HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

www.howardcountymd.us
FAX 410-313-3467
TDD 410-313-2323

September 6, 2012

TECHNICAL STAFF REPORT

Petition Accepted on August 13, 2012
Planning Board Meeting of September 20, 2012
County Council Hearing to be scheduled

Case No./Petitioner: **ZRA-140 – Kellogg CCP, LLC, c/o Preston Scheffenacker Properties, Inc.**

Request: Zoning Regulation Amendment to amend the Section 127.4: TOD (Transit Oriented Development) District regulations to establish new regulations applicable only to TOD development projects of 50 or more acres to encourage well-designed multi-use centers; to add multi-family dwellings as a permitted use subject to certain criteria; and to revise the commercial use regulations concerning the building-type limitations for such uses and concerning drive-through service limitations for such uses.

Department of Planning and Zoning Recommendation: **APPROVAL WITH MINOR REVISIONS**

I. DESCRIPTION OF PROPOSAL

- **ZRA 140 was submitted in conjunction with Zoning Board Case No. ZB 1102M, the current request for changes to the approved TOD District development generally known as Oxford Square. In ZRA 140, the Petitioner proposes five amendments to the TOD District section in the Zoning Regulations. Each proposed amendment is intended to address development issues in TOD District Route 1 Corridor projects that are 50 acres or larger ("Large TOD Projects'). The amendments are generally described as follows:**

  1. The first proposed amendment is to the Purpose statement in Section 127.4.A. This amendment is to add an evaluation provision specifically for TOD development sites that are Large TOD Projects. Such a site would be given positive consideration and support when it is considered to be a "multi-use center", including in combination office development, retail development, and high-density residential development with a mixture of dwelling unit types.

  2. The second proposed amendment is to Section 127.4.B, the list of use categories permitted as a matter of right in the district. It would add the use category for "Dwellings, Multi-family", subject to certain criteria. This is an existing use category which is specifically defined in Section 103 as "this term includes apartments, whether rental units or condominiums, and single-family attached dwellings." Apartment dwellings are already a permitted use in the TOD District, if the site is designated as being within the Route 1 Corridor and is at least three gross acres, so by adding multi-family dwellings the only effective change would be to add the category for single-family attached dwelling unit types.

I. DESCRIPTION OF PROPOSAL

The term "Dwellings, Single-family Attached" is currently defined as "one of a series of two or more dwelling units, separated either by vertical or horizontal party walls, with each unit having its own separate exterior entrance(s)." Although this term is generally considered to be the equivalent to "townhouses", the combination of vertical or horizontal party walls can also include other types of residential buildings. A TOD district development would only be able to include such residential building types if:

a. It is designated as being a Large TOD Project.

b. The multi-family dwellings will not exceed 30 percent "...of the total number of dwelling units within the project...".

c. The multi-family dwellings will not "...occupy more than forty (40) percent of the residential development area within the project."

3. The last three proposed amendments are all within Section 127.4.C, Commercial Uses Permitted With Limitations. Currently, the regulations require that these commercial uses are limited to buildings or parking structures with four or more stories, and cannot exceed 15 percent of the floor area of the building, except that within Route 1 Corridor projects including a minimum of 15 acres of TOD district land, this is increased to 25 percent of the floor area of the building.

   The third proposed amendment would add yet another special provision for Large TOD Projects; the limited commercial uses would be permitted in any buildings or parking structures 25 feet or greater in height, with no minimum requirement for stories within the building. In combination, such potential "stand alone" commercial uses, as they are described in the Narrative in Support of Petition (the "Narrative"), would not be permitted to exceed 300 square feet per gross acre within the development.

4. The fourth proposed amendment is to the commercial use category for banks and other financial institutions. Currently such uses are not permitted to have drive-through service. The Petitioner proposes that within Large TOD Projects, such drive-through service(s) may be permitted "...provided that there shall be no portion of drive-through service facing a publicly owned roadway."

5. The fifth proposed amendment is to the commercial use category for fast food restaurants, which also are not permitted to have drive-through service. The Petitioner proposes that within Large TOD Projects, fast food restaurants could have drive-through service(s), with similar proposed text as noted above in Amendment No. 4.

- **Please refer to Attachment A for the Petitioner's proposed text. The subsections proposed to be amended and the amendment text is as follows (CAPITALS indicates text to be added; text in [[brackets]] indicates text to be deleted):**

I. DESCRIPTION OF PROPOSAL

- **In the Narrative, the Petitioner describes several reasons for ZRA 140. The first reason is "...to respond to the current and projected future demands for residential housing products in the Route 1 Corridor."**

  The Petitioner notes that the proposed amendments would allow some "small town house components" within Large TOD Projects, and that "...there is a healthy demand for town house type development within the Route 1 Corridor..."

- **Concerning the proposal to allow the potential for stand-alone commercial uses in Large TOD Projects, the Petitioner states that while there may be a "...weak market for vertically integrated retail uses within the Route 1Corridor...there remains a viable demand for single story stand alone (sic) retail uses..."**

  The Petitioner adds that permitting such stand-alone commercial uses will allow the residents of Large TOD Projects to do some shopping locally.

- **Similar market-oriented reasons are given for the amendments that are proposed to allow drive-through service for banks, other financial institutions, and fast food restaurants. The Petitioner states that these types of businesses "...require the ability to have (at a minimum) limited drive-through services."**

- **The Petitioner recommends the commercial-use amendments as being in harmony with the PlanHoward 2030 General Plan (the "General Plan") Policy 5.4, which is to "Enhance the Route 1 Corridor revitalization strategy to recognize the distinct character and market potential of diverse corridor segments, and the potential at various intersections, crossings, and nodes for additional retail, restaurant, and employment development as identified in the 2011 Route 1 Market Analysis."**

  The Petitioner specifically notes that the proposal conforms to the Zoning Review goal which, as adopted, states in part "Evaluate the efficacy of existing Route 1 zoning districts (CE, CAC, TOD); consider more flexibility, especially regarding commercial uses..."

- **The Petitioner also believes that ZRA 140 is in harmony with the General Plan goals to provide a diversity of housing unit types, so as to potentially increase affordable housing choices.**

II. EXISTING REGULATIONS

- **The existing TOD District regulations do not distinguish Large TOD Projects in any way. Developments that are 15 acres or larger are allowed a certain percentage increase in the amount of commercial space, but generally there is no recognition that much larger developments such as Oxford Square have the best opportunity to achieve the purposes of the district for multi-use centers.**

II. EXISTING REGULATIONS

It is clear that mixed-use concepts work best when there is a relatively large land area because it becomes easier to achieve a true mix over time. Columbia is of course the major example of this, but more currently the Maple Lawn Mixed Use Development is another good example. Large TOD Projects are better able to attain the higher residential densities that should be encouraged in such key locations, and are better able to also incorporate multiple commercial uses including offices, retail, and commercial services.

III. BACKGROUND INFORMATION

A. Scope of Proposed Amendments

- **In the Response to Section 8 portion of the Narrative, the Petitioner states that the proposed amendments for allowing multi-family dwellings and for allowing stand-alone commercial uses would apply to only one other TOD District area, other than Oxford Square; the TOD District adjacent to Laurel Park.**

  The Narrative then continues to incorrectly describe how the proposed amendments to allow drive-through service would apply to any TOD District regardless of size. This must have been describing an earlier version of ZRA 140, because in the current proposal drive-through services would also only be permitted in Large TOD Projects.

B. Agency Comments

- **Due to the ZRA 140 proposal being linked to the proposal for revising the approval of the Oxford Square development in ZB 1102M, the request for comments from the agencies went out as a combined request for ZRA 140 and ZB 1102M. Rather than reproduce the responses received twice, please refer to the Agency Comments section and attached comments in the Technical Staff Report for ZB 1102M.**

IV. EVALUATIONS AND CONCLUSIONS

A. Relation to the General Plan

- **The Department of Planning and Zoning concurs with the Petitioner that elements of ZRA 140 are clearly in harmony with General Plan Policy 5.4.**

- **By proposing to allow additional incentives in Large TOD Projects for commercial uses and for a mix of housing types, ZRA 140 is generally in harmony with one goal of General Plan Policy 6.1 to "Reduce competition for land resources by promoting more compact development in appropriate growth and revitalization areas."**

- **Similarly, ZRA 140 is generally in harmony with one goal of General Plan Policy 6.4 to "Update zoning and other regulations to address the evolving commercial and industrial markets and development trends."**

IV. EVALUATIONS AND CONCLUSIONS

- **General Plan Policy 6.5, which is to "Plan well designed and complete communities through the Comprehensive Zoning process", is directly associated with the General Plan Policy 6.4 goal noted immediately above. The ZRA 140 proposal and the linked ZB 1102M are being done outside the Comprehensive Zoning process, but the objectives of the requested "updated" Oxford Square development certainly seem intended to enable a well-designed, and relatively compact, multi-use center, which would be in harmony with the Compact Development goal of General Plan Policy 6.5.**

  However, because there are certain recommendations related to development in the Route 1 Corridor as identified by the RCLCO Market Study, that are known now, perhaps it would be beneficial to use the opportunity of ZRA 140 to expand the changes to the Commercial Uses With Limitations now rather than wait for the Comprehensive Zoning Plan process. These potential expanded changes are noted in Attachment C – DPZ Expanded Text Section C.

B. <u>Relation to the Zoning Regulations</u>

- **The elements of ZRA 140 would augment and help achieve the purposes of the TOD District for multi-use centers in key locations near certain MARC stations.**

C. <u>Minor Revisions</u>

- **As noted above, the term Multi-family Dwelling is already defined as including "...apartments, whether rental units or condominiums, and single-family attached dwellings." Apartment dwellings are already permitted as a matter of right in the TOD District in developments at least three acres in area, so to use the term Multi-family Dwelling is somewhat redundant.**

  It is made clear in the Narrative that the intention behind the proposal is to allow a percentage of single-family attached dwelling units in Large TOD Projects. On this basis, it is recommended to revise the amendment to state Single-family Attached Dwellings rather than Multi-family Dwellings.

- **In the amendment proposed for the second paragraph in Section 127.4.C, there is a minor typographical error which is corrected.**

- **It is recommended that the fourth and fifth proposed amendments be revised with a preferred wording for the criteria about ensuring there is no visibility of the drive-through service facilities from public roads.**

- **Please refer to Attachment B for the text as recommended by the Department of Planning and Zoning . (<u>UNDERLINED CAPITALS</u> indicates text to be added; text in ~~strikethrough~~ indicates text to be deleted).**

V. RECOMMENDATION *APPROVAL WITH MINOR REVISIONS*

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-140 as noted above, be APPROVED, with the text in Attachment B.

Marsha S. McLaughlin, Director 9/6/12
Date

MM/JRL/jrl

NOTE: The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.

Attachment A – Petitioner's Proposed Text

SECTION 127.4: TOD (Transit Oriented Development) District

A. **Purpose**

This district provides for the development and redevelopment of key parcels of land within 3,500 feet of a MARC Station. The TOD district is intended to encourage the development of multistory office centers that are located and designed for safe and convenient pedestrian access by commuters using the MARC TRAINS and other public transit links. For larger sites of at least 3 acres, well-designed multi-use centers combining office and high-density residential development are encouraged. FOR SITES OF AT LEAST 50 ACRES, WELL-DESIGNED MULTI-USE CENTERS COMBINING OFFICE, HIGH-DENSITY RESIDENTIAL DEVELOPMENT WITH A DIVERSITY OF DWELLING UNIT TYPES, AND RETAIL USES ARE ENCOURAGED. The requirements of this district, in conjunction with the Route 1 Manual, will result in development that makes use of the commuting potential of the MARC system, creates attractive employment or multi-use centers, and provides for safe and convenient pedestrian travel.

Many parcels in the TOD district were developed before this district was created. [[i]] It is not the intent of these requirements to disallow the continued use of sites developed prior to the TOD district. The intent of this district will be achieved by bringing sites into compliance with these requirements and the standards of the Route 1 Manual as uses are redeveloped or expanded.

B. **Uses Permitted As A Matter Of Right**

1. Ambulatory health care facilities, including pharmacies incidental to these uses.
2. Athletic centers, health clubs, tennis clubs, and similar uses.
3. Biomedical laboratories.
4. Commercial communication antennas.
5. Conservation areas, including wildlife and forest preserves, environmental management areas, reforestation areas, and similar uses.
6. Data processing and telecommunication centers.
7. Dwellings, apartment, only within developments encompassing at least 3 gross acres of TOD- zoned land within a Route 1 Corridor development project.
8. DWELLINGS, MULTI-FAMILY, ONLY WITHIN A ROUTE 1 CORRIDOR DEVELOPMENT PROJECT ENCOMPASSING AT LEAST 50 ACRES - NOT TO EXCEED THIRTY (30) PERCENT OF THE TOTAL NUMBER OF DWELLING UNITS WITHIN THE PROJECT AND FURTHER SUBJECT TO THE REQUIREMENT THAT SUCH DWELLINGS NOT OCCUPY MORE THAN FORTY(40) PERCENT OF THE RESIDENTIAL DEVELOPMENT AREA WITHIN THE PROJECT.
9. Flex space.
10. Government structures, facilities and uses, including public schools and colleges.
11. Horse racetrack facilities.
12. Hotels, motels, country inns and conference centers.
13. Offices, professional and business.

14. Parking facilities that serve adjacent off-site uses in accordance with Section 133.B.4.
15. Research and development establishments.
16. Restaurants, carryout, including incidental delivery services.
17. Restaurants, standard, and beverage establishments, including those serving beer, wine and liquor for consumption on premises only.
18. Schools, commercial, limited to business schools and trade schools.
19. Schools, private academic, including colleges and universities.
20. Underground pipelines; electric transmission and distribution lines; telephone, telegraph and CATV lines; mobile transformer units; telephone equipment boxes; and other similar public utility uses not requiring a conditional use.
21. Volunteer fire departments.

C. **Commercial Uses Permitted With Limitations**

The following commercial uses are permitted as a matter of right in any building or parking structure having four or more stories. These uses shall be restricted to a cumulative area not exceeding 15 percent of the floor area of the building.

The maximum floor area for these uses increases to 25 percent of each building within a Route 1 Corridor development project that includes at least 15 gross acres of land in the TOD district. FOR ROUTE 1 CORRIDOR DEVELOPMENT PROJECTS ENCOMPASSING AT LEAST 50 GROSS ACRES OF LAND IN THE TOD DISTRICT, THESE USES ARE PERMITTED IN ANY BUILDING OR PARKING STRUCTURE HAVING A MINIMUM HEIGHT OF 25 FEET IRRESPECTIVE OF THE NUMBER OF STORIES CONTAINED WITHIN THE STRUCTURE PROVIDED HOWEVER THAT THE MAXIMIUM FLOOR AREA OF THESE USES COMBINED MAY NOT EXCEED 300 SQUARE FEET PER GROSS ACRE WITHIN THE ROUTE 1 CORRIDOR DEVELOPMENT PROJECT.

1. Banks, savings and loan associations, investment companies, credit bureaus, brokers, and similar financial institutions without a drive-through, EXCEPT THAT DRIVE-THROUGH SERVICE SHALL BE PERMITTED ON SITES WITHIN A ROUTE 1 CORRIDOR DEVELOPMENT PROJECT ENCOMPASSING AT LEAST 50 GROSS ACRES OF LAND IN THE TOD DISTRICT PROVIDED THAT THERE SHALL BE NO PORTION OF DRIVE THROUGH SERVICE FACING A PUBLICLY OWNED ROADWAY.
2. Blueprinting, printing, duplicating or engraving services.
3. Child day care centers and nursery schools.
4. Laundry and dry cleaning establishments without delivery services.
5. Personal service establishments such as barber and beauty shops, opticians, photographers, tailors.
6. Pizza delivery services and other services for off-site delivery of prepared food.
7. Restaurants, fast food without a drive-through, EXCEPT THAT DRIVE-THROUGH SERVICE SHALL BE PERMITTED ON SITES WITHIN A ROUTE 1 CORRIDOR DEVELOPMENT PROJECT ENCOMPASSING AT LEAST 50 GROSS ACRES OF LAND IN THE TOD DISTRICT PROVIDED THAT THERE SHALL BE NO PORTION OF DRIVE THROUGH SERVICE FACING A PUBLICLY OWNED ROADWAY.
8. Retail establishments, limited to convenience stores, food stores, drug and cosmetic stores, liquor stores and specialty stores.

9. Service agencies, such as real estate agencies, insurance and financial services, security services, messenger services, computer services, travel agencies, and mailing services.

D. **Accessory Uses**

1. Any use normally and customarily incidental to any use permitted as a matter of right in this district.

2. Private parks, swimming pools, athletic fields, exercise facilities, tennis courts, basketball courts and similar private, non-commercial recreation facilities.

3. Home occupations, subject to the requirements of Section 128.C.1.

4. The following retail and service uses, on a lot used primarily for multistory business or professional offices, provided the total gross floor area of all such establishments on a lot shall not exceed 2,000 square feet and shall not exceed 10 percent of the total floor space of the principal use:

   a. Personal service establishments such as barber shops, beauty shops, opticians, photographers, tailors.
   b. Service agencies such as real estate agencies, insurance agencies, security services, messenger services, computer services, travel agencies, data processing services.
   c. Retail establishments, limited to the following: convenience stores, food stores, drug and cosmetic stores and specialty stores.

5. Small Wind Energy System, building mounted, subject to the requirements of Section 128.M. *[Council Bill 41-2010 (ZRA-129) Effective 10/5/10]*

E. **Bulk Regulations**
(Also see Section 128.A, Supplementary Bulk Regulations.)

1. Maximum building height

   a. Structure with minimum setback from a public street right-of-way.....60 feet

   b. Structure with an additional 1 foot of setback from a public street right-of-way for the portion of the structure over 60 feet for every 2 feet of additional height .....100 feet

2. Minimum setbacks for development complying with the Route 1 Manual

   The following minimum setback requirements apply to sites that comply fully with the Manual's requirements:

   a. Minimum setbacks from public street right-of-way
      (1) From arterial
         (a) Principal structures.....20 feet

(b) All other structures and uses .....30 feet

(2) From other public street right-of-way

(a) Principal structures ..... 10 feet

(b) All other structures and uses .....30 feet

[Council Bill 3-2009 (ZRA 104) Effective 4/9/09]

b. Minimum setbacks from vicinal properties:

(1) From a residential district: All structures and uses.....30 feet

(2) From all other zoning districts;

(a) Structures containing residences.....30 feet

(b) All other structures and uses.....0 feet

(3) If a TOD district is separated from another zoning district by a public street right- of-way, only the setbacks from a public street right-of-way shall apply.

3. Minimum distances between residential buildings

The following minimum distances shall be maintained between any buildings containing residences (even if the buildings include other uses also):

a. Side to side .....15 feet

b. All other façade to façade relationships.....30 feet

4. Minimum setback requirements for sites not complying with the use provisions of the TOD district and the Route 1 Manual.

The following minimum setback requirements apply to sites developed prior to the creation of the TOD district that do not comply or only partially comply with the Howard County Landscape Manual and the Route 1 Manual:

a. From external public street right-of-way

(1) Structures and uses .....50 feet

(2) Except for parking uses and fences adjoining parking uses ....30 feet

b. From internal public street right-of-way

(1) Structures and uses .....50 feet

(2) Except for parking uses and fences adjoining parking uses .....10 feet

c. From any residential district: All structures and uses .....100 feet

d. If a residential district is separated from the TOD district by a public street right-of-way,only the setbacks from a public street right-of-way shall apply.

F. **Requirements for TOD Development**

1. Amenity Area

TOD developments shall include an amenity area. [Council Bill 3-2009 (ZRA 104) Effective 4/9/09]

2. Area Requirements for Residential Uses

a. Residences are permitted only within a Route 1 Corridor development project encompassing at least 3 gross acres of TOD-zoned land.

b. No more than 50 percent of the net acreage of TOD-zoned land within the development project shall be devoted to residential buildings and residential parking.

c. Moderate income housing units

At least 15 percent of the dwelling units shall be moderate income housing units.

G. **Compliance With Route 1 Manual**

1. New Development

New development in the TOD district shall comply with the standards of the Route 1 Manual.

2. Alterations to Existing Uses Requiring Compliance with the Route 1 Manual

a. The following minor alterations or enlargements are exempt from complying with the Route 1 Manual:
   (1) Expansion of a building by 10 percent or less of the floor area of the building on April 13, 2004, up to a maximum of 5,000 square feet of floor area.
   (2) Building repairs, repaving or restriping parking areas, and other maintenance or repair that does not enlarge a building or use.
   (3) Removal of parking areas, driveways or other paved areas.
   (4) A change in the use of an existing building to a use permitted in this district, if the department of planning and zoning determines, in accordance with the Subdivision and Land Development Regulations, that no changes to site improvements are required.
   (5) Other minor alterations to a developed site that do not require a site development plan or a revision to an approved site development plan. This includes alterations approved through a waiver of the site development plan requirement or a red-line revision to an existing site development plan.

b. Other than the above exceptions, any alteration or enlargement of an existing use must comply with the Route 1 Manual. The following standards determine the extent to which improvements must be brought into compliance with the Route 1 Manual. Additional guidance is provided in the Manual.
   (1) Expansion Of Existing Improvements
   If buildings and/or site improvements are expanded, the site shall be brought into compliance with the Route 1 Manual in equal proportion to the percentage of the site impacted by the expansion. (For example, if the expansion impacts 20 percent of the site, 20

percent of the existing improved area shall be brought into compliance with the manual.) The area impacted by the expansion includes the square foot area of building additions and additional parking, loading, driveways or infrastructure, and land cleared or graded.

(2) Site Improvements That Do Not Alter Buildings
If alterations or enlargements are limited to site improvements that do not involve buildings, existing buildings are not required to be brought into compliance with the Route 1 Manual.

(3) Building Expansions
Expanded buildings shall be brought into compliance with the Route 1 Manual to the extent possible, including design and location of the addition. Relocation or reconstruction of existing buildings is not required.

c. A site that does not fully comply with the Route 1 Manual is subject to the bulk requirements in Section E.4 above.

H. **Conditional Uses**

The following are conditional uses in the TOD district, subject to the detailed requirements for conditional uses given in Section 131. If there is a conflict between this Section and Section 131, Section 131 shall prevail.

1. Home occupations
2. Small Wind Energy System, freestanding tower*
3. Utility uses, public

**[Council Bill 41-2010 (ZRA-129) Effective 10/5/10]*

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Attachment B – DPZ Recommended Text

SECTION 127.4: TOD (Transit Oriented Development) District

A. **Purpose**

This district provides for the development and redevelopment of key parcels of land within 3,500 feet of a MARC Station. The TOD district is intended to encourage the development of multistory office centers that are located and designed for safe and convenient pedestrian access by commuters using the MARC TRAINS and other public transit links. For larger sites of at least 3 acres, well-designed multi-use centers combining office and high-density residential development are encouraged. FOR SITES OF AT LEAST 50 ACRES, WELL-DESIGNED MULTI-USE CENTERS COMBINING OFFICE, HIGH-DENSITY RESIDENTIAL DEVELOPMENT WITH A DIVERSITY OF DWELLING UNIT TYPES, AND RETAIL USES ARE ENCOURAGED. The requirements of this district, in conjunction with the Route 1 Manual, will result in development that makes use of the commuting potential of the MARC system, creates attractive employment or multi-use centers, and provides for safe and convenient pedestrian travel.

Many parcels in the TOD district were developed before this district was created. [[i]] It is not the intent of these requirements to disallow the continued use of sites developed prior to the TOD district. The intent of this district will be achieved by bringing sites into compliance with these requirements and the standards of the Route 1 Manual as uses are redeveloped or expanded.

B. **Uses Permitted As A Matter Of Right**

22. Ambulatory health care facilities, including pharmacies incidental to these uses.
23. Athletic centers, health clubs, tennis clubs, and similar uses.
24. Biomedical laboratories.
25. Commercial communication antennas.
26. Conservation areas, including wildlife and forest preserves, environmental management areas, reforestation areas, and similar uses.
27. Data processing and telecommunication centers.
28. Dwellings, apartment, only within developments encompassing at least 3 gross acres of TOD- zoned land within a Route 1 Corridor development project.
29. DWELLINGS, ~~MULTI-FAMILY~~ SINGLE-FAMILY ATTACHED, ONLY WITHIN A ROUTE 1 CORRIDOR DEVELOPMENT PROJECT ENCOMPASSING AT LEAST 50 ACRES - NOT TO EXCEED THIRTY (30) PERCENT OF THE TOTAL NUMBER OF DWELLING UNITS WITHIN THE PROJECT AND FURTHER SUBJECT TO THE REQUIREMENT THAT SUCH DWELLINGS NOT OCCUPY MORE THAN FORTY(40) PERCENT OF THE RESIDENTIAL DEVELOPMENT AREA WITHIN THE PROJECT.
30. Flex space.
31. Government structures, facilities and uses, including public schools and colleges.
32. Horse racetrack facilities.
33. Hotels, motels, country inns and conference centers.

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34. Offices, professional and business.
35. Parking facilities that serve adjacent off-site uses in accordance with Section 133.B.4.
36. Research and development establishments.
37. Restaurants, carryout, including incidental delivery services.
38. Restaurants, standard, and beverage establishments, including those serving beer, wine and liquor for consumption on premises only.
39. Schools, commercial, limited to business schools and trade schools.
40. Schools, private academic, including colleges and universities.
41. Underground pipelines; electric transmission and distribution lines; telephone, telegraph and CATV lines; mobile transformer units; telephone equipment boxes; and other similar public utility uses not requiring a conditional use.
42. Volunteer fire departments.

C. **Commercial Uses Permitted With Limitations**

The following commercial uses are permitted as a matter of right in any building or parking structure having four or more stories. These uses shall be restricted to a cumulative area not exceeding 15 percent of the floor area of the building.

The maximum floor area for these uses increases to 25 percent of each building within a Route 1 Corridor development project that includes at least 15 gross acres of land in the TOD district. FOR ROUTE 1 CORRIDOR DEVELOPMENT PROJECTS ENCOMPASSING AT LEAST 50 GROSS ACRES OF LAND IN THE TOD DISTRICT, THESE USES ARE PERMITTED IN ANY BUILDING OR PARKING STRUCTURE HAVING A MINIMUM HEIGHT OF 25 FEET IRRESPECTIVE OF THE NUMBER OF STORIES CONTAINED WITHIN THE STRUCTURE PROVIDED HOWEVER THAT THE ~~MAXIMIUM~~ MAXIMUM FLOOR AREA OF THESE USES COMBINED MAY NOT EXCEED 300 SQUARE FEET PER GROSS ACRE WITHIN THE ROUTE 1 CORRIDOR DEVELOPMENT PROJECT.

10. Banks, savings and loan associations, investment companies, credit bureaus, brokers, and similar financial institutions without a drive-through, EXCEPT THAT DRIVE-THROUGH SERVICE SHALL BE PERMITTED ON SITES WITHIN A ROUTE 1 CORRIDOR DEVELOPMENT PROJECT ENCOMPASSING AT LEAST 50 GROSS ACRES OF LAND IN THE TOD DISTRICT PROVIDED THAT THERE SHALL BE NO PORTION OF DRIVE THROUGH SERVICE ~~FACING A PUBLICLY-OWNED ROADWAY~~ VISIBLE FROM A PUBLIC ROAD.
11. Blueprinting, printing, duplicating or engraving services.
12. Child day care centers and nursery schools.
13. Laundry and dry cleaning establishments without delivery services.
14. Personal service establishments such as barber and beauty shops, opticians, photographers, tailors.
15. Pizza delivery services and other services for off-site delivery of prepared food.
16. Restaurants, fast food without a drive-through, EXCEPT THAT DRIVE-THROUGH SERVICE SHALL BE PERMITTED ON SITES WITHIN A ROUTE 1 CORRIDOR DEVELOPMENT PROJECT ENCOMPASSING AT LEAST 50 GROSS ACRES OF LAND IN THE TOD DISTRICT PROVIDED THAT THERE SHALL BE NO PORTION OF DRIVE THROUGH SERVICE

~~FACING A PUBLICLY OWNED ROADWAY~~ VISIBLE FROM A PUBLIC ROAD.

17. Retail establishments, limited to convenience stores, food stores, drug and cosmetic stores, liquor stores and specialty stores.
18. Service agencies, such as real estate agencies, insurance and financial services, security services, messenger services, computer services, travel agencies, and mailing services.

D. **Accessory Uses**

1. Any use normally and customarily incidental to any use permitted as a matter of right in this district.

2. Private parks, swimming pools, athletic fields, exercise facilities, tennis courts, basketball courts and similar private, non-commercial recreation facilities.

3. Home occupations, subject to the requirements of Section 128.C.1.

4. The following retail and service uses, on a lot used primarily for multistory business or professional offices, provided the total gross floor area of all such establishments on a lot shall not exceed 2,000 square feet and shall not exceed 10 percent of the total floor space of the principal use:

   d. Personal service establishments such as barber shops, beauty shops, opticians, photographers, tailors.
   e. Service agencies such as real estate agencies, insurance agencies, security services, messenger services, computer services, travel agencies, data processing services.
   f. Retail establishments, limited to the following: convenience stores, food stores, drug and cosmetic stores and specialty stores.

5. Small Wind Energy System, building mounted, subject to the requirements of Section 128.M. *[Council Bill 41-2010 (ZRA-129) Effective 10/5/10]*

E. **Bulk Regulations**
(Also see Section 128.A, Supplementary Bulk Regulations.)

1. Maximum building height

   c. Structure with minimum setback from a public street right-of-way.....60 feet

   d. Structure with an additional 1 foot of setback from a public street right-of-way for the portion of the structure over 60 feet for every 2 feet of additional height .....100 feet

2. Minimum setbacks for development complying with the Route 1 Manual

   The following minimum setback requirements apply to sites that comply fully with the Manual's requirements:

a. Minimum setbacks from public street right-of-way
   (1) From arterial
      (c) Principal structures.....20 feet
      (d) All other structures and uses.....30 feet
   (2) From other public street right-of-way
      (a) Principal structures ..... 10 feet
      (b) All other structures and uses .....30 feet
      [Council Bill 3-2009 (ZRA 104) Effective 4/9/09]

b. Minimum setbacks from vicinal properties:
   (1) From a residential district: All structures and uses.....30 feet
   (2) From all other zoning districts:
      (a) Structures containing residences.....30 feet
      (b) All other structures and uses.....0 feet
   (3) If a TOD district is separated from another zoning district by a public street right- of-way, only the setbacks from a public street right-of-way shall apply.

3. Minimum distances between residential buildings

The following minimum distances shall be maintained between any buildings containing residences (even if the buildings include other uses also):

a. Side to side .....15 feet
b. All other façade to façade relationships.....30 feet

4. Minimum setback requirements for sites not complying with the use provisions of the TOD district and the Route 1 Manual.

The following minimum setback requirements apply to sites developed prior to the creation of the TOD district that do not comply or only partially comply with the Howard County Landscape Manual and the Route 1 Manual:

a. From external public street right-of-way
   (1) Structures and uses .....50 feet
   (2) Except for parking uses and fences adjoining parking uses ....30 feet

b. From internal public street right-of-way
   (1) Structures and uses .....50 feet
   (2) Except for parking uses and fences adjoining parking uses .....10 feet

c. From any residential district: All structures and uses .....100 feet

d. If a residential district is separated from the TOD district by a public street right-of-way,only the setbacks from a public street right-of-way shall apply.

F. **Requirements for TOD Development**

3. Amenity Area

TOD developments shall include an amenity area. [Council Bill 3-2009 (ZRA 104) Effective 4/9/09]

4. Area Requirements for Residential Uses

d. Residences are permitted only within a Route 1 Corridor development project encompassing at least 3 gross acres of TOD-zoned land.

e. No more than 50 percent of the net acreage of TOD-zoned land within the development project shall be devoted to residential buildings and residential parking.

f. Moderate income housing units

At least 15 percent of the dwelling units shall be moderate income housing units.

G. **Compliance With Route 1 Manual**

3. New Development

New development in the TOD district shall comply with the standards of the Route 1 Manual.

4. Alterations to Existing Uses Requiring Compliance with the Route 1 Manual

a. The following minor alterations or enlargements are exempt from complying with the Route 1 Manual:

(6) Expansion of a building by 10 percent or less of the floor area of the building on April 13, 2004, up to a maximum of 5,000 square feet of floor area.

(7) Building repairs, repaving or restriping parking areas, and other maintenance or repair that does not enlarge a building or use.

(8) Removal of parking areas, driveways or other paved areas.

(9) A change in the use of an existing building to a use permitted in this district, if the department of planning and zoning determines, in accordance with the Subdivision and Land Development Regulations, that no changes to site improvements are required.

(10) Other minor alterations to a developed site that do not require a site development plan or a revision to an approved site development plan. This includes alterations approved through a waiver of the site development plan requirement or a red-line revision to an existing site development plan.

b. Other than the above exceptions, any alteration or enlargement of an existing use must comply with the Route 1 Manual. The following standards determine the extent to which improvements must be brought into compliance with the Route 1 Manual. Additional guidance is provided in the Manual.

(1) Expansion Of Existing Improvements

If buildings and/or site improvements are expanded, the site shall be brought into compliance with the Route 1 Manual in equal proportion to the percentage of the site impacted by the expansion. (For example, if the expansion impacts 20 percent of the site, 20 percent of the existing improved area shall be brought into compliance with the manual.) The area impacted by the expansion includes the square foot area of building additions and additional parking, loading, driveways or infrastructure, and land cleared or graded.

(4) Site Improvements That Do Not Alter Buildings
If alterations or enlargements are limited to site improvements that do not involve buildings, existing buildings are not required to be brought into compliance with the Route 1 Manual.

(5) Building Expansions
Expanded buildings shall be brought into compliance with the Route 1 Manual to the extent possible, including design and location of the addition. Relocation or reconstruction of existing buildings is not required.

c. A site that does not fully comply with the Route 1 Manual is subject to the bulk requirements in Section E.4 above.

H. **Conditional Uses**

The following are conditional uses in the TOD district, subject to the detailed requirements for conditional uses given in Section 131. If there is a conflict between this Section and Section 131, Section 131 shall prevail.

4. Home occupations
5. Small Wind Energy System, freestanding tower*
6. Utility uses, public

**[Council Bill 41-2010 (ZRA-129) Effective 10/5/10]*

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Attachment C – DPZ Expanded Text

SECTION 127.4: TOD (Transit Oriented Development) District

C. **Commercial Uses Permitted With Limitations**

The following commercial uses are permitted as a matter of right in any building or parking structure having ~~four or more~~ MULTIPLE stories~~. These uses shall be restricted to a cumulative area not exceeding 15 percent of the floor area of the building.~~ OR IN A SINGLE STORY ~~The maximum floor area for these uses increases to 25 percent of each building within a Route 1 Corridor development project that includes at least 15 gross acres of land in the TOD district. FOR ROUTE 1 CORRIDOR DEVELOPMENT PROJECTS ENCOMPASSING AT LEAST 50 GROSS ACRES OF LAND IN THE TOD DISTRICT, THESE USES ARE PERMITTED IN ANY~~ BUILDING OR PARKING STRUCTURE HAVING A MINIMUM HEIGHT OF 25 FEET. ~~IRRESPECTIVE OF THE NUMBER OF STORIES CONTAINED WITHIN THE STRUCTURE~~ PROVIDED ~~HOWEVER~~ THAT ~~THE MAXIMIUM~~ MAXIMUM ~~FLOOR AREA OF THESE USES COMBINED MAY NOT EXCEED 300 _____ SQUARE FEET PER GROSS ACRE WITHIN THE ROUTE 1 CORRIDOR DEVELOPMENT PROJECT. THE~~ ONE STORY COMMERCIAL USES SHALL BE LIMITED TO A MAXIMUM LAND AREA OF FIVE PERCENT OF THE TOD GROSS ACREAGE.

19. Banks, savings and loan associations, investment companies, credit bureaus, brokers, and similar financial institutions without a drive-through, EXCEPT THAT SINGLE LANE DRIVE-THROUGH SERVICE SHALL BE PERMITTED ~~ON SITES WITHIN A ROUTE 1 CORRIDOR DEVELOPMENT PROJECT ENCOMPASSING AT LEAST 50 GROSS ACRES OF LAND IN THE TOD DISTRICT~~ PROVIDED THAT THERE SHALL BE NO PORTION OF DRIVE THROUGH SERVICE ~~FACING A PUBLICLY OWNED ROADWAY~~ VISIBLE FROM A PUBLIC ROAD.
20. Blueprinting, printing, duplicating or engraving services.
21. Child day care centers and nursery schools.
22. Laundry and dry cleaning establishments without delivery services.
23. Personal service establishments such as barber and beauty shops, opticians, photographers, tailors.
24. Pizza delivery services and other services for off-site delivery of prepared food.
25. Restaurants, fast food without a drive-through, EXCEPT THAT SINGLE LANE DRIVE-THROUGH SERVICE SHALL BE PERMITTED ~~ON SITES WITHIN A ROUTE 1 CORRIDOR DEVELOPMENT PROJECT ENCOMPASSING AT LEAST 50 GROSS ACRES OF LAND IN THE TOD DISTRICT~~ PROVIDED THAT THERE SHALL BE NO PORTION OF DRIVE THROUGH SERVICE ~~FACING A PUBLICLY OWNED ROADWAY~~ VISIBLE FROM A PUBLIC ROAD.
26. Retail establishments, limited to convenience stores, food stores, drug and cosmetic stores, liquor stores and specialty stores.
27. Service agencies, such as real estate agencies, insurance and financial services, security services, messenger services, computer services, travel agencies, and mailing services.