

Introduced 1/4/16  
Public hearing 1/19/16 Tabled-2/1/16; Life extended  
Council action 4/4/16 & tabled - 3/7/16  
Executive action 4/15/16  
Effective date 7/2/16

**County Council of Howard County, Maryland**

2016 Legislative Session

Legislative day # 1

**BILL NO. 2 - 2016 (ZRA - 156)**

**Introduced by the Chairperson  
at the request of ATAPCO Howard Square I Business Trust**

**AN ACT** amending the Howard County Zoning Regulations' CAC (Corridor Activity Center) Zoning District to allow for the reduction of the commercial space requirement in residential developments, if determined appropriate by the Department of Planning and Zoning; imposing a fee and establishing other conditions for approval of further reductions in commercial space for a development; and generally relating to CAC developments.

Introduced and read first time January 4, 2016. Ordered posted and hearing scheduled.

By order Jessica Feldmark  
Jessica Feldmark, Administrator to the County Council

Having been posted & notice of time & place of hearing and title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on January 19, 2016.

Tabled on February 1, 2016.  
Life extended & tabled on March 7, 2016.  
By order Jessica Feldmark  
Jessica Feldmark, Administrator to the County Council

This Bill was read the third time April 4, 2016 and Passed , Passed with amendments , Failed .

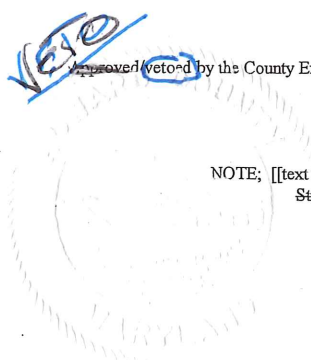
By order Jessica Feldmark  
Jessica Feldmark, Administrator to the County Council

Sealed with the County Seal and presented to the County Executive for approval this 7<sup>th</sup> day of April, 2016 at 11 a.m./p.m.

By order Jessica Feldmark  
Jessica Feldmark, Administrator to the County Council

~~Approved~~ (vetoed) by the County Executive on April 15, 2016.

Allan H. Kittleman  
Allan H. Kittleman, County Executive



NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law. ~~Strikeout~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

1 *Section 1. Be it enacted by the County Council of Howard County, Maryland, that the Howard*  
2 *County Zoning Regulations are hereby amended to read as follows:*

3  
4 *By amending:*  
5 *Section 127.5: "CAC (Corridor Activity Center) District"*  
6 *Subsection E. "Requirements for CAC Development"*  
7 *Number 3 "Requirements for Residential Uses"*  
8 *Letters C and D.*

9  
10  
11 **Howard County Zoning Regulations**

12  
13 **SECTION 127.5: "CAC (Corridor Activity Center) District"**

14  
15 **E. Requirements for CAC Development**

16  
17 **3. Requirements for Residential Uses**

18 c. For every dwelling unit that is developed, ~~[[300]]~~ 70 square feet of  
19 commercial space must be developed on the site. PROVIDED,  
20 HOWEVER, THAT FOR PARCELS PROVIDING MODERATE INCOME  
21 HOUSING UNDER SECTION 127.5.E.3.F.(1), THE COMMERCIAL SPACE  
22 REQUIREMENT AS SET FORTH IN SECTION 127.5.E.3.C. SHALL BE  
23 DETERMINED BASED ON EIGHTY-FIVE PERCENT OF RESIDENTIAL  
24 UNITS DEVELOPED AND FOR PARCELS PROVIDING MODERATE INCOME  
25 HOUSING UNDER SECTION 127.5.E.3.F.(2), THE COMMERCIAL SPACE  
26 REQUIREMENT AS SET FORTH IN SECTION 127.5.E.3.C. SHALL BE  
27 DETERMINED BASED ON SEVENTY-FIVE PERCENT OF RESIDENTIAL  
28 UNITS DEVELOPED. ~~[[The Director of the Department of Planning and~~  
29 ~~Zoning may, however, reduce the commercial space requirement to~~  
30 ~~100 square feet per residential unit under the following conditions:~~

- 31 (1) The site is constrained in terms of size, shape, environmental  
32 factors, access, or proximity to existing vicinal commercial  
33 development in a manner that limits commercial development  
34 potential; or

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(2) The proposed design includes recreational, public, or non-profit uses on the first floor that benefit and are accessible to the general public.]]

[[d. Based on documented hardship, the Planning Director may further reduce the commercial space requirement to 70 square feet per acre for parcels that have 800 units or more, provided the criteria listed in b (1) and (2) are used in the evaluation.]]

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 25 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.

1 THE FEE AS PROVIDED FOR IN THIS SUBSECTION SHALL BE PAID AT THE  
2 TIME OF APPROVAL OF A SITE DEVELOPMENT PLAN FOR THE NON-  
3 RESIDENTIAL PORTIONS OF THE DEVELOPMENT. THE FEE MAY BE  
4 REDUCED AS FOLLOWS:

5  
6 (1) THE FEE SHALL BE REDUCED ONE DOLLAR PER SQUARE FOOT  
7 FOR EVERY PERCENTAGE POINT OF AMENITY AREA PROVIDED  
8 IN EXCESS OF THAT REQUIRED FOR THE PROJECT LIMITED TO  
9 A MAXIMUM OF FIVE PERCENT.

10 (2) THE TOTAL FEE SHALL BE REDUCED DOLLAR-PER-DOLLAR  
11 FOR ANY AMOUNT OF CONTRIBUTIONS PAID BY THE  
12 DEVELOPER FOR PUBLIC IMPROVEMENTS IN EXCESS OF THE  
13 PROPORTIONAL SHARE REQUIRED BY HOWARD COUNTY.

14 (3) THE FEE SHALL BE REDUCED TWO DOLLARS PER SQUARE  
15 FOOT FOR PROJECTS IN WHICH OVER TWENTY-FIVE PERCENT  
16 OF THE RESIDENTIAL UNITS ARE LEED CERTIFIED, FOUR  
17 DOLLARS PER SQUARE FOOT FOR PROJECTS IN WHICH OVER  
18 TWENTY-FIVE PERCENT OF THE RESIDENTIAL UNITS ARE  
19 LEED SILVER CERTIFIED, SIX DOLLARS PER SQUARE FOOT  
20 FOR PROJECTS IN WHICH OVER TWENTY-FIVE PERCENT OF THE  
21 RESIDENTIAL UNITS ARE LEED GOLD CERTIFIED, AND EIGHT  
22 DOLLARS PER SQUARE FOOT FOR PROJECTS IN WHICH OVER  
23 TWENTY-FIVE PERCENT OF THE RESIDENTIAL UNITS ARE  
24 LEED PLATINUM CERTIFIED.

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26 IN THE EVENT THAT THE DEVELOPER PAYS THE FEE AS  
27 PROVIDED FOR IN THIS SUBSECTION, NO ADDITIONAL  
28 RESIDENTIAL UNITS MAY BE RECEIVED OR CONSTRUCTED ON  
29 THE PROPERTY PURSUANT TO SECTION 127.5.F.

30  
31 E. THE PHASING OF RESIDENTIAL AND COMMERCIAL CONSTRUCTION  
32 AND OPEN SPACE AMENITY AREAS SHOULD BE PROPORTIONAL. NO  
33 MORE THAN 50% OF THE RESIDENTIAL UNITS SHALL BE  
34 CONSTRUCTED PRIOR TO COMMENCING A PROPORTIONAL AMOUNT  
35 OF COMMERCIAL CONSTRUCTION AND OPEN SPACE AMENITY

1 AREAS. FOR DEVELOPMENTS OF 800 UNITS OR MORE OR  
2 DEVELOPMENTS ADJOINING SUCH LARGER DEVELOPMENTS, NO  
3 MORE THAN 70% OF THE RESIDENTIAL UNITS SHALL BE  
4 CONSTRUCTED PRIOR TO COMMENCING THE CONSTRUCTION OF THE  
5 NON-RESIDENTIAL PORTIONS OF THE DEVELOPMENT UNLESS THE  
6 FEE AS SPECIFIED IN SUBSECTION (D) ABOVE IS PROVIDED.

7 [[e. The phasing of residential and commercial construction and open  
8 space amenity areas should be roughly proportional. No more than  
9 50% of the residential units shall be constructed prior to  
10 commencing a roughly proportional amount of commercial  
11 construction and open space amenity areas. For developments of  
12 800 units or more, no more than 60% of the residential units shall  
13 be constructed prior to commencing the construction of the non-  
14 residential portions of the development.]]

15  
16 *Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act*  
17 *shall become effective 61 days after its enactment.*  
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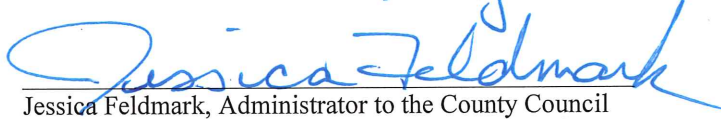
BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on May 2, 2016.

  
\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jessica Feldmark, Administrator to the County Council

Amendment 1 to Council Bill 2-2016

BY: Calvin Ball

Legislative Day No: 4  
Date: April 4, 2016

Amendment No. 1

*(This amendment would impose a fee and establish other conditions for approval of further reductions in commercial space for a development)*

On the title page, in the last line of the title page, after the semi colon, insert:  
“Imposing a fee and establishing other conditions for approval of further reductions in commercial space for a development.”

Page 1, line 19, after “site”, delete “.” and insert “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.”

Page 2, line 2, after “D.” insert “FOR PARCELS THAT HAVE 800 UNITS OR MORE,”

Page 2, line 4, delete “25” and replace with “20”

Page 2, line 15, after “1” insert “AND WHICH ADJOIN A DEVELOPMENT OF 800 UNITS OR MORE,”

On page 2, line 23, insert the following:

“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:”

ADOPTED 4/4/16

FAILED

SIGNATURE Jessica Feldman

- 1           (1) THE FEE SHALL BE REDUCED ONE DOLLAR PER SQUARE FOOT FOR EVERY PERCENTAGE  
2           POINT OF AMENITY AREA PROVIDED IN EXCESS OF THAT REQUIRED FOR THE PROJECT  
3           LIMITED TO A MAXIMUM OF FIVE PERCENT.
- 4           (2) THE TOTAL FEE SHALL BE REDUCED DOLLAR-PER-DOLLAR FOR ANY AMOUNT OF  
5           CONTRIBUTIONS PAID BY THE DEVELOPER FOR PUBLIC IMPROVEMENTS IN EXCESS OF THE  
6           PROPORTIONAL SHARE REQUIRED BY HOWARD COUNTY.
- 7           (3) THE FEE SHALL BE REDUCED TWO DOLLARS PER SQUARE FOOT FOR PROJECTS IN WHICH  
8           OVER TWENTY-FIVE PERCENT OF THE RESIDENTIAL UNITS ARE LEED CERTIFIED, FOUR  
9           DOLLARS PER SQUARE FOOT FOR PROJECTS IN WHICH OVER TWENTY-FIVE PERCENT OF  
10           THE RESIDENTIAL UNITS ARE LEED SILVER CERTIFIED, SIX DOLLARS PER SQUARE FOOT  
11           FOR PROJECTS IN WHICH OVER TWENTY-FIVE PERCENT OF THE RESIDENTIAL UNITS ARE  
12           LEED GOLD CERTIFIED, AND EIGHT DOLLARS PER SQUARE FOOT FOR PROJECTS IN WHICH  
13           OVER TWENTY-FIVE PERCENT OF THE RESIDENTIAL UNITS ARE LEED PLATINUM  
14           CERTIFIED.

15

16           IN THE EVENT THAT THE DEVELOPER PAYS THE FEE AS PROVIDED FOR IN THIS SUBSECTION,  
17           NO ADDITIONAL RESIDENTIAL UNITS MAY BE RECEIVED OR CONSTRUCTED ON THE PROPERTY  
18           PURSUANT TO SECTION 127.5.F.

19

20           E. THE PHASING OF RESIDENTIAL AND COMMERCIAL CONSTRUCTION AND OPEN SPACE  
21           AMENITY AREAS SHOULD BE PROPORTIONAL. NO MORE THAN 50% OF THE RESIDENTIAL  
22           UNITS SHALL BE CONSTRUCTED PRIOR TO COMMENCING A PROPORTIONAL AMOUNT OF  
23           COMMERCIAL CONSTRUCTION AND OPEN SPACE AMENITY AREAS. FOR DEVELOPMENTS  
24           OF 800 UNITS OR MORE OR DEVELOPMENTS ADJOINING SUCH LARGER DEVELOPMENTS,  
25           NO MORE THAN 70% OF THE RESIDENTIAL UNITS SHALL BE CONSTRUCTED PRIOR TO  
26           COMMENCING THE CONSTRUCTION OF THE NON-RESIDENTIAL PORTIONS OF THE  
27           DEVELOPMENT UNLESS THE FEE AS SPECIFIED IN SUBSECTION (D) ABOVE IS PROVIDED.”

28           On page 2, immediately following line 23, insert the following:

29           “[e. The phasing of residential and commercial construction and open space amenity areas  
30           should be roughly proportional. No more than 50% of the residential units shall be  
31           constructed prior to commencing a roughly proportional amount of commercial  
32           construction and open space amenity areas. For developments of 800 units or more, no



1 more than 60% of the residential units shall be constructed prior to commencing the  
2 construction of the non-residential portions of the development.]]”

3

4 Renumber the remainder of the ordinance accordingly.