these settings,

790 buildings tend to be highly visible and high quality design helps attract residents, patrons, and  
791 businesses to these areas. Location, height, massing, façade treatments, and ornamentation of  
792 buildings affect sense of place, orientation, and the perception of comfort and convenience. The  
793 quality of the built environment affects light, shadow, wind, and noise, as well as the functional  
794 and economic value of property.

795

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

800

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

803

804 (c) **Tower Step-Back:** At least 5 points for stepping back a building's upper floors by a  
805 minimum of 6 feet behind the first floor façade. The step-back must begin at a height no  
806 greater than 72 feet.

807

808 (d) **Public Art:** Up to 15 points for installing public art reviewed for comment by, or paying  
809 a fee accepted by, the Public Arts Trust Steering Committee.

810

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

813

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

817

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

823

824 **59-C-15.856. Protection and Enhancement of the Natural Environment.**

825

826 Protection and enhancement of natural systems and decreases in energy consumption help  
827 mitigate or reverse environmental impacts such as heat island effects from the built environment,

828 inadequate carbon-sequestration, habitat and agricultural land loss, and air and water pollution  
829 caused by reliance on the automobile.

830

831 (a) **Building Lot Termination(BLT):** Up to 30 points for the purchase of BLT easements or  
832 payment to the Agricultural Land Preservation Fund (ALPF). The first 5 points are  
833 mandatory for all developments in the CR zones; up to 25 additional points are allowed  
834 as an option.

835

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

839

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

842

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

844

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

850

851 (2) Up to 25 points for the purchase of BLTs, or equivalent payments to the ALPF for  
852 any incentive density above 5%. Each BLT easement purchase or payment is  
853 equal to 30,000 square feet of floor area, or such proportionate square footage  
854 represented by a fractional BLT purchase or payment. This is converted into  
855 points by dividing the incentive density floor area covered by the purchase or  
856 payment by the total square feet of the incentive density area.[must be made to the  
857 Agricultural Land Preservation Fund, based on the amount established by  
858 Executive Regulations under Chapter 2B; if a fraction of a BLT easement is  
859 needed, a payment based on the gross square footage of incentive density must be  
860 made to the Agricultural Land Preservation Fund for at least the fraction of the  
861 BLT easement.

862

863 (3) In the CRT zones, BLT payments are optional; each BLT easement purchase or  
864 payment is equal to 30,000sf of floor area, or such proportionate square footage  
865 represented by a fractional BLT purchase or payment.

866

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

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

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

- (a) One or more lawfully existing buildings, structures, or uses that predate the application of the CR zone to the site are conforming structures or uses, and may be continued, renovated, repaired, or reconstructed to the same size and configuration, or enlarged up to a total of 10 percent above the total existing floor areas of all buildings and structures on site or 30,000 square feet, whichever is less, and such development does not require a site plan. Expansions in excess of the limitations in this Subsection will require compliance with the full provisions of this Division. Uses located in a building or structure deemed conforming under the provisions of this Subsection may be converted to any permitted non-residential or residential use(s) up to the density limits established by the zone.
- (b) A project that received an approved development plan under Division 59-D-1 or schematic development plan under Division 59-H-2 before the application of the CR zones to the site may proceed under the binding elements of the development plan and will thereafter be treated as a lawfully existing building, and may be renovated or reconstructed under Subsection (a) above. Such development plans or schematic development plans may be amended as allowed under Division 59-D-1 or 59-H-2 under the provisions of the previous zone; however, any incremental increase in the total floor area beyond that allowed by Subsection (a) above or any incremental increase in building height greater than 15 feet requires, with respect to the incremental increase only, full compliance with the provisions of this Division. Any failure to fully comply with the binding elements of the development plan will require full compliance with the provisions of this Division.
- (c) At the option of the owner, any portion of a project subject to an approved development plan or schematic development plan described in Subsection (b) above may be developed under this Division. The remainder of that project continues to be subject to the approved development plan or schematic development plan, under Subsections (a) and (b).
- (d) A project which has had a preliminary or site plan approved before 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, at the option of the owner. If built under the previous approval, it will be treated as a conforming building, structure, or use and may be renovated or reconstructed under Subsection (a) above. If built with an incremental increase over the previous approval, only that incremental increase must comply with this Division.

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