

1 **CONCERNED CITIZENS OF,** * **BEFORE THE**
2 **WESTERN HOWARD COUNTY, INC.** * **PLANNING BOARD OF**
3 **ZRA-105** * **HOWARD COUNTY, MARYLAND**

4 * * * * *

5 **MOTION:** *To recommend denial of ZRA-105 in accordance with the Department of*
6 *Planning and Zoning recommendation, and to recommend that a*
7 *comprehensive study of the commercial areas in the Rural West be*
8 *conducted as soon as possible.*

9 **ACTION:** *Recommended Denial; Vote 5 to 0.*

10 * * * * *

11 On October 30 and November 13, 2008, the Planning Board of Howard County, Maryland,
12 considered the petition of Concerned Citizens of Western Howard County Inc. for an amendment to the
13 Zoning Regulations to amend Section 118, the B-1 (Business: Local) regulations, and to amend Section 119,
14 the B-2 (Business: General) regulations, to establish a new Section 118.F and 119.F. to add additional
15 requirements for uses on properties located in the No Planned Service Area of the Howard County Master
16 Plan for Water and Sewer.

17 The petition, the Department of Planning and Zoning Technical Staff Report and Recommendation,
18 and the comments of reviewing agencies, were presented to the Board for its consideration. The Department
19 of Planning and Zoning recommended denial of the petition based on findings that the purpose of the
20 proposed amendments to address the appropriateness of commercial development in the Rural West should be
21 realized through the General Plan and Comprehensive Zoning Plan processes, and not through a Zoning
22 Regulation Amendment.

23 The Petitioner was represented by Katherine Taylor. Ms. Taylor stated that there are no legal reasons
24 that prevent a regulation amendment of this type. She emphasized that the Rural West area of the County is
25 distinctly different from the more developed eastern area and that commercial development and uses need to
26 be more carefully considered there. Ms. Taylor noted that other jurisdictions revise their General Plans more
27 often than Howard County, adding that waiting ten years or more to revise the General Plan is far too long for
28 the pace of development. She maintained that there is no need to wait for a study because the 2000 General
29 Plan already addresses related recommendations on preserving the Rural West.

30 Dr. James Stewart testified in support of the petition. He stated that there are many B-1 and B-2 uses
31 that can be detrimental to rural areas in terms of character, environmental effects and safety issues. Dr.
32 Stewart said that the BR District uses are the most appropriate commercial uses for the Rural West. He
33 emphasized that he believes the concerns of the residential property owners about this issue override the

1 interests of the commercial property owners in the Rural West. Ted Mariani testified that although the B-1
2 and B-2 zoning in the Rural West has been in place since the 1950s, there have been many changes to
3 commercial development since that time. He stressed that a buffer of 30 feet to adjoining residential
4 properties is inadequate, and that the BR District requirements better suit commercial development in the
5 Rural West because they require a much more substantial buffer. Also testifying in support of the petition
6 were Carl Oehrig, Hugh Flaherty, Ben Prats, Bridget Mugane, Thomas Carroll, Dave and Denise Richardson,
7 Robert Keepers, and Glen Pedersen.

8 Sang Oh testified in opposition to the petition. He stated that the issue being considered is one of
9 policy, and it is important to be consistent with policy. He noted that the Board has generally always been
10 opposed to Zoning Regulation Amendments that essentially change the zoning of properties. Mr. Oh pointed
11 out that the General Plan policies are established after much careful evaluation, but the policy issue under
12 consideration has had no such evaluation.

13 After a thorough evaluation of the staff report and citizen testimony, the Board commends the citizens
14 for bringing forth the issue of commercial zoning in the west and to request a change the area's zoning that
15 they believe reflects the General Plan policies for targeting commercial expansion at identified crossroads.
16 (General Plan Policy 3.10). The Board is in agreement that in order to preserve the character of the Rural
17 West it is possible that differing commercial intensity and uses may be warranted. However, ZRA 105 is not
18 the best tool for accomplishing that end. Specifically, the Board concludes and recommends the following:

19 **1. ZRA 105 is in response to the proposed development of a car dealer in the Daisy Road area**

20 Citizens testified that their petition was an attempt to prevent the car dealership from opening at the
21 Daisy Road intersection on land that has been zoned commercial for decades. Supporting testimony
22 frequently made reference to the need to protect the Daisy Road area. Historically, the Board opposes the use
23 of sweeping, wide-impacting zoning legislation to deal with a more "neighborhood" issue. The Board
24 believes that a thorough and strategic analysis of the issue of commercial development and services in the
25 Rural West is warranted.

26
27 **2. The 2000 General Plan while silent as to how commercial services should be balanced with the**
28 **Rural West's preservation clearly supports the provision of commercial services in the area.**

29 The B-1 and B-2 properties identified in the Rural West have been in existence for decades, their
30 continued existence at the time of the last General Plan was reinforced. The 2000 General Plan was adopted
31 with no alterations to the policies pertaining to the B-1 and B-2 zoning of these properties. It therefore is
32 presumed that no changes were deemed necessary at the time because their inclusion in the Rural West was
33 widely known. DPZ staff in the 2001 Comprehensive Rezoning process referred to a situation that occurred
34 in the Lisbon community. DPZ's proposed down zoning of commercial properties at the crossroads was met

1 with substantial community resistance. After that attempt, DPZ abandoned its efforts to revise the commercial
2 zoning in the Rural West.

3 From a planning perspective the Board agrees that although the current regulations permit
4 commercial development in the Daisy area, a used car lot in its current location in Daisy does not fit with the
5 rural character of the neighborhood. The Board agrees with Petitioner that the character of the Rural West is
6 vulnerable because the zoning regulations have not been thoroughly reviewed and possibly amended to reflect
7 the 2000 General Plan policy which directs commercial expansion to the commercial cross roads.

8 Nevertheless, the Board disagrees with Petitioner's assertion that ZRA 105 addresses the commercial
9 needs of the Rural West and as written is the appropriate tool to implement the 2000 General Plan policies for
10 commercial development in the Rural West. Furthermore, Petitioner's reliance on the information used to
11 establish a floating zone (BR) to expand limited commercial uses on residential properties is inadequate in
12 scope and purpose to support a zoning change of this magnitude.

13 14 3. Commercial crossroads are intended to exist

15 "The 1990 General Plan identified several existing centers (Lisbon/Woodbine, West Friendship,
16 Glenelg/Glenwood, Dayton and Highland) that could serve as focus points for commercial development in the
17 Rural West" (page 63). Planning Board examined the map of B-1 and B-2 properties currently in the Rural
18 West. The Board determined that a significant majority of those properties were in the crossroad centers
19 identified in the 1990 General Plan and were typically small in acreage (less than 2 acres). The acreage size is
20 relevant in that smaller parcels must more carefully select their use to comply with setback requirements.

21 Even though the 2000 General Plan notes the demise of potential economic development land in West
22 Friendship and Lisbon's narrow roads as limits to commercial opportunity, it does discuss that the expansion
23 of existing crossroads require feasibility studies for new rural centers. It further states that retail development
24 should be discouraged outside of the existing crossroads centers. Agribusiness uses, the Plan states, should be
25 permitted in locations beyond rural commercial centers such as existing farms. Redevelopment and or
26 expansion of those crossroads centers is to give consideration to septic system capacity, traffic, non-
27 residential vacancies, building conditions and public infrastructure and design compatibility. Nowhere
28 included is the planned contraction or elimination of the Rural West's existing commercial services or zoned
29 land.

30 The 2000 General Plan suggests the use of Community Master Plans and Community Enhancement
31 Programs as tools to address the potential for expansion, conservation or revitalization of existing Rural West
32 crossroads centers. The tool, the Plan advises, would be dependent upon on the degree of desired community
33 participation.

34 ZRA 105 does not support the essence of the 1990 or 2000 General Plan because it chooses to

1 sweepingly reduce the economic and commercial potential of already existing commercial properties without
2 a process of considerable analysis, discussion and negotiation that typically occurs in zoning changes of this
3 magnitude. The Comprehensive Rezoning process affords a more appropriate mechanism than the zoning
4 regulation amendment process.

5
6 4. Major alterations to or the creation of new zoning categories typically occurs during the
7 Comprehensive Rezoning process

8 The proposal to alter the Rural West's B-1 and B-2 properties by rezoning them through the process
9 of legislation is essentially the act of comprehensive rezoning without its proper due process mechanism. For
10 example, the creation and adoption of the US Route 1 corridor zoning was enacted only after considerable
11 study, benchmarking, citizen notification, and input including viewpoints from business leaders/providers,
12 residents and concerned citizens. Together, agreement was reached as to what the zones should be used for,
13 where they should be located and most importantly how they would achieve the land use vision for the
14 corridor that maximized quality of life, services and tax base generation. This level of careful analysis and
15 evaluation to determine the impact on the land use vision has not occurred.

16
17 5. BR was enacted to expand the commercial zones in the Rural West not restrict commercial uses

18 The petitioners are proposing that all commercial property in the Rural West be restricted to the
19 permitted uses in the BR floating zone category without providing any analysis as to whether those limited
20 services meet the needs of the community and to what degree. Upon examination of the language of the
21 Business Rural (BR) zone and in consideration of staff's review of the zone's history, it is apparent that the
22 BR zone was created to expand commercial opportunities in the Rural West's residential zones, not restrict or
23 replace the current commercial zoning. Although Petitioner argues these zones will remain B-1 and B-2, the
24 language effectively limits all commercial uses to those specifically listed in the BR zone. Listed BR uses are
25 fewer and more agriculturally based in comparison to the commercial zones B-1 and B-2. As a floating zone,
26 it could be applied to existing residential zones and would not be necessary in the already existing commercial
27 zones. It is clear the BR zone was in no way intended to replace or limit the existing uses of B-1 and B-2 in
28 the Rural West.

29 In effect, ZRA 105 amounts to a substantial down zoning from the expansive B-2 and neighborhood
30 serving B-1 to a BR zone that was never intended to be the sole source of commercial provision in the Rural
31 West. Any decision to do so as proposed must be based on proper notice and input from all affected property
32 owners and complete analysis from DPZ. Such an analysis must include the impact of developed commercial
33 properties becoming a non-conforming use as a result of ZRA 105. Specifically, whether it is good land use
34 planning to enact legislation that makes all existing commercial uses in the Rural West non-conforming as a

1 matter of public policy.

2
3 **6. There is a legitimate need for commercial services in the Rural West**

4 As it is proposed, ZRA-105 would diminish the availability of commercial uses for which there is
5 need for in the Rural West. Additional consideration is needed as to what uses are appropriate on existing
6 zoned commercial properties outside the recognized rural commercial crossroads areas. The Board
7 recognizes the varying degrees of rural character found in the Rural West be it residential or commercial uses.
8 While what might be appropriate for Glenwood or Highland, may be too intense or not rural enough in
9 Lisbon, Dayton or elsewhere. Further evaluation is needed to assess the need and impact of the varying rural
10 commercial services along with the varying degree of rural character found in the Rural West.

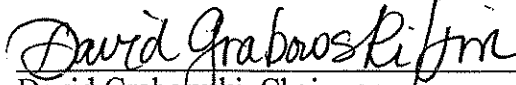
11
12 **7. ZRA 105 creates a problem with the uniform application of the B-1 and B-2 zones between the west**
13 **and eastern ends of Howard County**

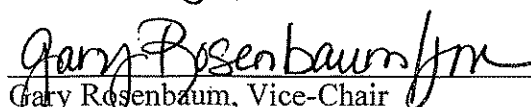
14 ZRA-105, the Board agrees, would create a problem of uniformity of result. Currently B-1 and B-2
15 are universal, county-wide zones that apply no distinction of use depending upon location in the county.
16 Meaning, B-1 and B-2 have the same potential uses anywhere in the county. With ZRA 105, B-1 and B-2
17 properties inside the Planned Service area (Eastern Howard County) would be for a broader list of uses.
18 Properties located outside the Planned Service Area (Western Howard County) would have commercial uses
19 limited to only BR uses. Such an occurrence is an inequitable application of a universal zone.

20 Ms. CitaraManis made the motion to recommend denial of the petition, in accordance with the
21 Department of Planning and Zoning recommendation, with the added recommendation that a comprehensive
22 study of the commercial properties in the Rural West should be conducted as soon as possible with the goal of
23 amending the General Plan as necessary for the Rural West. Mr. Rosenbaum seconded the motion. The
24 motion passed by a vote of 5 to 0.

25 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 21st day of
26 January, 2009, recommends that ZRA-105, as described above, be DENIED.

27
28 HOWARD COUNTY PLANNING BOARD

29 
30 David Grabowski, Chairman

31 
32 Gary Rosenbaum, Vice-Chair
33

Linda A. Dombrowski/jm

Linda A. Dombrowski

Tammy J. Citaraffanis/jm

Tammy J. Citaraffanis

Paul Yelder/jm

Paul Yelder

ATTEST:

Marsha S. McLaughlin

Marsha S. McLaughlin, Executive Secretary