

Date: 19 January 2016

Subject: Howard County Citizens Association Opposes CB2-2016 (ZRA-156)

The Howard County Citizens Association (HCCA) opposes the approval of CB2-2016, ZRA-156. We simply ask is there a real need to amend the Corridor Activity Center (CAC) zoning regulations at this time. We especially ask this question based on the fact that before us tonight is a proposed Bill and rightfully so to analyze the feasibility of the BRX zone. The CAC is currently one of 42 zoning types in the County. In looking at the Technical Staff Report on page 2, Section II – Existing Regulations it states, “CAC District regulations have had a long history of Zoning Regulation Amendment cases. Since the CAC District was established in the 2004 Comprehensive Zoning Plan and prior to the 2013 nine Zoning Regulation Amendment cases had revisions to the CAC District regulations. These have included many endeavors to adjust and augment 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 Comprehensive Zoning Plan.”

So after the extensive number of attempted CAC revisions it is apparent that this particular zoning type is not working and has admitted problems thus the need to put on hold like the BRX until further review. Furthermore this technical staff report was signed off by the previous DPZ Director and we believe the new Director with his staff should have an opportunity to review it.

We also note that in the Planning Board Recommendations on page 1 lines 25 thru 28 that Mr. Oh stated, “The Technical Staff Report did a good job of expressing the issues about the provision of commercial space in CAC developments. He explained that this issue was discussed during the Comprehensive Zoning Plan process, and he emphasized that if it can work on an economic basis, the developers do prefer to build the commercial space.” So if this is the case what is the compelling need to propose such a Bill? One should not be allowed to make changes to fit their needs without hearing the pros and cons from both sides. Please refer to the Technical Staff Report, Exhibit A – The Petitioner's Proposed Text and Exhibit B – DPZ's Recommended Revisions. You will notice that the Petitioner wants to delete from “F” the Moderate Income Housing requirement while DPZ rightfully does not.

HCCA recommends that it would be very prudent on the Council's part to consider forming a Working Group consisting of DPZ, a few citizens, developers and land-use attorneys to get together to completely review, analyze the feasibility, determine the merits and the contents of not only the CAC zoning, but the BRX as well as the other zoning types. Like the proposed CB-55 BRX, the acronym CAC should be substituted which would be a step in the right direction. It would read that there should be consideration for temporarily prohibiting applications for proposed re-zonings to the CAC zoning districts; finding that such applications, if approved under the current Zoning Regulations, could lead to development incompatible with surrounding residential uses; finding that the potential incompatibility represents a current threat to the public health, safety and welfare; providing that the purposes of this Act are to provide the

Department of Planning and Zoning with time to study the deficiencies in the CAC districts, investigate alternatives and make recommendations for improvement and give the County Council time to act on the recommendations.

If the Council agrees that a Working Group should be established then HCCA would like your consideration for us to be a member of such a Group. We ask you to consider not having business as usual as we hope you really zone in on the problem so we will not have any setbacks in the future.

Thank you,



Stu Kohn
HCCA, President

Speaking AGAINST CB2-2016 (ZRA-156)

I'm here to implore you to delay consideration of this ZRA until you've had sufficient time to consider it and its effect on the Route One corridor in its entirety. As you have stated on the BRX/BR legislation, mistakes can be made and there is a duty to re-examine and correct them.

Approving this ZRA at this time would be one more incidence of:

1. accepting piecemeal changes as they are requested, rather than establishing and adhering to a plan
2. leaving decisions up to the DPZ Director. There are at least 23 examples in the Zoning Code where defined conditions can be over-riden by the DPZ Director (quote "the Director of Planning and Zoning, however may...") not including repetition's in various zones. This much discretion takes the law out of the law. I'm pleased that the current Director of the DPZ recognizes this as a problem and doesn't welcome this "discretion" without very well defined criteria on which to make the decisions.
3. making a bad situation worse—there are already 44 uses permitted by matter of right and 7 accessory uses YET it seems that the ONLY use of the zone has been for residential development—no surprise since allowing high density residential is a significantly lucrative up- zoning for property owners
4. allowing undefined terms leaves everything subject to interpretation. For example no definition of **hardship**. I might define hardship as a senior citizen on a fixed income having to pay a stormwater management fee which can't be deducted from income taxes-- on top of already high property taxes—but I suspect that's not what's being referred to here.
5. If one examines the zoning map, there is in fact NO property actually zoned CAC—only CAC-CLI, CAC-CE, or CAC-CLI-CR . That's not zoning: that's an invitation for "anything goes."

- **PLEASE NOTE:** There is NO Southeast Area Plan. Despite the former DPZ director's claims that a Southeast area plan was almost finished, it was in fact never started. With no plan in place it is foolish to begin willy-nilly changes to the CAC zone.
 - The Route One Streetscape plan has never been implemented; thus holding it up as a crucial criterion for CAC development is unwise and unwarranted.
6. Residential development is replacing commercial and industrial in the corridor designated as the County's economic engine –don't let this catch all zone waste this remaining valuable resource.
 7. There is no clarity on whether a new schools test would be conducted to address the additional residential units occupying what was to be commercial space. Is this an attempt to get past both schools and allocations rulings or will they have to wait in line for the additional units?

The CAC zone is a crazy quilt, one of the most prominent examples of a zone written specifically to accommodate particular development proposals. With the CAC regulations in one hand and the zoning map in the other, any long term resident of the area can name the specific property that was being helped by the wording of each requirement and bulk regulation within this zoning category.

If the developer gets this change then citizens should get changes in return. Ex: eliminate the minimum setback of 10 feet from Route One! It creates too great a mass next to a busy highway and places dwelling units too close to traffic noise and trucks hurtling down the road. US 1 IS an interstate highway, just as is I-70 and I-95, although not limited access. (Compare to state roads: You don't build anything 10 feet from Route 29 or Rt 175? What's different about Route One to justify this hazardous requirement? At this point, US-1 is most similar to US-40 and you aren't building 10 feet from that roadway either.)

In conclusion please don't approve this ZRA request and don't permit additional projects under this zone until the zone can be fully re-evaluated.

Thank you.

CAC Testimony 1/19/2016

John Garber

9100 Gorman Road

Laurel, MD.

I am testifying against CB2-2016 (ZRA156). The text of the CAC zone should not be changed and any application of the zone in its current form should be suspended pending a study of its usefulness.

Portions of my written text before you are grayed out and will not be read aloud but are to be considered a part of the record.

A. Purpose

"Many parcels in the CAC District (Corridor Activity Center) were developed before this district was created. It is not the intent of these requirements to disallow the continued use of sites developed prior to the CAC District. The intent of this district will be achieved by bringing the sites into compliance with these requirements and the standards of the Route 1 Manual as uses are expanded or redeveloped."

The statement of purpose for CAC zone summarizes the obvious conditions where development has already taken place. However, it directs one away from the main purpose which is to ease the conversion of manufacturing and industrial areas into residential uses by using minimal commercial activities as a transition mechanism.

This zone is unworkable and ineffective by itself. This is demonstrated by the fact that it is not used without companion CLI or CR Overlay Districts. It cannot be saved by and should not be saved by more tinkering with an already confusing text. Let's look at two examples from the CAC zone text that demonstrate conditions it fails to successfully address. Here is an example of:

CAC Zone micro management

D. Bulk Regulations

2. Maximum building height:

- a. CAC Development abuts Route 1..... 55 feet

With the following exceptions:

- (1) For hotels and for structures incorporating either first floor retail or structured parking, if an additional 1 foot in height is provided for every 2 feet of additional setback above the minimum from an adjoining residential district excluding residential uses in the CAC District 65 feet
- (2) For office structures on parcels adjoining I-95..... 100 feet
- (3) For office structures on parcels adjoining I-95 if an additional 2 foot in height is provided for every 1 foot of additional setback above the minimum from the I-95 right-of-way 120 feet

Here is an example of:

CAC Zone ambiguity

E. Requirements for CAC Development

3. Requirements for Residential Development

e. The phasing of residential and commercial construction and open space amenity areas should be **roughly** proportional. No more than 50% of the residential units shall be constructed prior to commencing a **roughly** proportional amount of commercial construction and open space amenity areas. For developments of 800 units or more, no more than 60% of the residential units shall be constructed prior to commencing the construction of the non-residential portions of the development.

F. Requirements for TNC Development

3. Requirements for Residential Development

d. The phasing of residential and commercial construction should be roughly proportional. Once building permits have been issued for 50% of the residential units, no more building permits for residential units will be issued until the developer obtains building permits for a proportional amount of commercial construction or renovation. This requirement may be satisfied by continuing presence of a proportional amount of existing commercial development that is intended to remain as part of the development project, provided that the existing commercial space is redeveloped and the redevelopment is subject to the same requirements as new commercial construction in the TNC District.

I would note that the word “roughly” is only used three times in the 453 page Howard County Zoning Regulations and I would be surprised to find it used in any other jurisdictions zoning regulations.

I submit that the use of the CAC zone to address issues in the RT-1 corridor is fatally flawed. It is clear that this site specific approach has failed to generate any meaningful improvement. In addition, at this time there is no sub-county area plan within which these kinds of actions for RT-1 can be meaningfully structured. Zoning is a tool to be used to implement a plan, what we have here is the application of zoning in a planning vacuum.

CB2-2016

The Greater Elkridge Community Association opposes this bill. CAC zoning is for dense mixed developments of commercial and residential, not dense residential.

If a developer decides the market does not support the commercial space in a CAC project, there is a more appropriate remedy than allowing the DPZ to convert the commercial development into additional dense residential development. The developer may petition to have the zoning on the property changed to residential at a density appropriate for the area and acceptable to the community.

If the developer wishes to still have a small amount of commercial space, the developer may keep a portion of the development CAC, and change the rest to residential zoning.

Dense residential development imposes heavy costs on the county in the form of services demanded by the residents. Commercial development does not impose such costs, and is a better fiscal proposition for the county.

Given the overcrowded schools in the Route 1 corridor, and specifically the severe overcrowding of Howard High School, it is inappropriate to allow increased dense residential development without full review and community involvement.

Lisa Markovitz

President, The People's Voice, LLC

Testimony to Howard County Council

01/19/2016

Oppose CB 2 - 2016

This bill seeks to amend the zoning regulations for the Corridor Activity Center (CAC) zone by reducing the amount of commercial development requirement per residential unit from 300 to 70. This is a large decrease. The current regulation already allows leeway for the DPZ to reduce from 300 to as low as 70 if they see fit, and can go even lower with stated criteria addressing the exact concerns one would already consider with larger residential developments, like the petitioner's.

Creating a by-right ability to provide such a lower ratio of commercial to residential takes the power out of the hands of planners, and removes oversight per project that the current regulations state.

Why eliminate the review process to this degree? It is not beneficial to the community to keep changing zoning regulations requested by a single entity, instead of having a particular project's need seeking a variance, especially when the change is so significant. This project could have received what it needed under the current regulations with the review process by DPZ that is already in place there. Why change the regulation to grant it automatically without review as a matter of right?

Also, I disagree with the petitioner that the intent of the original regulation was to invoke a ratio requirement based on the number of acres versus number of units. The regulation states per residential unit and that makes sense and seems likely to have been the actual intent.

As for a fee-in-lieu component, this should not be granted as a matter of right either, but should be allowed if deemed to be meeting the criteria listed in the original regulation as not being feasible to provide, or seek a variance. The regulation already takes into consideration the changing market tides of residential and commercial space, by allowing DPZ the review and allowance for lower ratios. It doesn't make sense to regulate market changes applying over long periods. The regulation is already written with flexibility and should not be changed to reduce the work of planning and oversight for the community.

Cathy Hudson
6018 Old Lawyers Hill Rd
Elkridge, Md 21075

Re CB2 opposed

Nearly 20 years ago residents and citizens were brought together in focus group like sessions. We were shown lovely pictures of boulevards with wide sidewalks, tree canopies, storefronts on the ground floor and residences above. There were fountains and public gathering places and people strolling along the sidewalks. We bought into that vision although the housing density was much more than anything that existed in the area at that time.

Flash forward to the year 2016 and what do we have. High density housing that often look like barracks, little to no commercial along the sidewalks to attract us-and if there is commercial space there might not be an entrance from the sidewalk. And the commercial space has been whittled down more and more-and in some cases if this is passed it won't be required at all. And community space? I have yet to see any.

The vision has failed. This zoning category has failed. Various adjustments to the zoning category have tried to apply a bandaid to fix it and it hasn't and won't work. And putting money into a pot to build commercial somewhere else will not work in an area where there isn't land available to build commercial and where developers don't want commercial on their land in the first place.

So what should be done. First, don't ask the developers what they want-they want more housing units and luxury ones at that and we don't need more housing where roads and schools are too crowded. Ask the people who live in the Rt 1 community what they want and need. We want to see fountains and gathering places and small parks as we drive down Rt 1. We need community meeting rooms desperately.

So I request that whatever changes you decide need to be made, please ensure that there are no further added housing units taking up that space, but leave space for other things that will make that community attractive and useful for the larger community. And if the developer won't use that commercial space for commercial building, then let them turn that acreage over to the county (with some money) so that they county can provide services to the community.