

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2016 Legislative Session

Legislative Day No.8

Bill No. 52 -2016

Introduced by the Chairperson at the request of the County Executive

AN ACT amending the *Downtown Columbia Plan*, a General Plan Amendment, to revise the Downtown Columbia affordable housing program; setting forth methods for the development of affordable housing; revising the Downtown Revitalization Phasing Progression to reflect the timing of affordable housing development; amending certain Community Enhancements, Programs and Public Amenities to reflect the methods for the development of affordable housing; and generally relating to planning, zoning and land use in Howard County.

Introduced and read first time _____, 2016. Ordered posted and hearing scheduled.

By order _____
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2016.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2016 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2016 at ____ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2016

Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1 approved Bill No. 58-2009 approving the Downtown Columbia Plan, A General Plan
2 Amendment (“Downtown Columbia Plan”); and
3

4 **WHEREAS**, the Downtown Columbia Plan envisioned a full spectrum housing program
5 for Downtown Columbia to be achieved through the creation of a Downtown Columbia
6 Community Housing Foundation subsequently recognized as the Columbia Downtown Housing
7 Corporation (“CDHC”) which would administer the Downtown Columbia Community Housing
8 Fund (“Fund”) to be created from contributions from the Downtown Columbia Community
9 Developer or Howard Research and Development Corporation (“HRD”), other developer and
10 property owner contributions, and other sources; and
11

12 **WHEREAS**, on March 31, 2014, CDHC presented its Second Annual Report in which
13 CDHC advised that without changes in legislation it would be difficult to realize its goals
14 regarding the development of affordable housing in Downtown; and
15

16 **WHEREAS**, between June and September of 2015, representatives of CDHC, HRD, the
17 Howard County Housing Commission (“Commission”) and Howard County, Maryland
18 (“County”) met to develop an alternative means of achieving a full spectrum of housing in
19 Downtown Columbia, referred to as the Joint Recommendations; and
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21 **WHEREAS**, on September 8, 2015, CDHC, HRD, the Commission and the County
22 presented the Joint Recommendations to the County Council, and
23

24 **WHEREAS**, between September and November of 2015, the County conducted a series
25 of analyses of the Joint Recommendations and presented them to the County Council; and
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27 **WHEREAS**, the Joint Recommendations formed the basis of requests for legislative
28 changes to the Downtown Columbia Plan, *PlanHoward 2030*, the Howard County Zoning
29 Regulations, and the Howard County Code of Ordinances; and

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WHEREAS, this Act amends certain provisions of the Downtown Columbia Plan in order to accomplish the goals of providing a broad spectrum of affordable housing in Downtown Columbia as laid out in the Joint Recommendations; and

WHEREAS, on May 10, 2016, the Howard County Planning Board recommended approval of the Downtown Columbia Plan amendments included in this Act with modifications.

NOW, THEREFORE,

Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the Downtown Columbia Plan is hereby amended as follows and as more specifically shown in the attached pages:

- 1. Section 1.5, Diverse Housing, is amended as shown in the attached Exhibit A;*
- 2. Section 4.1, General Plan, is amended as shown in the attached Exhibit B;*
- 3. Remove the existing Downtown Revitalization Phasing Progression, as shown in Section 4.2, Phasing on page 73 of the adopted Downtown Columbia Plan, and substitute the attached revised Downtown Revitalization Phasing Progression as shown in the attached Exhibit C; and*
- 4. The Downtown Columbia Community Enhancements, Programs and Public Amenities (CEPPAs) Implementation Chart is amended as shown in the attached Exhibit D.*

Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that the Director of the Department of Planning and Zoning may correct obvious errors, capitalization, spelling, grammar, headings and similar matters and may publish this amendment to the Downtown Columbia Plan, A General Plan Amendment, by adding or amending covers, title pages, a table of contents, and graphics to improve readability.

1 **Section 3. And Be It Further Enacted** by the County Council of Howard County, Maryland,
2 *that this amendment be attached to and made part of the Downtown Columbia Plan, A General*
3 *Plan Amendment.*

4

5 **Section 4. And Be It Further Enacted** by the County Council of Howard County, Maryland, *that*
6 *this Act shall become effective 61 days after its enactment.*

EXHIBIT A

1.5 DIVERSE HOUSING

This Plan recognizes and celebrates the original vision of Jim Rouse to create a socially responsible city for people of all ages, incomes and backgrounds. The establishment of an ongoing mechanism to provide a full spectrum of housing into the future is an important social responsibility shared by us all. Of related but equal importance is encouraging within downtown Columbia itself the diversity of people that exists elsewhere in Columbia today. Realizing this diversity will be important to the social and economic success of the downtown, where the mixing of individuals with different backgrounds and incomes will result in an ongoing exchange of ideas in an environment where residents, workers and visitors will have an opportunity to learn from one another and grow together as a community.

Downtown Columbia: A Community Vision recaptures the spirit of the Rouse vision for a complete city in which different types of people live together to create a fully realized community. In such respect, this Plan also recognizes the enrichment a community can experience through the diversity of its people. This Plan strives to achieve this objective through the provision of expanded residential opportunities for in-town living in both housing form and affordability, and through the establishment of a [[community housing fund]] BASELINE MODERATE INCOME HOUSING UNIT REQUIREMENT, A COMMUNITY HOUSING FUND, AND THE FLEXIBILITY FOR DEVELOPERS TO PROPOSE A MIX OF AFFORDABLE HOUSING POLICIES THAT EXCEED THE MINIMUM REQUIREMENTS, which will be used to help meet the affordable housing needs of the community.

Background

The need for affordable housing exists today and will likely continue to grow into the future. Significantly, however, what at times can be overlooked is the important relationship between reasonable opportunities for affordable housing and the economic health of the County. *General Plan 2000* recognized this significance and identified the important relationship between the need for affordable housing and the County's employment growth, and its demand for [[low]]Low- and moderate-income workers. In this regard, *General Plan 2000* recognized that to the degree [[low]]Low- and moderate-income workers can be housed in the County, the County's economic development prospects are improved. In addition, *General Plan 2000* further recognized that by providing more affordable housing it becomes possible for residents' children and parents, as well as teachers, firemen and policemen to live in the County. The accommodation of work force housing is a goal shared by all.

General Plan 2000 (Policy 4.2) recommends providing affordable housing for existing low- and moderate-income residents and for the diverse labor force needed for continuing economic

growth. Policy 4.2 also recommends that new funding sources be identified to enable the Office of Housing and Community Development to expand the supply of affordable housing to serve low- or moderate-income households, including seniors and persons with disabilities. In a similar context, *Downtown Columbia: A Community Vision* expands upon these objectives and suggests that new models for developing affordable housing in combination with mixed-use development should generate new and innovative techniques for achieving these objectives. *PLANHOWARD 2030 EXPANDS ON GENERAL PLAN 2000 AFFORDABLE HOUSING POLICY EMPHASIZING THE MOST DOMINANT IMPEDIMENT TO ACHIEVING AFFORDABLE HOUSING CHOICE IS AN INADEQUATE SUPPLY OF HOUSING AVAILABLE TO HOUSEHOLDS BELOW THE MEDIAN AREA INCOME LEVEL. POLICY 9.2 CALLS FOR EXPANDING FULL SPECTRUM HOUSING FOR RESIDENTS AT DIVERSE INCOME LEVELS AND LIFE STAGES, AND FOR INDIVIDUALS WITH DISABILITIES, BY ENCOURAGING HIGH QUALITY, MIXED INCOME, MULTIGENERATIONAL, WELL-DESIGNED, AND SUSTAINABLE COMMUNITIES.* It is with these policy statements in mind that this Plan proposes a means of providing a full spectrum of housing for Downtown Columbia.

[[Downtown Columbia Community Housing Foundation]] DOWNTOWN COLUMBIA AFFORDABLE HOUSING PROGRAM

THE DOWNTOWN COLUMBIA PLAN RECOMMENDATIONS FOR THE CREATION OF FULL SPECTRUM HOUSING SERVING DOWNTOWN COLUMBIA ARE DESIGNED TO ENCOURAGE A COMPREHENSIVE SET OF OPTIONS TO MEET AFFORDABLE HOUSING NEEDS. THE PLAN ENVISIONS USE OF THE FOLLOWING METHODS FOR THE DEVELOPMENT OF AFFORDABLE HOUSING:

1. A MINIMUM OF 10% OR 13% OF ALL RESIDENTIAL DWELLING UNITS, DEPENDING ON THE NUMBER OF STORIES IN A BUILDING, SHOULD BE DESIGNATED AS AFFORDABLE AS DEFINED BY HOWARD COUNTY'S MODERATE INCOME HOUSING UNIT ("MIHU") PROGRAM, OF WHICH 3% SHOULD BE SET ASIDE FOR HOUSEHOLDS WHO WORK WITHIN 5 MILES OF THE LIMITS OF DOWNTOWN COLUMBIA AS DETERMINED BY REGULATIONS OF THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT;
2. A DEDICATED TRUST FUND BE ESTABLISHED AND MANAGED BY THE DOWNTOWN COLUMBIA COMMUNITY HOUSING FOUNDATION ("DCCHF"); AND
3. THE OPTION FOR DEVELOPERS TO PROPOSE INNOVATIVE APPROACHES TO EXCEEDING THE MINIMUM AFFORDABILITY REQUIREMENT THROUGH A DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT ("DRRA").

THIS PLAN RECOMMENDS AMENDING THE DOWNTOWN REVITALIZATION PROVISIONS OF THE ZONING REGULATIONS (WHICH GOVERN REDEVELOPMENT IN DOWNTOWN COLUMBIA) TO REQUIRE THAT AFFORDABLE HOUSING BE PROVIDED IN DOWNTOWN COLUMBIA IN CONNECTION WITH THESE THREE METHODS, WHICH ARE DESCRIBED IN MORE DETAIL BELOW.

METHODS FOR THE DEVELOPMENT OF AFFORDABLE HOUSING

METHOD 1: A MINIMUM OF 10% OR 13% OF ALL RESIDENTIAL DWELLING UNITS, DEPENDING ON THE NUMBER OF STORIES IN A BUILDING, SHOULD BE DESIGNATED AS AFFORDABLE AS DEFINED BY HOWARD COUNTY'S MODERATE INCOME HOUSING UNIT PROGRAM, OF WHICH 3% SHOULD BE SET ASIDE FOR HOUSEHOLDS WHO WORK WITHIN 5 MILES OF THE LIMITS OF DOWNTOWN COLUMBIA AS DETERMINED BY REGULATIONS OF THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

TO ENSURE AFFORDABLE HOUSING IS CREATED WITHIN EACH DOWNTOWN RESIDENTIAL DEVELOPMENT, THIS PLAN RECOMMENDS THAT THE ZONING REGULATIONS REQUIRE EITHER 10% OR 13% OF ALL UNITS OFFERED IN EACH DEVELOPMENT, DEPENDING ON THE NUMBER OF STORIES IN A BUILDING AND EXCLUDING THE METROPOLITAN AND PARCEL C, MUST BE PROVIDED AS MIHUS PURSUANT TO THE MIHU LAW OF THE HOWARD COUNTY CODE.

IN AN EFFORT TO SERVE HOUSEHOLDS WHO WORK NEAR DOWNTOWN COLUMBIA, A SET-ASIDE OF THE MIHU REQUIREMENT IS RECOMMENDED TO SERVE WORKFORCE HOUSING NEEDS OF DOWNTOWN COLUMBIA RESIDENTS. THIS EFFORT ADDRESSES A DESIRE TO CREATE AN ENVIRONMENT WHERE INDIVIDUALS CAN LIVE WHERE THEY WORK AND TAKE FULLER ADVANTAGE OF ALL OF THE AMENITIES DOWNTOWN COLUMBIA WILL HAVE TO OFFER.

TO ENSURE AFFORDABLE HOUSING IS CREATED CONCURRENT WITH MARKET RATE HOUSING IN EACH PHASE OF DEVELOPMENT, THIS PLAN ALSO RECOMMENDS A MINIMUM NUMBER OF RESIDENTIAL DWELLING UNITS IN EACH DEVELOPMENT PHASE MUST BE AFFORDABLE BEFORE MOVING ON TO A SUBSEQUENT PHASE. THESE MINIMUMS PROVIDE A BASELINE FOR ESTABLISHING AFFORDABLE HOUSING IN PROPORTION TO MARKET RATE HOUSING AND WILL APPLY TO ALL PROPERTY OWNERS.

METHOD 2: A DEDICATED TRUST FUND BE ESTABLISHED AND MANAGED BY THE DOWNTOWN COLUMBIA COMMUNITY HOUSING FOUNDATION

A full spectrum housing program for Downtown Columbia should establish a flexible model that aspires to make new housing in downtown affordable to individuals earning across all income levels. In order to create an effective, flexible means of providing a full spectrum of housing for Downtown Columbia, GGP will establish the DCCHF[[Downtown Columbia Community Housing Foundation ("DCCHF")]], as detailed below. [[The intent of this full spectrum housing program for Downtown Columbia is to satisfy all affordable housing requirements for downtown.]]

- **Initial Source Fund**

GGP will establish the DCCHF at its expense and will contribute \$1.5 million to the DCCHF upon issuance of the first building permit for new housing in Downtown Columbia. GGP will contribute an additional \$1.5 million upon issuance of a building permit for the 400th new residential unit in Downtown

Columbia. Each payment will be contingent on expiration of all applicable appeal periods associated with each building permit without an appeal being filed, or if an appeal is filed upon the issuance of a final decision of the courts upholding the issuance of the permit.

- **Ongoing Developer Contributions - DWELLING UNITS OFFERED FOR SALE**

INSTEAD OF PROVIDING MODERATE INCOME HOUSING UNITS AS REQUIRED BY THE ZONING REGULATIONS, EACH [[Each]] developer OF DWELLING UNITS OFFERED FOR SALE MAY [[will]] provide a one-time, per unit payment to the DCCHF in the following amounts, to be imposed upon the issuance of any building permit for a building containing FOR-SALE dwelling units. Payment will be contingent upon the expiration of all applicable appeal periods associated with each building permit without an appeal being filed, or if an appeal is filed upon the issuance of a final decision of the courts upholding the issuance of the permit:

1. \$2.00 PER SQUARE FOOT [[(\$2,000/unit)] for each NET NEW DWELLING unit up to and including the 1,500th NET NEW DWELLING unit.
2. \$7.00 PER SQUARE FOOT [[(\$7,000/unit)] for each NET NEW DWELLING unit between the 1,501th unit up to and including the 3,500th NET NEW DWELLING unit.
3. \$9.00 PER SQUARE FOOT [[(\$9,000/unit)] for each NET NEW DWELLING unit [[between]] ABOVE AND INCLUDING the 3,501st NET NEW DWELLING unit [[up to and including the 5,500th unit]].

The amounts to be paid under 1, 2 and 3 above will be subject to annual adjustment based on a builder's index, land value or other index provided in the implementing legislation.

AFFORDABLE DWELLING UNITS SHALL BE EXCLUDED FROM THE COMPUTATION SET FORTH UNDER 1, 2, AND 3 ABOVE.

Each owner of property developed with commercial uses pursuant to the Downtown Revitalization Zoning Regulations shall provide an annual payment to the DCCHF in the amount of five cents (\$0.05) per square foot of Gross Leasable Area for office and retail uses, and five cents (\$0.05) per square foot of net floor area for hotels. The payment will be made annually by the property owner, with the initial payment being made prior to the issuance of an occupancy permit for net new commercial development on the property. The amount of the charge will be subject to annual adjustment based on a builder's index, land value, or other index provided in the implementing legislation.

- **DCCHF Notice of Sale**

The [[DHCCF]]DCCHF should be notified by the developer or joint venture, via first class mail, of land for or all residential units offered for initial sale in each new residential or mixed use building in Downtown Columbia. No later than 10 days after the sale of rental housing, the owner must provide written notice of the sale. The DCCHF also should be notified by the

developer, via first-class mail, of all apartment units offered for rental in each new residential or mixed-use building containing rental units. In support of these objectives, GGP should involve DCCHF in meaningful discussion with land purchasers in Downtown Columbia in order to encourage full spectrum housing in each and every neighborhood.

- **DCCHF Organizational Structure**

It is anticipated that Howard County, in consultation with GGP, will determine, by legislation, the organizational entity, organizational structure, membership, functions, and implementation of the DCCHF. The legislation should provide that, in order to be eligible to receive the funds provided for in this Plan, the DCCHF must be a non-profit entity organized for the purpose of providing full spectrum, below market housing in Downtown Columbia. Use of DCCHF funds is limited to providing full spectrum, below market housing in Downtown Columbia, which may include, but is not limited to, funding new construction; acquiring housing units; preserving existing homes; financing rehabilitation of rental housing; developing senior, family or special needs housing; providing predevelopment, bridge, acquisition and permanent financing; offering eviction prevention and foreclosure assistance.

METHOD 3: THE OPTION FOR DEVELOPERS TO PROPOSE INNOVATIVE APPROACHES TO EXCEEDING THE MINIMUM AFFORDABILITY REQUIREMENT THROUGH A DEVELOPMENT RIGHTS AND RESPONSIBILITIES AGREEMENT.

DRRAS ARE A COUNTY VEHICLE USED FOR PROMOTING ABOVE MINIMUM COMPLIANCE WITH EXISTING ZONING LAW. IN ORDER TO FURTHER INCREASE THE TOTAL PERCENTAGE OF AFFORDABLE UNITS IN DOWNTOWN COLUMBIA BEYOND THE REQUIRED AMOUNT, THE COUNTY CAN DETERMINE THAT THE PURPOSES OF THE MIHU LAW WILL BE SERVED TO A GREATER EXTENT BY ENTERING INTO A DRRRA WITH THE DEVELOPERS OF RESIDENTIAL PROPERTY IN DOWNTOWN COLUMBIA.

EXAMPLES OF MECHANISMS DEVELOPERS ARE ENCOURAGED TO CONSIDER WHEN PURSUING A DRRRA PETITION TO THE COUNTY INCLUDE: DESIGNATION OF UNITS TO A BROADER INCOME SPECTRUM; THE FORMATION OF PUBLIC, PRIVATE AND NONPROFIT PARTNERSHIPS; THE USE OF LOW INCOME HOUSING TAX CREDITS; LAND DEDICATION AND LAND EXCHANGES; AND OTHER CONDITIONS, RESTRICTIONS AND ENHANCEMENTS.

EXHIBIT B

4.1 GENERAL PLAN

General Plan 2000 addresses Downtown Columbia under Policy 5.5: Encourage Downtown Columbia's continuing evolution and growth as the County's urban center. This Plan builds on and reinforces this policy as discussed in detail in the following sections. The successful evolution and growth of Downtown Columbia as recommended in *Downtown Columbia: A Community Vision* and *General Plan 2000* will depend on not only the addition of jobs and housing, but on the provision of a variety of high quality amenities and services that will attract new businesses, employees and homeowners to live, work and invest in downtown. Although most of the enhancements, amenities and services recommended by this Plan will be provided through private investment, a small portion of the public infrastructure (such as public parking garages) may be financed through alternative public or private mechanisms, such as, without limitation, tax increment financing (TIF) or Revenue Authority bonds. *PLANHOWARD 2030* BUILDS UPON THE VISION FOR DOWNTOWN COLUMBIA AS A TARGETED GROWTH AND REVITALIZATION AREA AND ESTABLISHES POLICY 10.2 FOR CONTINUED FOCUS ON ITS GROWTH AS AN EMERGING URBAN DOWNTOWN COMMUNITY.

More Downtown Columbia Residential Units

This Plan recognizes the need for additional housing in Downtown Columbia and recommends development of 5,500 additional units, EXCLUDING AFFORDABLE DWELLING UNITS. This additional housing will be fundamental to the economic future of Columbia. The additional people living downtown will also be needed to provide an active pedestrian environment after normal office hours as well as customers for shops, restaurants and other entertainment uses. Additional housing will also help populate the streets downtown, enhancing the safety of residents, workers and visitors.

Development of additional housing units in downtown must provide increased housing opportunities for residents at different income levels and should provide a range of housing choices. Housing types could include among other possibilities, high and mid-rise multifamily; mixed-use high rise multifamily located above retail or office uses; loft-style housing located above retail or office space; single family attached housing; livework housing with office or retail uses within a single housing unit; student housing; and mixed-income housing.

This Plan also recommends development of 640 additional hotel rooms in Downtown Columbia. With the recommended increases in commercial and residential uses, additional

hotel resources will be necessary to serve the present and future needs of the community. The addition of a convention/conference center and exhibit space also will add to the demand for quality hospitality accommodations and services. Depending on market conditions, a variety of hotel product types could be desirable and should be permitted. Hotel uses should be available to serve all of the needs of Downtown Columbia's residents, businesses and visitors.

The remainder of Section 4.1 is omitted from this Exhibit
and is not proposed to be amended.

EXHIBIT C

PROPOSED CHART UNDER AFFORDABLE HOUSING JOINT RECOMMENDATION PROPOSAL

DOWNTOWN REVITALIZATION PHASING PROGRESSION													
PHASE I				PHASE II CUMMULATIVE				PHASE III COMPLETION				TOTAL	
Use Type	Min		Max		Use Type	Min		Max		Use Type	Up To		
	Units	SF	Units	SF		Units	SF	Units	SF		Units		SF
Retail		300,000		676,446	Retail		429,270		1,100,000	Retail		820,730	1,250,000
Office/Conf*		1,000,000		1,531,991	Office/Conf*		1,868,956		2,756,375	Office/Conf*		2,431,044	4,300,000
Hotel Rms**	100		640		Hotel Rms**	200***		540***		Hotel Rms**	440		640
Residential - Market Rate**	656		2,296		Residential - Market**	1,442		4,700		Residential - Market**	4,058		5,500

*Office/conference includes hotel conference/banquet space greater than 20 sq ft per hotel room.

** For zoning and phasing purposes, hotel rooms and residential development are tracked by unit. Actual square footage of hotel and residential development will be calculated for CEPPA compliance.

At least 5% of the sum of cumulative market and affordable units in Phase I and 10% of the sum of cumulative market and affordable units in Phase II must be affordable units before moving onto the subsequent phase.

*** The minimum number of hotel rooms required in Phase II is 100 unless more than 540 rooms were constructed in Phase I; the maximum number of hotel rooms for Phase II will be the difference between 640 and the number of rooms constructed in Phase I.

EXHIBIT D

DOWNTOWN COMMUNITY ENHANCEMENTS, PROGRAMS AND PUBLIC AMENITIES (CEPPAs) IMPLEMENTATION CHART

The Downtown CEPPA Implementation Chart identifies the timing and implementation of the various specific CEPPAs to be provided. The Downtown Columbia Plan anticipates that GGP, as the principal property owner, will undertake many of the CEPPAs. However, the responsibility lies with all property owners undertaking development or redevelopment in Downtown Columbia. Moreover, in the event of any future fragmentation of ownership of GGP's holdings, the CEPPAs must still be provided in accordance with the benchmarks established in this chart. Under such circumstances, the required CEPPAs could be funded by the developer(s) of individual parcels, a cooperative of developers or otherwise. In no case shall the obligation to provide a CEPPA be triggered: (i) by the development or construction of downtown arts, cultural and community uses, downtown community commons, or downtown parkland; or (ii) when the development of an individual parcel of land shown on a plat or deed recorded among the County Land Records as of April 6, 2010 consists only of up to a total of 10,000 square feet of commercial floor area and no other development.* The timing and implementation of other amenities discussed in this Plan or shown in concept on the exhibits to this Plan will be governed by the zoning regulation recommended by this Plan.

If a specific CEPPA identified in the Downtown CEPPA Implementation chart cannot be provided because: (i) the consent of the owner of the land on which the CEPPA is to be located or from whom access is required cannot reasonably be obtained; (ii) all necessary permits or approvals cannot reasonably be obtained from applicable governmental authorities; or (iii) factors exist that are beyond the reasonable control of the petitioner, then the Planning Board shall: (i) require the petitioner to post security with the County in an amount sufficient to cover the cost of the original CEPPA; or (ii) approve an alternate CEPPA comparable to the original and appropriate timing for such alternate CEPPA or alternative timing for the original CEPPA. In approving an alternate comparable CEPPA or timing, the Planning Board must conclude the alternate comparable CEPPA and/or timing: (i) does not result in piecemeal development inconsistent with the Plan; (ii) advances the public interest; and (iii) conforms to the goals of the Downtown Plan.

Additionally, because development phasing is inextricably linked to market forces and third party approvals, it will be important for the zoning to provide sufficient flexibility to consider a Final Development Plan which takes advantage of major or unique employment, economic development or evolving land use concepts or opportunities, and to consider a Final Development Plan amendment that adjusts the location, timing or schedule of CEPPAs and/or the residential and commercial phasing balance to take advantage of these opportunities.

PRIOR TO SUBMISSION OF THE FIRST FINAL DEVELOPMENT PLAN

1. GGP completed at its expense an environmental assessment of the three sub-watersheds of Symphony Stream, Wilde Lake and Lake Kittamaqundi located upstream of the Merriweather & Crescent Environmental Enhancements Study area. GGP participated with Howard County and The Columbia Association in a joint application to the Maryland Department of Natural Resources for Local implementation grant funding from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.
2. GGP will commission at GGP's expense (i) the preparation of the Land Framework component of the Downtown Columbia Sustainability Program and (ii) a detailed outline for the Community Framework component of the Sustainability Program (Community Framework Outline). The Sustainability Program must be developed around the Sustainability Framework document referenced with this Plan. The Howard County Environmental Sustainability Board must be provided with a copy of the Sustainability Program, and will be invited to provide comments to the Design Advisory Panel concurrent with the Design Advisory Panel's review of the Downtown-wide Design Guidelines (Guidelines).
3. GGP will commission at GGP's expense in consultation with Howard County a study evaluating a new Downtown Columbia Route 29 interchange between Route 175 and Broken Land Parkway and options for a connection over Route 29 connecting Downtown Columbia to Oakland Mills, including potential bicycle, transit and multimodal improvements. The study will evaluate alternative alignments and geometry, capacity analysis, preliminary environmental assessments, right of way impacts, multimodal opportunities, interaction and options with regard to the Oakland Mills bridge connection, preliminary costs, design and implementation schedule. Once the study is completed, GGP will suggest funding mechanism(s) for the potential implementation of its recommendation(s).

If the study concludes that enhancing the existing pedestrian bridge is not recommended, then the funding for the renovation of the existing bridge should be used for the alternative connection recommended by the study. In addition, the pathways described in CEPPA No. 12 should be realigned to match the recommended connection.

4. GGP will prepare at its expense Downtown-wide Design Guidelines inclusive of sustainability provisions from the Sustainability Program and a Comprehensive Signage Plan for Downtown for approval by the County Council.

PRIOR TO APPROVAL OF THE FIRST FINAL DEVELOPMENT PLAN

5. GGP will commission at GGP's expense and in consultation with Howard County one or more feasibility studies for the following: (i) a new Broken Land Parkway/Route 29 north/south collector road connection to Little Patuxent Parkway and (ii) a new Downtown transit center and Downtown Circulator Shuttle.

With regard to the collector road, the feasibility study will evaluate alternative alignments and geometry, capacity analysis, preliminary environmental assessments, right of way impacts, preliminary costs, design and phasing of construction for this connection.

With regard to the transit center, the study will evaluate both long and short term transit expectations and needs both locally and regionally so that an appropriate location and facility program can be determined. Consideration shall be given to how the facility will operate initially as a free standing building, and in the future as a mixed use component of the Downtown Plan. Recommendations will be provided with regard to goals, management and operations.

With regard to the Shuttle, the study will evaluate and determine appropriate levels of service and phasing in of service at various levels of development. As part of this, the study should examine the relationship between the shuttle and both long and short term, local and regional transit expectations and needs. The shuttle feasibility study will also analyze equipment recommendations, routes and stops, proposed vehicle types, and operational and capital costs. The feasibility study shall include an evaluation and recommendations regarding ownership, capital and operational funding opportunities, responsibilities and accountability to provide guidance to the Downtown Columbia Partnership and the County.

6. GGP and Howard County will jointly determine the functions, organizational structure, implementation phasing schedule consistent with the redevelopment phasing schedule, potential funding sources and projected funding needs of the Downtown Columbia Partnership, prior to GGP's establishment of this Partnership. The Downtown Columbia Partnership's role in promoting Downtown Columbia is outlined in Section 5.2 of the Plan.

One of the primary responsibilities of the Downtown Columbia Partnership shall be the transportation initiatives outlined in the shuttle feasibility study and the promotion and implementation of the TDMP. As such, at least fifty percent (50%) of the revenue collected pursuant to CEPPA No. 25 shall be utilized for the implementation of transportation initiatives in the shuttle feasibility study or other direct transit services downtown.

GGP will provide the Partnership's initial operating funding as necessary to fund the initial efforts of the Partnership until other sources of funding and/or sufficient developer contributions are available to operate the Partnership. Funding provided by GGP to support initial start-up costs shall be in addition to funding provided for by CEPPA No. 23 and 25. However, after issuance of a building permit for the 500,000 square-foot of new commercial uses, GGP's obligation as described in the previous two sentences shall end and thereafter the property owners developing pursuant to Section 125.A.9 of the Howard County Zoning Regulations, including but not limited to GGP, will contribute toward funding the permanent ongoing operations of the Downtown Columbia Partnership as set forth in CEPPA No. 25.

PRIOR TO APPROVAL OF THE FIRST SITE DEVELOPMENT PLAN

7. GGP will submit a phasing schedule for implementation of the restoration work on GGP's property and a Site Development Plan for the first phase of the environmental restoration work as described in CEPPA No. 15.
8. GGP, in collaboration with the County, will establish the Downtown Arts and Culture Commission, an independent nonprofit organization, to promote and support Merriweather Post Pavilion's revitalization in accordance with this Plan and the development of Downtown Columbia as an artistic and cultural center.

PRIOR TO ISSUANCE OF THE FIRST BUILDING PERMIT

9. To facilitate the renovation of the Banneker Fire Station, GGP and the County shall cooperate to identify a site for the development of a temporary fire station while the Banneker Fire station is being renovated. GGP shall make the site available at no cost to the County on an interim basis but not longer than 30 months. GGP shall not be responsible for the development or construction costs associated with the temporary fire station. [[In the alternative, if prior to the issuance of the first building permit the County determines a new

location for a fire station in Downtown Columbia is necessary and desirable, then GGP shall provide, subject to all applicable laws and a mutual agreement between the parties, a new location for a fire station within the Crescent Neighborhood as shown on Exhibit C by fee transfer at no cost to the County or by a long-term lease for a nominal sum.]]

UPON ISSUANCE OF THE FIRST BUILDING PERMIT

10. GGP shall contribute \$1.5 million in initial funding for the Downtown Columbia Community Housing Fund. Payment will be contingent upon the expiration of all applicable appeal periods associated with each building permit without an appeal being filed, or if an appeal is filed upon the issuance of a final decision of the courts upholding the issuance of the permit.

UPON ISSUANCE OF THE BUILDING PERMIT FOR THE 400TH RESIDENTIAL UNIT

11. GGP shall contribute \$1.5 million in additional funding for the Downtown Columbia Community Housing Fund. Payment will be contingent upon the expiration of all applicable appeal periods associated with each building permit without an appeal being filed, or if an appeal is filed upon the issuance of a final decision of the courts upholding the issuance of the permit.

PRIOR TO ISSUANCES OF A BUILDING PERMIT FOR THE 500,000TH SF OF DEVELOPMENT

12. GGP will complete at its expense (i) the pedestrian and bicycle pathway from the existing Route 29 pedestrian bridge to Oakland Mills Village Center and to Blandair Park; (ii) the pedestrian and bicycle pathway from the existing Route 29 pedestrian bridge to the Crescent and Merriweather-Symphony Woods neighborhoods, inclusive of the pathway located between the Town Center Apartments and Route 29; and (iii) the pedestrian and bicycle pathway from the Crescent and Merriweather-Symphony Woods neighborhoods to Howard Community College and Howard County General Hospital.* The scope and design of new pedestrian and bicycle pathways in the Plan will be guided by the new Downtown-wide Design Guidelines, Adequate Public Facilities Ordinance, and as delineated in this Plan and its Exhibit I.

GGP will develop at its expense recommended maintenance standards and responsibilities for a heightened level of design and security for the new pathway improvements. When GGP submits the first Site Development Plan under this Plan, GGP will also submit a Site Development Plan to facilitate implementation of these pathway improvements.

In addition, GGP along with the County and community will develop a scope of work for renovation of the existing Route 29 pedestrian bridge and will solicit a minimum of two proposals from separate architectural design consulting firms for alternative design improvements to the bridge structure to enhance its appearance and pedestrian safety. The consultant responses will be provided to the County for its selection, in consultation with GGP, of appropriate near-term improvements to retrofit the existing bridge. GGP will contribute up to \$500,000 towards the implementation of the selected improvements. If enhancement of the bridge is not recommended by the study in CEPPA No. 3, GGP shall either post security or cash with the County in the amount of \$500,000 to be used in accordance with CEPPA No. 3.

13. GGP will enter into and record in the land records of Howard County, Maryland, a declaration of restrictive covenants that shall (1) prohibit the demolition of the former Rouse Company Headquarters building, and (2) prohibit the exterior alteration of the former Rouse Company Headquarters building, except as provided for in the Downtown-wide Design Guidelines. GGP shall provide a copy of the recorded declaration to the County. The declaration of restrictive covenants will not prohibit interior alterations or future adaptive reuse that would better integrate the building into its surroundings and activate the adjacent pedestrian spaces as described in the Downtown-wide Design Guidelines and this Plan or prohibit reconstruction of the building in the event of casualty.

PRIOR TO ISSUANCE OF A BUILDING PERMIT FOR THE 1,300,00TH SF OF DEVELOPMENT

14. GGP in cooperation with Howard Transit shall identify a location in Downtown Columbia for a new Howard County Transit Center consistent with the recommendation(s) of the feasibility study (See CEPPA No. 5). GGP shall provide a location either by fee transfer at no cost or a long-term lease for a nominal sum subject to all applicable laws and regulations. Any contract of sale or lease may provide for the retention of air and subsurface development rights by GGP and allow for the co-location of public facilities or private development on the same parcel provided that any other use of any portion of the property does not interfere with the County's ability to use, construct, or finance the facility in the manner most advantageous to the County.
15. GGP will complete, at GGP's expense, environmental restoration projects, including stormwater management retrofit, stream corridor restoration, wetland enhancement, reforestation and forest restoration, on its property and on property included within GGP's construction plans for the Merriweather-Symphony Woods and Crescent areas, as identified in the Land Framework of the Sustainability Program as referenced in Section 3.1 of this Plan.

16. GGP will complete Phase I of the Merriweather Post Pavilion redevelopment program based on the redevelopment program scope and phasing outlined below.

The redevelopment program will generally follow the evaluation and conclusions outlined in the October 2004 Ziger/Sneed LLP Merriweather Post Pavilion Study, Section III "Evaluation of the Site and Structures" and Section IV "Conclusions" included in the 2004 Merriweather Citizens Advisory Panel report to Howard County. Final design and scope will be determined by GGP's consultants, program and industry needs, operator recommendations, site and facility conditions and code requirements. Major components of the redevelopment program will include new handicapped parking accommodation; entrance and access modifications; restroom, concession and box office renovations and or replacement; utility systems replacement and additions; new roofs over the loge seating areas; reconfigured and replacement seating; renovated and new administration, back of house dressing and catering areas; code upgrades including fire suppression systems and handicapped ramps and pathway access.

After development of preliminary renovation drawings, contractor input and schedule development, the program will be divided into three distinct phases to allow uninterrupted seasonal performances, staging and construction phasing.

PRIOR TO APPROVAL OF THE SITE DEVELOPMENT PLAN FOR THE 1,375TH NEW RESIDENTIAL UNIT

17. GGP shall, if deemed necessary by the Board of Education, reserve an adequate school site or provide an equivalent location within Downtown Columbia.

PRIOR TO ISSURANCE OF A BUILDING PERMIT FOR THE 2,600,000TH SF OF DEVELOPMENT

18. GGP will construct at its expense, the Wilde Lake to Downtown Columbia pedestrian and bicycle pathway. The scope and design of new pedestrian and bicycle pathways in the Plan will be guided by the new Downtown-wide Design Guidelines, Adequate Public Facilities Ordinance, and as delineated in this Plan and its Exhibit.
19. GGP will construct at its expense the Lakefront Terrace (steps to the Lake) amenity space and pedestrian promenade (see Item 9, on Plan Exhibit G) connecting the Symphony Overlook Neighborhood to the Lakefront and Lakefront pathway. The final design of the Lakefront Terrace will be determined at the time of Site Development Plan review.
20. GGP will complete Phase II redevelopment of Merriweather Post Pavilion based on the redevelopment program scope and phasing as outlined in CEPPA No. 16.

PRIOR TO ISSURANCE OF A BUILDING PERMIT FOR THE 3,900,000TH SF OF DEVELOPMENT

21. GGP will complete Phase III redevelopment of Merriweather Post Pavilion based on the redevelopment program scope and phasing as outlined in CEPPA No. 16.
22. At least one Downtown Neighborhood Square as defined in the Zoning Regulations shall be completed and deeded to Howard County for public land.

PRIOR TO ISSUANCE OF A BUILDING PERMIT FOR THE 5,000,000TH SF OF DEVELOPMENT

23. GGP will provide \$1,000,000 towards the initial funding of a Downtown Circulator Shuttle.
24. Transfer of ownership of Merriweather Post Pavilion to the Downtown Arts and Culture Commission for zero dollar consideration.

PRIOR TO THE APPROVAL OF EACH FINAL DEVELOPMENT PLAN

25. Each owner of property developed with commercial uses pursuant to the Downtown Revitalization Zoning Regulations shall participate as a member in the Downtown Columbia Partnership established pursuant to CEPPA No.6 and provide an annual per-square-foot charge in an amount of twenty-five cents (\$0.25) per square foot of Gross Leasable Area for office and retail uses and twenty-five cents (\$0.25) per square foot of net floor area for hotels to the Downtown Columbia Partnership. Each Final Development Plan shall show a consistent means of calculating and providing this charge, and require that the first annual charge be paid prior to issuance of occupancy permits for those buildings constructed pursuant to that Final Development Plan and subsequent Site Development Plans under Downtown Revitalization. This per-square-foot charge shall be calculated at the time of Site Development Plan approval and shall include an annual CPI escalator to be specified in each Site Development Plan.

UPON ISSUANCE OF ANY BUILDING PERMIT FOR A BUILDING CONTAINING DWELLING UNITS OFFERED FOR SALE

26. INSTEAD OF PROVIDING MODERATE INCOME HOUSING UNITS AS REQUIRED BY THE ZONING REGULATIONS, EACH DEVELOPER OF DWELLING UNITS OFFERED FOR SALE MAY PROVIDE [[To fulfill an affordable housing obligation, each developer will provide]] a one-time, per unit payment to the DCCHF in the following amounts, to be imposed upon the issuance of any building permit for a building containing FOR-SALE dwelling units. Payment will be contingent upon the expiration of all applicable appeal periods associated with each building permit without an appeal being filed, or if an appeal is filed upon the issuance of a final decision of the courts upholding the issuance of the permit:

- 1). \$2.00 PER SQUARE FOOT [[\$2,000/unit]] for each NET NEW DWELLING unit up to and including the 1,500th NET NEW DWELLING unit.
- 2). \$7.00 PER SQUARE FOOT [[\$7,000/unit]] for each NET NEW DWELLING unit between the 1,501st unit up to and including the 3,500th NET NEW DWELLING unit.
- 3). \$9.00 PER SQUARE FOOT [[\$9,000/unit]] for each NET NEW DWELLING unit ABOVE AND INCLUDING [[between]] the 3,501st NET NEW DWELLING unit [[up to and including the 5,500th unit]].

The amounts to be paid under 1), 2) and 3) above will be subject to annual adjustment based on a builder's index, land value or other index provided in the implementing legislation. AFFORDABLE DWELLING UNITS SHALL BE EXCLUDED FROM THE COMPUTATION SET FORTH UNDER 1, 2, AND 3 ABOVE.

ADDITIONAL CEPPA CONTRIBUTION

27. Each owner of property developed with commercial uses pursuant to the Downtown Revitalization Zoning Regulations shall provide an annual payment to the DCCHF in the amount of five cents (\$0.05) per square foot of Gross Leasable Area for office and retail uses, and five cents (\$0.05) per square foot of net floor area for hotels. The payment will be made annually by the property owner, with the initial payment being made prior to the issuance of an occupancy permit for net new commercial development on the property. The amount of the charge will be subject to annual adjustment based on a builder's index, land value, or other index provided in the implementing legislation.