

1 **BLUE STREAM, LLC,** * **BEFORE THE**
 2 **PETITIONER** * **PLANNING BOARD OF**
 3 **ZRA-193** * **HOWARD COUNTY, MARYLAND**

4 * * * * * * * * * * * * * * *
 5 **MOTION: Recommend approval of ZRA 193 with modifications to reduce the**
 6 **commercial space requirement in the CAC zoning district to zero square feet.**
 7 **However, the in-lieu fee amount should be evaluated in greater detail.**

8 **ACTION: *Recommended approval; Vote 4-1.***

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11 **RECOMMENDATION**

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 13 On September 3, 2020, the Planning Board of Howard County, Maryland, considered the petition of
 14 Blue Stream, LLC (Petitioner) to amend Section 127.5.E.3.d. to allow all CAC (Corridor Activity Center)
 15 zoned properties to reduce the required commercial square footage below 20 square feet per dwelling unit if
 16 the Department of Planning and Zoning finds based on a market study, submitted by the developer, that the
 17 reduction is necessary for the financial viability of the project.

18 The Planning Board considered the petition and the Department of Planning and Zoning (DPZ)
 19 Technical Staff Report and Recommendation. DPZ recommended approval of ZRA-193, with modifications
 20 included in Exhibit B of the Technical Staff Report. DPZ’s proposed modifications would allow the
 21 commercial space requirement to be reduced entirely, without a market study, if the current in-lieu fee
 22 amount is paid into a fund administered by the Howard County Economic Development Authority.

23 Sang Oh testified on behalf of the Petitioner. Mr. Oh reviewed previous CAC zoning district
 24 regulation changes noting that the market challenges for ground floor retail/commercial development on
 25 Route 1 are the same for all properties, regardless of the number of units constructed. Mr. Oh also pointed
 26 out that the General Plan calls for the county to review the efficacy of the existing Route 1 zoning districts
 27 which includes the commercial requirement of the CAC zoning district. Mr. Oh explained that if the fee-in-
 28 lieu of commercial space is set too high, it will lead to developers building “hollow retail” to avoid paying the
 29 fee-in-lieu. A Planning Board member acknowledged that the commercial space requirement in the CAC
 30 zoning district is not working and asked Mr. Oh what the Petitioner’s solution would be. Mr. Oh indicated
 31 that ideally, the commercial space would be located at nodes found at crossroads along Route 1.

32 Another Planning Board member asked how the Route 1 in lieu funds have been spent. Amy Gowan,
 33 Director of DPZ, indicated that Howard County expended funds on capital transportation improvement and
 34 safety projects and hired a consultant to generate a Route 1 Master Plan Report. The findings of that report

1 are being incorporated into the General Plan Update which will identify areas with redevelopment potential
2 for mixed-use nodes that can be served by transit.

3 Lawrence Twele, CEO of the Howard County Economic Development Authority (HCEDA), stated
4 that the HCEDA allocated funds on dedicated staff to attract new businesses. He acknowledged that over the
5 last 17 years, the commercial market has changed, and agreed with Mr. Oh that the market should drive the
6 best use of a property. However, Mr. Twele also indicated that the fee-in-lieu money gives the county the
7 tools to start making an impact on Route 1 through increased marketing and outreach efforts, infrastructure
8 enhancements, land acquisition and redevelopment. Given the imbalance between the residential and
9 commercial tax base in the County, these Route 1 tools are necessary to create more job-based development
10 opportunities.

11 One Planning Board member suggested a tiered structure with different thresholds (based on the
12 number of residential units) for commercial requirements. Another Planning Board member asked about the
13 viability of the Petitioner's final phase of development if this amendment is not approved. Mr. Oh indicated
14 that the final phase contains 200 units, 18% of which are Moderate Income Housing Units (MIHUs), and
15 confirmed that no commercial space has been built to date in this development. The project will move
16 forward; however, this ZRA will determine if it has hollow retail or no retail.

17 No members of the public provided testimony on the proposed amendment.

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19 **Board Discussion and Recommendation**

20 In work session the Board discussed the viability of requiring developers to build commercial space
21 on the Route 1 corridor when there isn't sufficient demand. Board members expressed concerns that
22 developers would choose to build commercial spaces and allow them to remain vacant in lieu of a paying of
23 fee. These long-term vacant commercial spaces would be detrimental to the corridor and create challenges for
24 future business attraction and retention. Furthermore, the fee may preclude future residential development.
25 The Board also recognized that the number of development opportunities that could be impacted by this
26 regulatory change in the CAC zone was unclear. Mr. Coleman opposed eliminating the on-site commercial
27 space requirement stating that it is not consistent with the purpose of the CAC zoning district, which is to
28 promote mixed use developments that contain commercial and residential uses and places for people to
29 interact.

30 All Board members agreed that a fee should be paid to reduce the on-site commercial space
31 requirement. However, several Board members acknowledged that the fee amount is arbitrary and needs
32 further study and as such, decided to defer a recommendation on the fee amount.

1 There was concern that the market study would be prepared by an individual developer for a specific
2 development and it may not provide the necessary analysis of market conditions in the Route 1 corridor.
3 Therefore, all Planning Board members agreed that the requirement for a market study is unnecessary.

4 Mr. McAliley motioned to recommend that:

- 5 1. The commercial space requirement be reduced to zero without the need for a market study; and
- 6 2. The fee structure be looked at further.

7 Mr. Engleke seconded the motion, which passed 4-1, with Mr. Coleman opposed.

8 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 20th day of
9 October 2020, recommends that ZRA-193, as modified in the Planning Board's motions listed above, be

10 **APPROVED.**

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1 HOWARD COUNTY PLANNING BOARD

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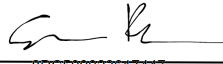
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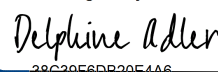
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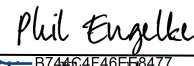
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Erica Roberts, Chair

Opposed


Ed Coleman, Vice-chair

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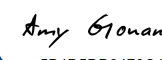
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Amy Gowan, Executive Secretary