



PETITION TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY

DPZ Office Use Only:

Case No. ZRA-192

Date Filed: 6-11-20

1. Zoning Regulation Amendment Request

I (we), the undersigned, hereby petition the County Council of Howard County to amend the Zoning Regulations of Howard County as follows: Amend Section 127.4.E.2 of the Howard County Zoning Regulations to increase the maximum allowable height in the Transit Oriented Development (TOD) Zoning District to 200 feet provided the structure has an additional 1 foot setback for the portion of the structure over 60 feet for every 2 feet of additional height as currently required.

[You must provide a brief statement here. "See Attached Supplement" or similar statements are not acceptable. You may attach a separate document to respond to Section 1 in greater detail. If so, this document shall be titled "Response to Section 1"]

2. Petitioner's Name Annapolis Junction Town Center LLC

Address 4816 Del Ray Avenue, Bethesda, MD 20814

Phone No. (301) 657-4848 (H)

Email Address ngreenberg@somersetconstruction.com

3. Counsel for Petitioner Sang W. Oh, Talkin & Oh, LLP

Counsel's Address 5100 Dorsey Hall Drive, Ellicott City, MD 21042

Counsel's Phone No. 410-964-0300

Email Address soh@talkin-oh.com

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed. See the attached Supplemental Statement.

[Blank lines for response to Section 4]

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County. See the attached Supplemental Statement.

[Blank lines for response to Section 5]

[You may attach a separate document to respond to Section 5. If so, this document shall be titled "Response to Section 5"]

6. The Legislative Intent of the Zoning Regulations in Section 100.A. expresses that the Zoning Regulations have the purpose of "...preserving and promoting the health, safety and welfare of the community." Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.A. See the attached Supplemental Statement.

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[You may attach a separate document to respond to Section 6. If so, this document shall be titled "Response to Section 6."]

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s). See the attached Supplemental Statement.

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[You may attach a separate document to respond to Section 7. If so, this document shall be titled "Response to Section 7."]

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? Yes.

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms. This amendment will impact all TOD projects/properties in Howard County as to the maximum allowable height. The proposed amendment could result in certain buildings within TOD projects being taller than 100'. For all the reasons as set forth above in responses to Sections 4, 6 and 7, the Petitioner asserts these impacts to be positive. Petitioner also represents that in its review of its project/property, an increase in the maximum allowable height did not result in increased residential density. Nonetheless, Petitioner cannot represent that the proposed amendment could never result in increased residential density for any TOD project/property.

[You may attach a separate document to respond to Section 8. If so, this document shall be titled "Response to Section 8."]

9. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition. \_\_\_\_\_

None.

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[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

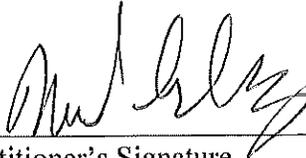
10. You must provide the full proposed text of the amendment(s) as a separate document entitled "Petitioner's Proposed Text" that is to be attached to this form. This document must use this standard format for Zoning Regulation Amendment proposals; any new proposed text must be in CAPITAL LETTERS, and any existing text to be deleted must be in [[ Double Bold Brackets ]]. In addition, you must provide an example of how the text would appear normally if adopted as you propose.

**After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file format, and may be submitted by email or some other media if prior arrangements are made with the Division of Public Service and Zoning Administration.**

11. The Petitioner agrees to furnish additional information as may be required by the Department of Planning and Zoning prior to the petition being accepted for scheduling, by the Planning Board prior to its adoption of a Recommendation, and/or by the County Council prior to its ruling on the case.

12. The undersigned hereby affirms that all of the statements and information contained in, or filed with this petition, are true and correct. The undersigned has read the instructions on this form, filing herewith all of the required accompanying information. If the Petitioner is an entity that is not an individual, information must be provided explaining the relationship of the person(s) signing to the entity.

Annapolis Junction Town Center, LLC  
Petitioner's name (Printed or typed)

  
Petitioner's Signature

5/26/2020  
Date

 6-9-20  
Sang W. Oh, Counsel for Petitioner

[If additional signatures are necessary, please provide them on a separate document to be attached to this petition form.]

**FEES**

The Petitioner agrees to pay all fees as follows:

Filing fee.....	\$695.00.	If the request is granted, the Petitioner shall pay \$40.00 per 200 words of text or fraction thereof for each separate textually continuous amendment (\$40.00 minimum, \$85.00 maximum)
Each additional hearing night.....	\$510.00*	

**The County Council may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the County Council that the payment of the fee would work an extraordinary hardship on the petitioner. The County Council may refund part of the filing fee for withdrawn petitions. The County Council shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.**

**APPLICATIONS: One (1) original plus twenty four (24) copies along with attachments.**

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**For DPZ office use only:**

Hearing Fee \$ \_\_\_\_\_

Receipt No. \_\_\_\_\_

**PLEASE CALL 410-313-2395 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION**

**County Website: [www.howardcountymd.gov](http://www.howardcountymd.gov)**

Revised:07/12

T:\Shared\Public Service and Zoning\Applications\County Council\ ZRA Application

## **INSTRUCTIONS TO THE APPLICANT/PARTY OF RECORD**

- As required by State Law, applicants are required to complete the AFFIDAVIT AS TO CONTRIBUTION that is attached, and if you have made a contribution as described in the Affidavit, please complete the DISCLOSURE OF CONTRIBUTION that is attached.
- If you are an applicant, Party of Record (i.e., supporter/protestant) or a family member and have made a contribution as described in the Affidavit, you must complete the DISCLOSURE OF CONTRIBUTION that is attached.
- Filed affidavits and disclosures will be available for review by the public in the office of the Administrative assistant to the Zoning Board during normal business hours.
- Additional forms may be obtained from the Administrative Assistant to the Zoning Board at (410-313-2395) or from the Department of Planning and Zoning.
- Completed form may be mailed to the Administrative Assistant to the Zoning Board at 3430 Courthouse Drive, Ellicott City, MD 21043.
- Pursuant to State Law, violations shall be reported to the Howard County Ethics Commission.

PETITIONER: Annapolis Junction Town Center, LLC

**AFFIDAVIT AS TO CONTRIBUTION**

**As required by the Annotated Code of Maryland  
State Government Article, Sections 15-848-15-850**

I, Annapolis Junction Town Center, LLC the applicant in the above zoning matter

✓, HAVE \_\_\_\_\_, HAVE NOT

made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate or the treasurer of a political committee during the 48-month period before application in or during the pendency of the above referenced zoning matter.

I understand that any contribution made after the filing of this Affidavit and before final disposition of the application by the County Council shall be disclosed within five (5) business days of the contribution.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Printed Name: Annapolis Junction Town Center, LLC

Signature: [Handwritten Signature]

Date: 5-26-2020

PETITIONER: Annapolis Junction Town Center, LLC

**DISCLOSURE OF CONTRIBUTION**

**As required by the Annotated Code of Maryland  
State Government Article, Sections 15-848-15-850**

This Disclosure shall be filed by an Applicant upon application or by a Party of Record within 2 weeks after entering a proceeding, if the Applicant or Party of Record or a family member, as defined in Section 15-849 of the State Government Article, has made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate of the treasurer of a political committee during the 48-month period before the application was file or during the pendency of the application.

Any person who knowingly and willfully violates Sections 15-848-15-850 of the State Government Article is subject to a fine of not more than \$5,000. If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty.

APPLICANT OR

PARTY OF RECORD: Annapolis Junction Town Center, LLC

RECIPIENTS OF CONTRIBUTIONS:

<u>Name</u>	<u>Date of Contribution</u>	<u>Amount</u>
<u>Allan Kittleman</u>	<u>11/29/2016</u>	<u>\$1,000</u>
<u>Christiana Rigby</u>	<u>4/9/2018</u>	<u>\$500</u>
<u>Jen Terrasa</u>	<u>6/20/2019</u>	<u>\$250</u>

I understand that any contribution made after the filing of this Disclosure and before final disposition of the application by the County Council shall be disclosed with five (5) business days of the contribution.

Printed Name: Annapolis Junction Town Center, LLC

Signature: [Handwritten Signature]

Date: 5-26-2020

PETITIONER: Annapolis Junction Town Center, LLC

**AFFIDAVIT AS TO ENGAGING IN BUSINESS WITH AN ELECTED OFFICIAL**

**As required by the Annotated Code of Maryland  
State Government Article, Sections 15-848-15-850**

I, Annapolis Junction Town Center, LLC, the applicant in the above zoning matter

\_\_\_\_\_, AM

\_\_\_\_\_, AM NOT

Currently engaging in business with an elected official as those terms are defined by Section 15-848 of the State Government Article of the Annotated Code of Maryland.

I understand that if I begin engaging in business with an elected official between the filing of the application and the disposition of the application, I am required to file an affidavit in this zoning matter at the time of engaging in business with elected official.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Printed Name: Annapolis Junction Town Center, LLC

Signature: *Muel [Signature]*

Date: 5-26-2020

## **Petition to Amend the Zoning Regulations of Howard County**

### **Supplemental Statement**

#### **Response to Section 4**

The current 100 foot height limitation contained in Section 127.4.E.2 restricts the efficient use of land in the TOD districts. The TOD districts are located along the County's Route 1 Corridor; and, along with the CE and CAC districts, "should provide a more efficient use of land and ... create a concentration of mixed-uses that promote economic development and are pedestrian-oriented." Route 1 Manual at 1. The intention of the TOD Zoning Regulations is "to encourage the development of multi-use centers combining office and high-density residential development that are located and designed for safe and convenient pedestrian access by commuters using the MARC Trains and other public transit links." Section 127.4.A. Indeed, "[f]or larger sites of at least three acres, well-designed multi-use centers combining office and high density residential development with ground floor retail are encouraged." Route 1 Manual at 12. Section 127.4.E.1 highlights this by setting the minimum allowable residential density to 20 units per acre of residential development. Section 127.4.E.2, as currently written, however, frustrates this purpose by arbitrarily limiting height to 100 feet. This height limitation substantially restricts the efficient development of the limited available land in the TOD districts. It curtails a mixed-use development from including the desired level of high-density residential development. As such, it contradicts the TOD district's purpose of promoting multi-use centers with high-density residential development close to transit options. The requested amendment is proposed to correct this issue. In raising the height limitation to 200 feet, greater flexibility will be permitted in the TOD districts providing improved options for efficient mixed-use development along the Route 1 Corridor.

#### **Response to Section 5**

The proposed amendment will be in harmony with PlanHoward 2030. PlanHoward 2030 has recognized the Route 1 corridor as an area where "redevelopment and revitalization will remain a necessary instrument to accommodate future growth and stimulate economic development." PlanHoward 2030, p 57. PlanHoward provides that

[t]o maximize these opportunities and achieve the desired vision for the Route 1 Corridor, the County will need to consider employing strategies that offset any inherent drawbacks associated with redevelopment. The 'redevelopment toolbox' would be comprised of specific instruments aimed at facilitating new development and redevelopment projects that catalyze economic growth, protect existing employment areas, and enhance existing communities.

PlanHoward 2030, p. 58.

PlanHoward 2030 also identifies the Route 1 Corridor as one of the County's Targeted Growth and Revitalization areas. PlanHoward 2030, p.74. These are "areas where current policies, zoning, and other regulations, as well as policies suggested in PlanHoward 2030, seek to focus most future County growth." *Id.* PlanHoward 2030 acknowledges that "smarter growth" is

required in the Route 1 Corridor. *Id.* at 80. Further, it recognizes that “[t]he earliest mixed-use zones in the Route 1 Corridor should now be reevaluated and revised, if necessary ...” *Id.* Moreover, “[b]ecause Howard County’s population will continue to increase while the amount of land available for development in the Priority Funding Area will continue to decrease, more compact development will be needed to accommodate future growth.” *Id.* To accomplish this, the County acknowledges that “[m]ore flexibility is needed within the Zoning Regulations to allow and promote context sensitive design rather than uniform approaches.” *Id.* at 81.

PlanHoward 2030 contains a number of policy goals and implementing actions regarding the Route 1 Corridor that support the proposed amendment. Policy 5.4 seeks to “[e]nhance the Route 1 Corridor revitalization strategy to recognize the distinct character and market potential of diverse corridor segments, and the potential at various intersections, crossings, and nodes for additional retail, restaurant, and employment development ...” PlanHoward, p.58. Implementing action a. to policy 5.4 calls for planning efforts to focus on “maximiz[ing] development potential in ... mixed-use opportunity sites.” Additionally, implementing action b. to Policy 5.4 envisions the increased flexibility that would be provided by this amendment: “[e]valuate the efficacy of existing Route 1 zoning districts (CE, CAC, TOD); consider more flexibility, especially regarding commercial uses. Reduce strip commercial development along Route 1 frontage by directing retail uses to retail centers and mixed use developments...” Further, implementing action c. to policy 5.4 seeks to “[a]ccommodate residential development in key nodes along with Route 1 Corridor so that it does not erode opportunities to reserve or redevelop employment and industrial areas.” By increasing the maximum allowable building height to 200 feet, developers will have the flexibility to maximize the available land in the TOD districts allowing for the smart, compact development of mixed-use projects.

Additionally, Policy 5.5 seeks to “[p]roactively consider innovative tools to enhance the Route 1 Corridor’s competitiveness, attract and retain businesses, and maximize redevelopment opportunities.” PlanHoward, p. 59. Implementing action c. to Policy 5.5 envisions the future intensification that would be allowed by this amendment: “[d]evelop plans for key opportunity areas that allow for significant future intensification, while maximizing current and intermediate development potential...” Furthermore, Policy 6.1 seeks to “[m]aintain adequate facilities and services to accommodate growth.” PlanHoward, p.75. Implementing Action e. to Policy 6.1 addresses zoning and envisions the compact development that would be permitted by the proposed amendment: “[r]educe competition for land resources by promoting more compact development in appropriate targeted growth and revitalization areas.” Additionally, Policy 6.5 seeks to “[p]lan well designed, and complete communities through the Comprehensive Zoning process.” PlanHoward, p.81. Implementing action d. of Policy 6.5 also envisions the type of compact development that would be permitted by this amendment: “[e]ncourage compact development with adequate green spaces and connectivity within and between developments which provides residents with a high quality of life and allows residents to take advantage of the benefits of the compact development.”

Moreover, Policy 9.2 seeks to “[e]xpand full spectrum housing for residents at diverse income levels and life stages ... by encouraging high quality, mixed income, multigenerational, well designed, and sustainable communities.” PlanHoward, p.129. Implementing action b. to Policy 9.2 envisions the increased rental housing options that this amendment would encourage: “[w]ork with developers to provide increased full spectrum rental choice for all incomes, ages and

abilities throughout Howard County, especially in areas designated for increased density and revitalization.” Also, Policy 9.6 seeks to “[p]romote design innovation for all housing types, utilizing cost-effective sustainability principles, to meet the housing and transportation needs of the County’s diverse households.” PlanHoward, p.133. Implementing action b. to Policy 9.6 envisions the innovation that this amendment would permit for mixed-use developments: “[c]ontinue to recognize and highlight design innovation in high quality, cost-effective, sustainable, mixed income and multigenerational housing.” The additional height that would be permitted by this amendment would allow the development of innovative mixed-use structures that include both commercial and high-density residential uses close to transportation options. Lastly, Policy 10.4 of PlanHoward 2030 is to “[r]eview and update all County development regulations to respond to County General Plan development goals and changing market conditions, and to improve the efficiency of the County’s review process.” PlanHoward 2030, p.143.

In summary, the proposed amendment would help achieve the County’s goal to focus growth and revitalization within TOD districts by allowing greater flexibility in a multi-use structure’s height. This will facilitate smart, compact growth by allowing high-density residential and commercial development to complement each other in a single development project, which will also bolster economic development. It would also provide greater affordable housing availability for the County’s growing population and place that population close to transit options reducing congestion and the negative environmental impacts associated with automobile use.

### **Response to Section 6**

The proposed amendment will be in harmony with the legislative intent provided in Section 100.0.A of the Zoning Regulations. Similar to PlanHoward 2030’s goals of directing development to targeted growth and revitalization areas, Section 100.0.A.1 seeks to “prevent over-crowding of the land and undue congestion of population,” while Section 100.0.A.2 seeks to “protect the ... economic stability of all parts of the County; to guide the orderly growth and development of the County, and to protect and conserve the value of land and structures appropriate to the various land use classes...” Furthermore, Section 100.0.A.4 of the Zoning Regulations seeks to “provide a guide ... for private enterprise in undertaking development, investment and other economic activity relating to uses of land and structures throughout the County.”

Allowing this proposed amendment would further these legislative objectives by permitting additional flexibility in the use of land in an area the County has expressly targeted for growth and revitalization. This will aid in facilitating orderly growth in the County and help ensure that available land and resources are used efficiently and effectively. The flexibility in height that the proposed amendment would provide will allow additional options for commercial and high-density residential uses in mixed-use TOD developments. Increasing flexibility in the permitted height allows a more beneficial relationship among the residential, commercial, and commuter components of TOD developments. This will encourage redevelopment and revitalization of the Route 1 corridor that will benefit County residents within the Route 1 corridor and others commuting to TOD districts.

## **Response to Section 7**

As indicated above, this proposed amendment would benefit the public by encouraging mixed-use projects, that include high-density residential development, in a district that is specifically targeted by the County for growth and was created to encourage efficient mixed-use development near transit options. The flexibility in height that the proposed amendment would permit will provide additional housing options for County residents and will support and enhance other uses in TOD developments thereby promoting economic growth. Further, the portion of a structure over 60 feet would be required to have an additional 1 foot setback for every 2 feet of additional height. This will reduce the visual bulk and intensity of the building striking a proper balance between growth and the responsible use of land.

**Petition to Amend the Zoning Regulations of Howard County**

**Petitioner's Proposed Text**

**Howard County Zoning Regulation Section 127.4.E.2:**

**Proposed Amendment:**

**E. Bulk Regulations**

2. Maximum building height
  - a. Structure with minimum setback from a public street right-of-way ..... 60 feet
  - b. Structure with an additional 1 foot of setback from a public street right-of-way for the portion of the structure over 60 feet for every 2 feet of additional height ..... ~~[[100]]~~ 200 feet

**Example of how the text would appear normally if adopted:**

**E. Bulk Regulations**

2. Maximum building height
  - a. Structure with minimum setback from a public street right-of-way ..... 60 feet
  - b. Structure with an additional 1 foot of setback from a public street right-of-way for the portion of the structure over 60 feet for every 2 feet of additional height ..... 200 feet