



HOWARD COUNTY COUNCIL
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**PETITION TO AMEND THE
ZONING REGULATIONS OF
HOWARD COUNTY**

DPZ Office Use Only:

Case No. ZRA- 102

Date Filed: _____

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: to amend Section 125 regarding the New Town District to permit any owner of property within a Village Center to petition the Zoning Board to amend the various previous plan approvals for the purpose of redeveloping the Village Center.

[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: Wilde Lake Business Trust

Address: 170 West Ridgely Road, Suite 210, Lutherville, MD 21093

Phone No. (W) (410) 684-2000 (H) _____

Email Address: gglazer@kimcorealty.com

3. Counsel for Petitioner: G. Scott Barhight, Esq.

Counsel's Address: 1 W. Pennsylvania Ave, Suite 300, Towson, Maryland 21204

Counsel's Phone No: 410 832-2050

Email Address: gbarhight@wtplaw.com

- 4.** Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed: This amendment is being proposed because the current New Town District does not permit any property owner other than the original petitioner for the New Town District to seek amendments to any of the previously approved plans. As a result, the existing regulations do not permit redevelopment of the Village Centers to respond to changing conditions. As a result of the current regulations, the Village Centers can not be redeveloped and reinvestment is therefore discouraged. Discouraging reinvestment can lead to a degradation of the Village Centers. These proposed regulation amendments will allow for the evolution of the Village Centers in a fashion that encourages reinvestment and stabilizes the existing Village Centers.

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County. The most important statement of the general plan for Howard County is "We Are Stewards Of The County's Social, Economic And Environmental Systems." In order to be good stewards, we must allow for the social and economic systems to evolve, respond to change and be sustained. The Village Centers are a critical component of Howard County's social and economic fabric. Prohibiting flexibility over time and prohibiting the redevelopment of the Village Centers is not good stewardship.

The third vision of the general plan is "Our development will be concentrated within a growth boundary, will be served by adequate public facilities and will encourage economic vitality." These proposed amendments focus on redevelopment of the Village Centers and will encourage economic vitality through their redevelopment.

Vision four is "our communities will be livable, safe and distinctive." To sustain the viability and safety of the Village Centers, they must be allowed to flexibly evolve and respond to changes in social and market conditions.

Vision six is "our citizens will take part in the decisions and actions that effect them." The proposed amendments encourage citizen participation and provide for meaningful public dialogue on the proposed plans. The proposed amendments suggest a process which is open and reliable.

[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. The proposed amendments are for the sole purpose of preserving the viability and sustainability of the Village Centers. The Village Centers can not be healthy and safe if they are allowed to decay through rigid regulations that prohibit property owners from exercising their rights to petition their government to seek land use changes.

[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) The principal public benefit is that the Village Centers will be allowed, for the first time, to evolve and respond in a flexible and intelligent way to the changing social and market conditions facing each Village Center. The method of change proposed will also provide for responsible citizen input.

[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. The amendments will potential effect all Village Centers. Because this proposed amendment is procedural, rather than substantive, the impact on each of the Village Centers is identical. In each case, property owners within the Village Centers will now have the right to petition their government for changes to land uses within the Village Centers. The potential changes are only limited by the creativity of the applicants and the design criteria imposed by the Zoning Board through their good judgment.

[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. The critical factor which the Council should consider in its evaluation of this amendment is that the Village Centers currently can not evolve. Current law prohibits property owners from seeking changes of land use that respond to social and economic conditions. Such a prohibition is not only arguable illegal, it is not justifiable given the length of time that has occurred since the Village Centers were created.

[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.

WILDE LAKE BUSINESS TRUST

By: OWL Retail Holdings LLC, Trustee

By: Kimco Realty Corporation, Managing
Member

Wilde Lake Business Trust
Petitioner's name (Printed or typed)

By:  8.29.08
Stuart W. Cox, Vice President

Petitioner's name (Printed or typed)

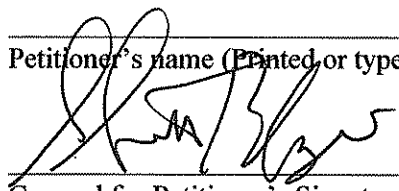
Petitioner's Signature

Date

Petitioner's name (Printed or typed)

Petitioner's Signature

Date


Counsel for Petitioner's Signature
G. Scott Barhight

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

FEE

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

PROPOSED TEXT
ZRA 102

INTRODUCED _____
PUBLIC HEARING _____
COUNCIL ACTION _____
EXECUTIVE ACTION _____
EFFECTIVE DATE _____

**County Council of
Howard County, Maryland**

2008 Legislative Session

Legislative Day No. ____

Bill No. ____

Introduced by: _____

AN ACT amending Section 125: NT (New Town) District of the Howard County Zoning Regulations and amending Howard County Code Section 16.108(b)(28.1) regarding the definition of initial plan submittal.

Introduced and read first time _____, 2008. Ordered posted and hearing scheduled.

By order _____
Sheila M. Tolliver, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2008 and concluded on _____, 2008.

By order _____
Sheila M. Tolliver, Administrator

This Bill was read the third time on _____, 2008 and Passed, Passed with amendments _____, Failed _____.

By order _____
Sheila M. Tolliver, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2008 at ____ a.m./p.m.

By order _____
Sheila M. Tolliver, Administrator

Approved/Vetoed by the County Executive _____, 2008

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlying indicates material added by amendment.

Section 1. Be it Enacted by the County Council of Howard County, Maryland that Section 125.F. to read as follows:

F. VILLAGE CENTER REDEVELOPMENT

1. ANY PROPERTY OWNER OF ANY PORTION OF A VILLAGE CENTER, AS DEFINED BELOW, MAY PETITION TO AMEND AN APPROVED PRELIMINARY DEVELOPMENT PLAN, COMPREHENSIVE SKETCH PLAN, FINAL DEVELOPMENT PLAN AND/OR SITE DEVELOPMENT PLAN IN ACCORDANCE WITH THIS SECTION, FOR THAT PORTION OF LAND WHICH THEY OWN. THE OWNER ("PETITIONER") MAY PROPOSE AMENDMENTS TO THE APPROVED PRELIMINARY DEVELOPMENT PLAN, COMPREHENSIVE SKETCH PLAN, FINAL DEVELOPMENT PLAN AND SITE DEVELOPMENT PLAN TO ALLOW ANY USE OR DENSITY, EVEN IF THAT USE OR DENSITY IS NOT OTHERWISE ALLOWED BY THE NEW TOWN DISTRICT OR THE PREVIOUSLY APPROVED PRELIMINARY DEVELOPMENT PLAN, COMPREHENSIVE SKETCH PLAN, FINAL DEVELOPMENT PLAN OR SITE DEVELOPMENT PLAN.

2. PRIOR TO PETITIONING TO AMEND THE PRELIMINARY DEVELOPMENT PLAN, THE PETITIONER IS REQUIRED TO HOLD A PRE-SUBMISSION COMMUNITY MEETING IN ACCORDANCE WITH HOWARD COUNTY CODE SECTION 16.128. IN ADDITION TO THE WRITTEN NOTICE REQUIREMENTS OF HOWARD CODE SECTION 16.128 (c), THE PETITIONER SHALL ALSO NOTIFY IN WRITING ALL PROPERTY OWNERS IDENTIFIED IN THE RECORDS OF THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION WHO ARE WITHIN THE GEOGRAPHIC BOUNDARIES OF THE VILLAGE CENTER AS IDENTIFIED IN THE PETITION, AND THE VILLAGE BOARD OF SAID VILLAGE CENTER BY FIRST CLASS MAIL.

3.

a. THE PETITION FOR AMENDMENT OF THE PRELIMINARY DEVELOPMENT PLAN SHALL BE TO THE ZONING BOARD AND SHALL CONTAIN THE FOLLOWING INFORMATION:

(1) THE INFORMATION SET FORTH IN HOWARD COUNTY ZONING REGULATIONS SECTIONS 125.B.1.a, b and c AND 125.B.2.

(2) A METES AND BOUNDS DESCRIPTION OF THE PETITIONER'S LAND WHICH IS THE SUBJECT OF THE PETITION.

(3) A SPECIFIC DESCRIPTION OF THE GEOGRAPHIC BOUNDARIES OF THE VILLAGE CENTER WHICH IS THE SUBJECT MATTER OF THE PETITION.

(4) A DESCRIPTION OF THE VILLAGE CENTER INCLUDING, THE NAMES OF ALL PROPERTY OWNERS WITHIN THE VILLAGE

CENTER, THE BUILDINGS AND USES WITHIN THE VILLAGE CENTER, THE CURRENT AND PROPOSED FUNCTION AND ROLE OF THE VILLAGE CENTER.

(5) A CONCEPT PLAN THAT SETS FORTH AN INFORMATIVE, CONCEPTUAL AND SCHEMATIC REPRESENTATION OF THE PROPOSED REDEVELOPMENT IN A SIMPLE, CLEAR AND LEGIBLE MANNER THAT INDICATES THE GENERAL SITE LAYOUT, PROPOSED BUILDING TYPES AND USES, PROPOSED NUMBER OF UNITS, SQUARE FOOTAGE FOR NON-RESIDENTIAL PROJECTS, PARKING AND TRAFFIC, PROPOSED OPEN SPACE, GENERAL LOCATION AND SIZE OF SIGNAGE, LANDSCAPE CONCEPT, ANY SIGNIFICANT CHANGES TO TYPOGRAPHY AND SURFACE DRAINAGE, AND THE GENERAL LOCATION OF NATURAL FEATURES.

(6) PROPOSED DESIGN GUIDELINES WHICH WILL BE IMPOSED UPON THE VILLAGE CENTER REDEVELOPMENT.

(7) A JUSTIFICATION STATEMENT WHICH IDENTIFIES THE IMPACTS OF THE PROPOSED VILLAGE CENTER REDEVELOPMENT ON THE NATURE AND PURPOSE OF THE VILLAGE CENTER.

b. THE ZONING BOARD, IN ADDITION TO THE GUIDES AND STANDARDS SET FORTH IN HOWARD COUNTY ZONING REGULATIONS SECTION 125.B.3, SHALL ALSO CONSIDER THE PROPER ROLE AND FUNCTION OF THE PARTICULAR VILLAGE CENTER IN THE NT DISTRICT. THE PETITION SHALL BE GRANTED ONLY IF THE ZONING BOARD FINDS THAT THE PETITION COMPLIES WITH THESE REGULATIONS AND THAT THE AMENDMENT TO THE PRELIMINARY DEVELOPMENT PLAN SHALL BE PERMITTED AT THE PROPOSED SITE. THE DECISION AND ORDER OF THE ZONING BOARD SHALL DETERMINE THE PROPER BOUNDARIES OF THE VILLAGE CENTER, APPROVE DESIGN GUIDELINES FOR THE VILLAGE CENTER AND APPROVE THE CONCEPT PLAN. THE ZONING BOARD MAY MAKE ANY MODIFICATIONS TO THE PROPOSED BOUNDARIES OF THE VILLAGE CENTER, THE PROPOSED DESIGN GUIDELINES AND THE PROPOSED CONCEPT PLAN WHICH IT DEEMS, WITHIN THE STANDARDS AND GUIDELINES OF THIS SECTION, TO BE APPROPRIATE. ALL LATER APPROVALS AND DECISIONS ARE BOUND BY AND MUST BE CONSISTENT WITH THE DECISION AND ORDER OF THE ZONING BOARD.

c. IF THE PETITION IS GRANTED, THE ZONING BOARD SHALL BY DECISION AND ORDER APPROVE THE PRELIMINARY DEVELOPMENT PLAN, THE VILLAGE CENTER BOUNDARIES, THE DESIGN GUIDELINES AND CONCEPT PLAN AND A COPY OF SAID DOCUMENTS SHALL BE CERTIFIED AS APPROVED BY THE ZONING BOARD AND A VERIFIED COPY OF THE SAME SHALL BE FORWARDED TO THE DEPARTMENT OF PLANNING AND ZONING AND THE PETITIONER.

4. IF THE AMENDMENT OF THE PRELIMINARY DEVELOPMENT PLAN IS APPROVED BY THE ZONING BOARD, THEN THE PETITIONER SHALL PROCEED WITH THE AMENDMENTS TO THE COMPREHENSIVE SKETCH PLAN AND FINAL DEVELOPMENT PLAN IN ACCORDANCE WITH HOWARD COUNTY ZONING REGULATIONS SECTION 125.C.

5. IF THE COMPREHENSIVE SKETCH PLAN AND FINAL DEVELOPMENT PLAN ARE APPROVED IN ACCORDANCE WITH HOWARD COUNTY ZONING REGULATIONS SECTION 125.F.5, THEN THE SITE DEVELOPMENT PLAN SHALL BE REVIEWED AND APPROVED IN ACCORDANCE WITH HOWARD COUNTY ZONING REGULATIONS SECTION 125.E.

Section 2. Be it Enacted by the County Council of Howard County, Maryland that Howard County Section 16.108(b)(28.1) shall be amended to add the following subsection(vi) as follows:

ALL DOCUMENTS FILED IN ACCORDANCE WITH HOWARD COUNTY ZONING REGULATIONS, SECTION 125.F.3.a FOR A VILLAGE CENTER REDEVELOPMENT

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