



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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August 20, 2020

TECHNICAL STAFF REPORT

Planning Board Meeting of September 3, 2020

Case No./Petitioner: ZRA-193 – Blue Stream, LLC

Request: Amend Section 127.5.E.3.d. to allow all CAC (Corridor Activity Center) zoned properties to reduce the required commercial square footage below 20 square feet per dwelling unit if the Department of Planning and Zoning finds based on a market study submitted by the developer that the reduction is necessary for the financial viability of the project

I. BACKGROUND AND HISTORY OF EXISTING ZONING REGULATIONS

The CAC Zoning District was created during the 2004 Comprehensive Zoning Plan (CZP) with the purpose to:

“provide for the development of pedestrian-oriented, urban activity centers with a mix of retail, service, office and residential uses. These centers should be located near to Route 1 and close to residential communities that will benefit from a pedestrian-oriented local business area. The requirements of this district, in conjunction with the Route 1 Manual and the public improvements recommended by the Route 1 Corridor Revitalization Study, will result in development that will strengthen nearby communities, provide for safe and convenient pedestrian travel, and improve the streetscape of Route 1 and intersecting roads.”

To achieve the goal of pedestrian-oriented, mixed use urban activity centers, the district required amenity areas, a minimum building height of 25 feet to promote upper story uses, and 300 square feet of commercial space per dwelling unit in residential developments.

The CAC zoning district was amended by nine Zoning Regulation Amendment cases prior to the 2013 Comprehensive Zoning Plan. These included adjustments to the original CAC requirements to better meet the practical realities of CAC developments in the US 1 Corridor.

The most significant of these were ZRA 98, ZRA 104, and ZRA 106, which collectively included adjustments to the requirements for maximum building height, setbacks, amenity areas, residential density, and the requirements for both residential and non-residential development. In addition, adjustments to the CAC District regulations were also included in the 2005 Continuation to the 2004 CZP.

During the 2013 CZP, the Department of Planning and Zoning (DPZ) recognized that the minimum amount of commercial space required per dwelling unit was too high for mixed use development to be commercially viable. Accordingly, DPZ recommended that the 300 square foot requirement be reduced to 100 square feet, with an additional provision allowing reduction to 50 square feet, subject to certain criteria. However, these recommendations were not adopted.

In 2016, Council Bill 2-2016 (ZRA-156) amended the CAC zoning regulations to decrease the 300 square foot requirement to 70 square feet and included a section that outlined how developments that include Moderate Income Housing Units must address the commercial space requirement.

A section was added to allow a reduction of the 70 square feet to 20 square feet for developments containing 800 or more dwelling units provided that a fee of 50 dollars per square foot below 70 square feet is paid into a fund administered by the Howard County Economic Development Authority (EDA) to promote commercial development in appropriate locations of the US Route 1 corridor.

Another section was added to the CAC zoning regulations that allowed this fee to be reduced to 25 dollars for CAC developments that do not front on Route 1 and adjoin a development of 800 units or more. This included a full reduction of the commercial space requirement if DPZ “finds based on a market study submitted by the developer that the reduction is necessary for the financial viability of the project.” However, at the time, the market study requirement was not included until the CB-2-2016 was filed and DPZ did not have the opportunity to provide an evaluation on this proposal.

In addition to the market study provision, CB-2-2016 included additional allowances for other reductions in the fee amount based on amenity area provided in excess of that required for the project (limited to a maximum of 5 percent), any amount paid by the developer for public improvements in excess of the share required by the county, and for certain LEED certifications obtained by the developer.

After the adoption of CB 2-2016, a fund was established to receive the fees, related to reduction of the commercial space requirement, that EDA would use to promote commercial development in appropriate locations in the Route 1 corridor.

II. DESCRIPTION AND EVALUATION OF PROPOSAL

This section contains the Department of Planning and Zoning (DPZ) technical evaluation of ZRA-193. The Petitioner’s proposed amendment text is attached as Exhibit A and DPZ’s proposed text is attached as Exhibit B

The Petitioner contends that “for the last two decades, Route 1 Zoning districts have been “works in progress” that have required reexamination and revision to ensure that the policy goals of the individual zones are being met. PlanHoward2030 anticipated that these zoning districts, including CAC, would require adjustment, particularly with regard to commercial uses. As demonstrated during the Council’s deliberations on CB-2-2016, the original scheme of commercial coupled with residential has not worked.” Therefore, the Petitioner proposes the following amendments to add flexibility regarding mandated commercial space in residential developments.

Section 127.5.E.3.d.

The CAC Zoning District requires residential developments to provide 70 square feet of commercial space for each dwelling unit. This section allows a reduction to 20 square feet for developments containing 800 or more dwelling units provided that a fee of 50 dollars per square foot below 70 square feet is paid into a fund administered by the Howard County Economic Development Authority to promote commercial development in appropriate locations on the Route 1 corridor.

For example, a development with 800 units is required to provide 56,000 (800 X 70) square feet of commercial space. The on-site commercial space requirement may be reduced to 16,000 (800 X 20) square feet if a fee of \$2,000,000 (800 X 50 X (70-20)) is paid.

For developments with no frontage on US Route 1 and which adjoin a development of 800 units or more, this section allows a reduction of the 50 dollar per square foot fee to 25 dollars and a full reduction of the commercial space requirement if the Department of Planning and Zoning finds, based on a market study submitted by the developer, that the reduction is necessary for the financial viability of the project. The Petitioner proposes to extend these provisions to all developments in the CAC zoning district with 800 or more units, which may result in a full reduction of the developer's requirement to provide commercial space.

DPZ supports providing additional flexibility for large residential developments to meet the changing demand for goods and services along Route 1. Requiring the construction of commercial space for which no demand exists, may result in empty store fronts and an oversupply of commercial space concentrated in one area. As shown in "Attachment A", the only two developments with over 800 units (Blue Stream and Howard Square) are in the same location on Route 1. These two developments have a total of 2,412 units, which represent approximately 60% of the approved units in CAC. The existing regulations require construction of between 48,420 (20 s.f. per unit) and 168,840 (70 s.f. per unit) square feet of commercial space in a location where the market may not be able to support it.

Lack of demand is exacerbated by changes in human behavior and the current COVID-19 pandemic. Due to the rise of ecommerce, the retail landscape has been evolving and due to the COVID-19 pandemic, its evolution has accelerated. According to a report issued by Main Street America, "E-commerce sales in the United States totaled more than \$600 billion and made up 11% of all retail sales in 2019. According to the June 2020 *US Ecommerce 2020* report from EMarketer, US consumers are expected to spend \$709.78 billion on e-commerce in 2020. This figure represents an increase of 18% in e-commerce spending, and 14.5% increase of overall retail spending. Bricks-and-mortar retail spending, however, is expected to decrease 14%."¹ Consumers are developing new shopping habits due to COVID and now have their goods delivered to their homes or use curbside pick-ups and drive-throughs. While there is a future for retail, it is unclear at this time what land development and zoning regulations will be necessary so that it can thrive. Therefore, zoning regulations need to provide flexibility at this time until the retail landscape can be better understood.

As noted in the 2011 RCLCO Study and supported during the Route 1 Corridor Master Plan process, DPZ advocates focusing new commercial development into context compatible nodes along the corridor as opposed to smaller disconnected linear development. This approach is more consistent with the goal of creating pedestrian-oriented, urban activity centers because it creates a critical mass of development around infrastructure/transportation resources, such as commuter rail stations.

The Petitioner submitted two market studies that indicate the demand for retail/commercial development along Route 1 is low. However, the market study that DPZ would review to allow for a full reduction is project specific and requires a determination that proposed development is

¹ <https://www.mainstreet.org/blogs/national-main-street-center/2020/06/30/covid-trends-and-the-impact-on-retail?CommunityKey=c40a84d1-46b2-465c-985c-c08ed69081ab&tab=>

not financially viable with mandatory commercial. This study is conducted by the project developer and is based on a project pro forma. DPZ staff is not in a position and does not have the unique expertise to evaluate a development pro forma or feasibility study for a private sector project. Therefore, DPZ is proposing to eliminate the provision that allows a developer to submit a market study as justification for a full reduction of commercial space in the CAC zoning district.

While DPZ recommends flexible commercial requirements, we consistently have recommended in-lieu fees as a mechanism to maintain the purpose of the CAC district. The Petitioner's proposal to reduce this fee is not entirely consistent with the CAC's purpose, since it reduces the obligation of large residential developments to contribute to commercial development on Route 1. Therefore, DPZ recommends that the on-site obligation be based on market demand and no minimum space be required, but the current in-lieu fee amount should remain to promote commercial development along the corridor.

There is currently one pipeline project, Blue Stream, to which this proposed Zoning Regulation Amendment would apply. The below analysis compares the different fees structures associated with different buy-down scenarios.

Current Regulations

The current Zoning Regulations allow parcels that have 800 units or more to reduce the commercial space requirement to not less than 20 square feet per dwelling unit provided that a fee of 50 dollars, or as specified in the fee schedule, for each square foot of the total reduction in commercial space below the baseline 70 square feet per dwelling unit amount is paid. Below is a chart that calculates how much money would be contributed to the EDA Fund under this current scenario:

Development	Total	Commercial Requirement Reduction		Square Footage Difference	Money to EDA Fund
	Units	@ 70 SF/Unit	@ 20 SF/Unit		X \$50
Blue Stream	1,345	94,150	26,900	67,250	\$3,362,500

The current Zoning Regulations also allow a fee reduction for CAC developments with no frontage on US Route 1 and which adjoin a development of 800 units or more. In those cases, the fee may be reduced to 25 dollars, or as specified in the fee schedule, for each square foot of the total reduction in commercial space below the baseline 70 square feet per dwelling unit, including a full reduction of the commercial space requirement if the Department of Planning and Zoning finds based on a market study submitted by the developer that the reduction is necessary for the financial viability of the project.

DPZ's Proposal

DPZ is proposing to allow a total reduction of the commercial space requirement, without the need for a market study. However, DPZ's proposal also does not allow for a reduction of the in-lieu fee for commercial space reduction. Under DPZ's proposal, the fee would remain \$50 per square foot. Below is a chart that calculates how much money would be contributed to the EDA Fund under this scenario.

Development	Total Units	Commercial Requirement Reduction		Square Footage Difference	Money to EDA Fund
		@ 70 SF/Unit	@ 0 SF/Unit		X \$50
Blue Stream	1,345	94,150	0	94,150	\$4,707,500

Petitioner’s Proposal

The Petitioner’s proposal would allow a total reduction of the commercial space requirement and fee in-lieu reduction with a market study. The chart below calculates how much money would be contributed to the EDA Fund with a total reduction of the commercial space requirement and a reduction in the in-lieu fee amount from \$50 per square foot to \$25 per square foot.

Development	Total Units	Commercial Requirement Reduction		Square Footage Difference	Money to EDA Fund
		@ 70 SF/Unit	@ 0 SF/Unit		X \$25
Blue Stream	1,345	94,150	0	94,150	\$2,353,750

Without a market study, the Petitioner’s proposal allows for a reduction of the commercial space requirement, but that reduction would be capped at 20 square feet per unit. The chart below calculates how much money would be contributed to the EDA Fund if the commercial obligation was reduced to 20 square feet per unit and the in-lieu fee amount was reduced from \$50 per square foot to \$25 per square foot.

Development	Total Units	Commercial Requirement Reduction		Square Footage Difference	Money to EDA Fund
		@ 70 SF/Unit	@ 20 SF/Unit		X \$25
Blue Stream	1,345	94,150	26,900	67,250	\$1,681,250

III. GENERAL PLAN

The Petitioner asserts that ZRA-193 is also in harmony with the Policies and Implementing Actions section of Chapter 5, Economic Development of the PlanHoward 2030 General Plan.

Policy 5.4

“Enhance 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 as identified in the 2011 Route 1 Market Analysis.”

The proposed amendment is in harmony with the Implementation Action for Zoning Review, which states, “Evaluate 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 and by directing truck oriented uses, uses that require outdoor storage, and most auto-oriented retail uses such as gasoline service stations, automobile repair facilities and similar uses to parts of the corridor not fronting on Route 1 and not near residential areas. Revise zoning as needed to ensure the County vision is achieved.”

The Petitioner contends that “for the last two decades, Route 1 Zoning districts have been “works in progress” that have required reexamination and revision to ensure that the policy goals of the individual zones are being met. PlanHoward2030 anticipated that these zoning districts, including CAC, would require adjustment, particularly with regard to commercial uses. As demonstrated during the Council’s deliberations on 2-2016, the original scheme of commercial coupled with residential has not worked.”

The Petitioner asserts that “PlanHoward2030” also projected that demand for commercial development and office space would be significantly lower than supply. “Through 2030, the demand for office space is expected to peak at just over 3 million square feet. This demand is low when compared with the 14.1 million square feet of approved office space in the pipeline in Howard and Anne Arundel Counties.” PlanHoward2030, (p. 57). The low demand for commercial development has been particularly noticeable within the Route 1 corridor. Two developments in the CAC district, Ashbury Courts and Howard Square, have successfully petitioned for zoning regulation changes to allow for increased residential density and the possibility, with approval from the Director of DPZ, of a lower square footage requirement for commercial development. These regulation amendments were premised upon the fact that market demand for residential units was strong, while commercial space suffered from an extraordinary high vacancy rate.”

IV. RECOMMENDATION

For the reasons noted above, the Department of Planning and Zoning recommends that the ZRA-193 be **APPROVED WITH MODIFCATIONS**, as described above and drafted in Exhibit B.

Approved by:

DocuSigned by:
Amy Gowan 8/20/2020

Amy Gowan, Director Date

Exhibit A

Petitioner's Proposed Text

Section 127.5.E.3.d.

For parcels that have 800 units or more, the Department of Planning and Zoning shall permit a reduction in the commercial space requirement to not less than 20 square feet per dwelling unit provided that a fee of 50 dollars, or as specified in the fee schedule, for each square foot of the total reduction in commercial space below the baseline 70 square feet per dwelling unit amount is paid into a fund administered by the Howard County Economic Development Authority to promote commercial development in appropriate locations of the US Route 1 corridor, as allowed under Section 26.106 of the Howard County Code.

[[However, for CAC developments with no frontage on US Route 1 and which adjoin a development of 800 units or more,]] This fee may be reduced to 25 dollars, or as specified in the fee schedule, for each square foot of the total reduction in commercial space below the baseline 70 square feet per dwelling unit, including a full reduction of the commercial space requirement if the Department of Planning and Zoning finds based on a market study submitted by the developer that the reduction is necessary for the financial viability of the project.

How The Text Would Appear If Adopted As Proposed

E. Requirements for CAC Development

1. Amenity Area

CAC developments shall include an amenity area or areas. No amenity area shall be smaller than 0.25 acre. The amenity area shall include seating and trees proportional to the size of the amenity area. Amenity areas shall be connected by pedestrian and bicycle improvements that link with existing and future connections to surrounding developments. In accordance with Section 16.121 (B) of the Code, at the discretion of the County, all or a portion of the open space area shall be dedicated and deeded without charge to Howard County for recreation or for public use, including but not limited to, community centers and libraries along Route 1.

a. For CAC Developments 20 acres or larger, provide 20% of the net acreage as open space of which at least 50% must be designed as an amenity area open to the public. Provide well-designed recreational areas for both children's and adults' activities. Provide on amenity area that is designated as a civic gathering place large enough to accommodate such activities as community picnics, concerts, fairs and similar events.

b. For CAC Developments less than 20 acres, provide 10% of the net acreage as open space which must be designed as an amenity area open to the public.

2. Requirements for Nonresidential Uses

a. On a lot adjoining the Route 1 right-of-way, for the buildings closest to Route 1:

(1) At least 50% of the first floor of the building must be designed for retail or service uses. Service uses include personal service, service agency, restaurants, and similar uses serving the public.

- (2) The first floor of the building facade facing Route 1 must include storefronts and primary entrances for the first floor retail and service uses.
 - (3) The first floor facade shall be designed to provide pedestrian interest along Route 1 in accordance with the Route 1 Manual.
 - b. The gross floor area for any individual commercial use shall not exceed:
 - (1) In developments on parcels less than 20 acres in size:
 - (a) One hotel with a maximum floor area of 50,000 sq. feet.
 - (b) All other commercial uses 20,000 sq. ft.
 - (2) In developments on parcels 20 or more acres in size:
 - (a) A maximum of one food store if a portion of the façade is wrapped with smaller stores or contains architectural features to simulate smaller retail storefronts 70,000 sq. ft.
 - (b) A maximum of one commercial use with a maximum footprint of 20,000 sq. ft. and a maximum floor area of 40,000 sq. ft., and located in a mixed use building.
 - (c) All other commercial uses 20,000 sq. ft.
- 3. Requirements for Residential Uses
 - a. Residences are permitted only within Route 1 Corridor development projects encompassing at least two gross acres of CAC-zoned land or less than 2 gross acres if:
 - (1) the subject property is contiguous along at least 75% of its perimeter to a CAC development that has received final approval of a Sketch Plan or Site Development Plan;
 - (2) no additional CAC-zoned land directly adjoins the subject property; and
 - (3) the development of the subject property shall be compatible with the land use, site planning and architectural character of the contiguous CAC development.
 - b. The first floor of buildings adjoining the right-of-way of Route 1 shall not include residential uses in the building space closest to the right-of-way of Route 1, with the exception that if the Director of the Department of Planning and Zoning finds that the building and streetscape design are in compliance with Chapter 5 of the Route 1 Manual concerning building design, particularly the sections concerning mass and articulation and door and window openings, such units may be approved in a development site that has 1,000 feet or greater frontage on the Route 1 right-of-way and is:
 - (1) 20 acres or greater and residences occupy no more than 50% of the Route 1 frontage, or
 - (2) 5 acres or greater and within 2,000 feet of a MARC Station.
Residences may occupy other portions of the first floor space.
 - c. For every dwelling unit that is developed, 70 square feet of commercial space must be developed on the site provided, however, that for parcels providing moderate income housing under Section 127.5.e.3.f.(1), the commercial space requirement as set forth in Section 127.5.e.3.c. shall be determined based on eighty-five percent of residential units developed and for parcels providing moderate income housing under Section 127.5.e.3.f.(2), the commercial space requirement as set forth in Section 127.5.e.3.c. shall be determined based on seventy-five percent of residential units developed.
 - d. For parcels that have 800 units or more, the Department of Planning and Zoning shall permit a reduction in the commercial space requirement to not less than 20

square feet per dwelling unit provided that a fee of 50 dollars, or as specified in the fee schedule, for each square foot of the total reduction in commercial space below the baseline 70 square feet per dwelling unit amount is paid into a fund administered by the Howard County Economic Development Authority to promote commercial development in appropriate locations of the US Route 1 corridor, as allowed under Section 26.106 of the Howard County Code.

This fee may be reduced to 25 dollars, or as specified in the fee schedule, for each square foot of the total reduction in commercial space below the baseline 70 square feet per dwelling unit, including a full reduction of the commercial space requirement if the Department of Planning and Zoning finds based on a market study submitted by the developer that the reduction is necessary for the financial viability of the project.

The fee as provided for in this Subsection shall be paid at the time of approval of a site development plan for the non-residential portions of the development. The fee may be reduced as follows:

- (1) The fee shall be reduced one dollar per square foot for every percentage point of amenity area provided in excess of that required for the project limited to a maximum of five percent.
- (2) The total fee shall be reduced dollar-per-dollar for any amount of contributions paid by the developer for public improvements in excess of the proportional share required by Howard County.
- (3) The fee shall be reduced two dollars per square foot for projects in which over twenty-five percent of the residential units are LEED certified, four dollars per square foot for projects in which over twenty-five percent of the residential units are LEED Silver certified, six dollars per square foot for projects in which over twenty-five percent of the residential units are LEED Gold certified, and eight dollars per square foot for projects in which over twenty-five percent of the residential units are LEED Platinum certified.

In the event that the developer pays the fee as provided for in this subsection, no additional residential units may be received or constructed on the property pursuant to Section 127.5.F.

- e. The phasing of residential and commercial construction and open space amenity areas should be proportional. No more than 50% of the residential units shall be constructed prior to commencing a proportional amount of commercial construction and open space amenity areas. For developments of 800 units or more or developments adjoining such larger developments, no more than 70% of the residential units shall be constructed prior to commencing the construction of the non-residential portions of the development unless the fee as specified in Subsection (d) above is provided.
- f. Moderate Income Housing
 - (1) At least 15% of the dwelling units shall be Moderate Income Housing Units, except that
 - (2) At least 25% of the dwelling units shall be Moderate Income Housing Units if the CAC Development requires closing of a mobile home park existing on the property when CAC rezoning occurs.

Exhibit B**DPZ's Proposed Text****Section 127.5.E.3.d.**

For parcels that have 800 units or more, the Department of Planning and Zoning shall permit a reduction in the commercial space requirement [[to not less than 20 square feet per dwelling unit]] provided that a fee of 50 dollars, or as specified in the fee schedule, for each square foot of the total reduction in commercial space below the baseline 70 square feet per dwelling unit amount is paid into a fund administered by the Howard County Economic Development Authority to promote commercial development in appropriate locations of the US Route 1 corridor, as allowed under Section 26.106 of the Howard County Code.

However, for CAC developments with no frontage on US Route 1 and which adjoin a development of 800 units or more, this fee may be reduced to 25 dollars, or as specified in the fee schedule, for each square foot of the total reduction in commercial space below the baseline 70 square feet per dwelling unit. [[including a full reduction of the commercial space requirement if the Department of Planning and Zoning finds based on a market study submitted by the developer that the reduction is necessary for the financial viability of the project.]]

How The Text Would Appear If Adopted As Proposed**E. Requirements for CAC Development**

1. Amenity Area

CAC developments shall include an amenity area or areas. No amenity area shall be smaller than 0.25 acre. The amenity area shall include seating and trees proportional to the size of the amenity area. Amenity areas shall be connected by pedestrian and bicycle improvements that link with existing and future connections to surrounding developments. In accordance with Section 16.121 (B) of the Code, at the discretion of the County, all or a portion of the open space area shall be dedicated and deeded without charge to Howard County for recreation or for public use, including but not limited to, community centers and libraries along Route 1.

a. For CAC Developments 20 acres or larger, provide 20% of the net acreage as open space of which at least 50% must be designed as an amenity area open to the public. Provide well-designed recreational areas for both children's and adults' activities. Provide on amenity area that is designated as a civic gathering place large enough to accommodate such activities as community picnics, concerts, fairs and similar events.

b. For CAC Developments less than 20 acres, provide 10% of the net acreage as open space which must be designed as an amenity area open to the public.

2. Requirements for Nonresidential Uses

a. On a lot adjoining the Route 1 right-of-way, for the buildings closest to Route 1:

- (1) At least 50% of the first floor of the building must be designed for retail or service uses. Service uses include personal service, service agency, restaurants, and similar uses serving the public.

- (2) The first floor of the building facade facing Route 1 must include storefronts and primary entrances for the first floor retail and service uses.
 - (3) The first floor facade shall be designed to provide pedestrian interest along Route 1 in accordance with the Route 1 Manual.
 - b. The gross floor area for any individual commercial use shall not exceed:
 - (1) In developments on parcels less than 20 acres in size:
 - (a) One hotel with a maximum floor area of 50,000 sq. feet.
 - (b) All other commercial uses 20,000 sq. ft.
 - (2) In developments on parcels 20 or more acres in size:
 - (a) A maximum of one food store if a portion of the facade is wrapped with smaller stores or contains architectural features to simulate smaller retail storefronts 70,000 sq. ft.
 - (b) A maximum of one commercial use with a maximum footprint of 20,000 sq. ft. and a maximum floor area of 40,000 sq. ft., and located in a mixed use building.
 - (c) All other commercial uses 20,000 sq. ft.
- 3. Requirements for Residential Uses
 - a. Residences are permitted only within Route 1 Corridor development projects encompassing at least two gross acres of CAC-zoned land or less than 2 gross acres if:
 - (1) the subject property is contiguous along at least 75% of its perimeter to a CAC development that has received final approval of a Sketch Plan or Site Development Plan;
 - (2) no additional CAC-zoned land directly adjoins the subject property; and
 - (3) the development of the subject property shall be compatible with the land use, site planning and architectural character of the contiguous CAC development.
 - b. The first floor of buildings adjoining the right-of-way of Route 1 shall not include residential uses in the building space closest to the right-of-way of Route 1, with the exception that if the Director of the Department of Planning and Zoning finds that the building and streetscape design are in compliance with Chapter 5 of the Route 1 Manual concerning building design, particularly the sections concerning mass and articulation and door and window openings, such units may be approved in a development site that has 1,000 feet or greater frontage on the Route 1 right-of-way and is:
 - (1) 20 acres or greater and residences occupy no more than 50% of the Route 1 frontage, or
 - (2) 5 acres or greater and within 2,000 feet of a MARC Station.
Residences may occupy other portions of the first floor space.
 - c. For every dwelling unit that is developed, 70 square feet of commercial space must be developed on the site provided, however, that for parcels providing moderate income housing under Section 127.5.e.3.f.(1), the commercial space requirement as set forth in Section 127.5.e.3.c. shall be determined based on eighty-five percent of residential units developed and for parcels providing moderate income housing under Section 127.5.e.3.f.(2), the commercial space requirement as set forth in Section 127.5.e.3.c. shall be determined based on seventy-five percent of residential units developed.
 - d. For parcels that have 800 units or more, the Department of Planning and Zoning shall permit a reduction in the commercial space requirement provided that a fee

of 50 dollars, or as specified in the fee schedule, for each square foot of the total reduction in commercial space below the baseline 70 square feet per dwelling unit amount is paid into a fund administered by the Howard County Economic Development Authority to promote commercial development in appropriate locations of the US Route 1 corridor, as allowed under Section 26.106 of the Howard County Code.

However, for CAC developments with no frontage on US Route 1 and which adjoin a development of 800 units or more, this fee may be reduced to 25 dollars, or as specified in the fee schedule, for each square foot of the total reduction in commercial space below the baseline 70 square feet per dwelling unit.

The fee as provided for in this Subsection shall be paid at the time of approval of a site development plan for the non-residential portions of the development. The fee may be reduced as follows:

- (1) The fee shall be reduced one dollar per square foot for every percentage point of amenity area provided in excess of that required for the project limited to a maximum of five percent.
- (2) The total fee shall be reduced dollar-per-dollar for any amount of contributions paid by the developer for public improvements in excess of the proportional share required by Howard County.
- (3) The fee shall be reduced two dollars per square foot for projects in which over twenty-five percent of the residential units are LEED certified, four dollars per square foot for projects in which over twenty-five percent of the residential units are LEED Silver certified, six dollars per square foot for projects in which over twenty-five percent of the residential units are LEED Gold certified, and eight dollars per square foot for projects in which over twenty-five percent of the residential units are LEED Platinum certified.

In the event that the developer pays the fee as provided for in this subsection, no additional residential units may be received or constructed on the property pursuant to Section 127.5.F.

- e. The phasing of residential and commercial construction and open space amenity areas should be proportional. No more than 50% of the residential units shall be constructed prior to commencing a proportional amount of commercial construction and open space amenity areas. For developments of 800 units or more or developments adjoining such larger developments, no more than 70% of the residential units shall be constructed prior to commencing the construction of the non-residential portions of the development unless the fee as specified in Subsection (d) above is provided.
- f. Moderate Income Housing
 - (1) At least 15% of the dwelling units shall be Moderate Income Housing Units, except that
 - (2) At least 25% of the dwelling units shall be Moderate Income Housing Units if the CAC Development requires closing of a mobile home park existing on the property when CAC rezoning occurs.

Attachment A

