

James R. Buch, Jr.
and Frances M. Buch,
Petitioner
ZRA 106

* PLANNING BOARD OF
* HOWARD COUNTY, MARYLAND

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MOTION: To recommend Denial of the Amended Petition, including the petitioner's proposed text amendment, to amend Section 127.5 (CAC: Corridor Activity Center District) of the Zoning Regulations to add a provision to permit apartment and single-family attached uses within a Route 1 Corridor development project of less than two acres if the property is contiguous to CAC development which has received an approved sketch plan or site development plan.

ACTION: *Recommended denial of Amended Petition including the petitioner's proposed text amendment contained in the TSR Addendum; Vote 4 to 0.*

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RECOMMENDATION

On October 16 and October 23, 2008, the Planning Board of Howard County, Maryland, considered the petition of James R. Buch Jr. and Frances M. Buch to amend Section 127.5 of the Zoning Regulations. The original petition was a proposal to add a provision to permit apartment and single-family attached uses within a Route 1 Corridor development project of less than two acres if the property is adjacent to CAC zoned property. At the October 16 Planning Board meeting, the Petitioner presented an amendment to the original proposal. This amendment modified the original petition to permit the noted uses if the property is contiguous to CAC development which has received an approved sketch plan or site development plan.

The petition, the Department of Planning and Zoning Technical Staff Report, Technical Staff Report Addendum dated October 20, 2008 and Recommendation were presented to the Board for its consideration. The Department of Planning and Zoning recommended that the Petitioner's original and amended requests be denied.

The Petitioner was represented by Andrew Robinson, Esq. Grace Kubovitch appeared in opposition to the petition.

Mr. Robinson said the amendment is intended to facilitate development of contiguous parcels for developed properties for the highest and best use of land. He said this is often residential land which would be compatible with contiguous land uses of CAC developed properties. He said the language of the proposal focuses on the intended purpose of the CAC district and that flexibility to complement developments in process is needed. Mr. Robinson stated that there are seven CAC districts in the Route 1 corridor and that since four of these are fully assembled, there would be minimal impact to the remaining CAC districts.

1 Ms. CitaraManis questioned why it was impossible for the property owners to comply with the
2 commercial development requirement of the CAC zone? Mr. Robinson stated that based on the location of
3 the property (away from Rt. 1) and being surrounded by existing residential development the type of
4 commercial uses that could fit the smaller parcels would not reflect the mixed-use intent of the CAC
5 district. Specifically, there needs to be more flexibility in the CAC district to ensure compatibility with the
6 intent and purpose of this zone.

7 Paul Yelder commented regarding the practicality of a zoning regulation amendment if it only
8 affected one or two parcels.

9 Mr. Robinson said the amendment could affect some parcels in North Laurel, but only a minimal
10 number would be affected and checks were in place to ensure that developers complied with the Route 1
11 Manual.

12 James Buch testified that since the subject property has no frontage on Route 1 and is surrounded
13 by residential uses, commercial uses are not appropriate.. He said the property would probably be
14 developed with apartments or condominiums that would complement the adjoining development. Mr. Buch
15 indicated that it was not the Petitioner's intent to frustrate the intent of the CAC district or to lower the
16 acreage requirement to be able to utilize the increased density. The Petitioner's intent was to keep the
17 property in the family and develop it in a manner more compatible with the zone. Petitioner does not
18 believe that a commercial use is compatible based on the property's size and location. He believed that
19 further research into how the smaller parcels in the CAC district can be developed in a compatible manner
20 without undermining integrity of the CAC zone should be performed.

21 Ms. CitaraManis questioned why a zoning map amendment was not proposed as a more appropriate
22 mechanism to address Petitioner's situation. .

23 Mr. Yelder asked if there was any thought given to adding a "compatibility"
24 component to the proposed language.

25 Grace Kubovitch testified that denial of the petition was appropriate. She believes that because it
26 was clear that there was no intent to assemble this property a zoning map amendment was more
27 appropriate than a zoning regulation amendment. She testified that allowing this level of increased density
28 is wrong and the proposal would create a "rolling rezoning" of properties in the Rt. 1 corridor.

Motion:

Ms. CitaraManis made a motion to deny the Amended Petition including the petitioner's proposed
text changes in the TSR Addendum. Gary Rosenbaum seconded the motion.

Discussion:

The Board recognizes the difficulties Petitioner is faced with trying to develop small a parcel of
land in accordance with the CAC district based on its size, location and existing residential development.
Specifically, the property is too small to permit residential development with the increase density of 25

1 units per acre thereby effectively limiting Petitioner to commercial/retail uses. The Board did not have
2 enough information to consider whether the density could be reduced proportionally to actual acreage as a
3 possible solution. However, the Board acknowledged that to do so may be counter intuitive to the purpose
4 of the CAC district which is to permit a higher density to encourage the assemblage of properties.

5 The Board agrees that by being limited to commercial/retail uses poses a potentially serious
6 compatibility issue based on the property's location. Although Petitioner identified only a few parcels that
7 may be affected by the proposed changes, the Board does not believe a zoning regulation amendment is the
8 appropriate mechanism to achieve the flexibility Petitioner needs to develop their property to be compatible
9 with the area and which still uphold the intent and purpose of the CAC district. A zoning regulation
10 amendment will apply to all CAC properties and may have the unintended effect of spurring other zoning
11 regulation amendment requests to further lower the acreage requirement for properties with similar
12 characteristics, but with even less land.

13 Considering the relative newness of the CAC district, the Board believes there has not been enough
14 time to warrant or justify changes to the regulations based solely the facts presented by Petitioner. In this
15 situation, the Petitioner's research on the number of properties potentially affected by this perceived
16 weakness in the regulations was helpful, but must be fully evaluated and considered by DPZ before
17 changing the CAC district. In the interim, the Board believes, without indicating support or opposition on
18 the merits, that a more appropriate mechanism to address Petitioner's situation may be a map amendment.
19 The other option would be to wait for the next Comprehensive Rezoning process.

20 **Vote:**

21 The motion to deny the Amended Petition in accordance with the recommendation of the Technical
22 Staff Report (Addendum) including the petitioner's proposed text changes passed by a vote of 4 to 0.

23 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this ~~20th~~^{21st} day of
24 November, 2008, recommends that the Petitioner's request to amend section 127.5 of the Zoning
25 Regulations to add a provision to permit apartment and single-family attached uses within a Route 1
26 Corridor development project of less than two acres if the property is adjacent to CAC zoned property or if
27 the property is contiguous to CAC development which has received an approved sketch plan or site
28 development plan, be **DENIED** in accordance with the recommendation of the Technical Staff Report
(Addendum) including the petitioner's proposed text changes.

HOWARD COUNTY PLANNING BOARD

David Grabowski
David Grabowski, Chairperson

Gary Rosenbaum
Gary Rosenbaum, Vice Chairperson

Tammy J. Citara
Tammy J. Citara

ABSTAINED

Linda A. Dombrowski

Paul Yelder
Paul Yelder

ATTEST:

Marsha S. McLaughlin

Marsha S. McLaughlin
Executive Secretary