PETITION TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY

DPZ Office Use Only:

Case No. ZRA- 140

Date Filed: 8/1/18

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: Amend Section 127.4 : TOD (Transit Oriented Development). See attached "Response to Section 1."

[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** Kellogg CCP LLC, c/o Preston Scheffenacker Properties, Inc.

Address 2330 West Joppa Road, Suite 190, Lutherville, Maryland 21093

Phone No. (W) 410-296-3800 (H)

Email Address dps@prestonsp.com

3. **Counsel for Petitioner** William E. Erskine

Counsel's Address 8171 Maple Lawn Boulevard, Suite 200, Maple Lawn, Maryland 20759

Counsel's Phone No. 301-575-0363

Email Address werskine@offitkurman.com

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed

See attached "Response to Section 4."

2018 AUG -1 A 8:18
HOWARD COUNTY COUNCIL
RECEIVED

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County _____

See attached "Response to Section 5."

[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. _____

See attached "Response to Section 6."

[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) . _____

See attached "Response to Section 7."

[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.

See attached "Response to Section 8."

[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.

See attached "Response to Section 9."

[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.

DAVID P. SCHEFFENACKER — 8/20/12

Petitioner's name (Printed or typed) — Petitioner's Signature — Date

Petitioner's name (Printed or typed) — Petitioner's Signature — Date

Petitioner's name (Printed or typed) — Petitioner's Signature — Date

William E. Erskine

Counsel for Petitioner's Signature

[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 filed in the performance of governmental duties by an official, board or agency of the Howard County Government.

APPLICATIONS: One (1) original plus twenty (20) copies along with attachments.

****

For DPZ office use only:

Hearing Fee $ _____

Receipt No. _____

PLEASE CALL 410-313-2395 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

Revised: 07/12
T:\Shared\Public Service and Zoning\Applications\County Council\ZRA Application

INSTRUCTIONS TO THE APPLICANT/PARTY OF RECORD

- As required by State Law, applicants are required to complete the AFFIDAVIT AS TO CONTRIBUTION that is attached, and if you have made a contribution as described in the Affidavit, please complete the DISCLOSURE OF CONTRIBUTION that is attached.

- If you are an applicant, Party of Record (i.e., supporter/protestant) or a family member and have made a contribution as described in the Affidavit, you must complete the DISCLOSURE OF CONTRIBUTION that is attached.

- Filed affidavits and disclosures will be available for review by the public in the office of the Administrative assistant to the Zoning Board during normal business hours.

- Additional forms may be obtained from the Administrative Assistant to the Zoning Board at (410-313-2395) or from the Department of Planning and Zoning.

- Completed form may be mailed to the Administrative Assistant to the Zoning Board at 3430 Courthouse Drive, Ellicott City, MD 21043.

- Pursuant to State Law, violations shall be reported to the Howard County Ethics Commission.

ZONING MATTER: _____

_____

AFFIDAVIT AS TO CONTRIBUTION

As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850

I, Kellogg CCP-LLC, the applicant in the above zoning matter

_____, HAVE ✓ HAVE NOT

made any contribution or contributions having a cumulative value of $500 or more to the treasurer of a candidate or the treasurer of a political committee during the 48-month period before application in or during the pendency of the above referenced zoning matter.

I understand that any contribution made after the filing of this Affidavit and before final disposition of the application by the County Council shall be disclosed within five (5) business days of the contribution.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Name: David A. Schaffer

Date: 7/27/12

ZONING MATTER: _____

_____

DISCLOSURE OF CONTRIBUTION

As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850

This Disclosure shall be filed by an Applicant upon application or by a Party of Record within 2 weeks after entering a proceeding, if the Applicant or Party of Record or a family member, as defined in Section 15-849 of the State Government Article, has made any contribution or contributions having a cumulative value of $500 or more to the treasurer of a candidate of the treasurer of a political committee during the 48-month period before the application was file or during the pendency of the application.

Any person who knowingly and willfully violates Sections 15-848-15-850 of the State Government Article is subject to a fine of not more than $5,000. If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty.

APPLICANT OR
PARTY OF RECORD: Please see attached exhibit

RECIPIENTS OF CONTRIBUTIONS:

Name	Date of Contribution	Amount

I understand that any contribution made after the filing of this Disclosure and before final disposition of the application by the County Council shall be disclosed with five (5) business days of the contribution.

Name: David R. Schaffer

Date: 7/27/12

Affidavit as to Contribution
Feb-12

Calvin Ball	Howard County Council	David P. Scheffenacker	$2,000.00	4/21/2011
Calvin Ball	Howard County Council	Falkland Venture HE2 LLC	$2,000.00	4/15/2011
Calvin Ball	Howard County Council	Falkland Venture HE2 LLC	$2,000.00	12/8/2011
Calvin Ball	Howard County Council	Gateway North Investors LLC	$4,000.00	12/27/2011
Calvin Ball	Howard County Council	Preston & Butler Investment Trust	$4,000.00	12/8/2011
Calvin Ball	Howard County Council	Preston Jakarta HFR II LLC	$2,000.00	12/8/2011
Calvin Ball	Howard County Council	Preston Jakarta HFR II LLC	$2,000.00	12/27/2011
Calvin Ball	Howard County Council	Telegraph Rd Investors LLC	$4,000.00	12/20/2011
Calvin Ball	Howard County Council	Madagascar AM LLC	$4,000.00	12/27/2011
Calvin Ball	Howard County Council	Preston Scheffenacker Properties Inc.	$4,000.00	12/22/2011
Calvin Ball	Howard County Council			
CALVIN BALL TOTAL			**$30,000.00**	
Courtney Watson	Howard County Council	David P. Scheffenacker	$1,000.00	3/18/2011
Courtney Watson	Howard County Council	David P. Scheffenacker	$500.00	6/6/2011
Courtney Watson	Howard County Council	David P. Scheffenacker	$750.00	6/10/2011
Courtney Watson	Howard County Council	Louise Scheffenacker Prusak (David sister)	$4,000.00	10/1/2011
Courtney Watson	Howard County Council	Jean Scheffenacker (David sister)	$4,000.00	10/1/2011
Courtney Watson	Howard County Council	Neil Brownawell (David brother-in-law)	$4,000.00	10/1/2011
Courtney Watson	Howard County Council			
COURTNEY WATSON TOTAL			**$14,250.00**	
Guy Guzzone	MD House of Delegates	Preston & Butler Investment Trust	$2,000.00	12/28/2011
Guy Gazone	MD House of Delegates	Telegraph Rd Investors LLC	$4,000.00	12/27/2011
GUY GAZONE TOTAL			**$6,000.00**	
Jennifer Terrasa	Howard County Council	David P. Scheffenacker	$2,500.00	4/21/2011
Jennifer Terrasa	Howard County Council	David P. Scheffenacker	$500.00	6/6/2011
JENN TERRASA TOTAL			**$3,000.00**	
Ken Ulman	Howard County Exec	David P. Scheffenacker	$1,000.00	2/6/2008
Ken Ulman	Howard County Exec	David P. Scheffenacker	$2,000.00	10/26/2010
Ken Ulman	Howard County Exec	Falkland Venture HE2 LLC	$4,000.00	10/26/2010
Ken Ulman	Howard County Exec	David P. Scheffenacker	$500.00	3/21/2011
Ken Ulman	Howard County Exec	David P. Scheffenacker	$500.00	6/30/2011
Ken Ulman	Howard County Exec	Falkland Venture HE2 LLC	$2,000.00	12/27/2011
Ken Ulman	Howard County Exec	Gateway North Investors LLC	$4,000.00	12/27/2011
Ken Ulman	Howard County Exec	Preston & Butler Investment Trust	$2,000.00	12/28/2011
Ken Ulman	Howard County Exec	Preston Jakarta HFR II LLC	$4,000.00	12/27/2011
Ken Ulman	Howard County Exec	Madagascar AM LLC	$4,000.00	12/27/2011
Ken Ulman	Howard County Exec	Falkland Venture HE2 LLC	$59.75	11/1/2011
Ken Ulman PARTY AT MD CLUB	Howard County Exec	Preston Scheffenacker Properties Inc.	$4,000.00	11/1/2011
Ken Ulman PARTY AT MD CLUB	Howard County Exec			
KEN ULMAN TOTAL			**$21,059.75**	
Mary Kay Sigaty	Howard County Council	David P. Scheffenacker	$500.00	6/6/2011
MARY KAY SIGATY TOTAL			**$500.00**	

ZONING MATTER: _____

_____

AFFIDAVIT AS TO ENGAGING IN BUSINESS WITH AN ELECTED OFFICIAL

As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850

I, Kellogg CCP, LLC, the applicant in the above zoning matter

_____, AM ✓ AM NOT

Currently engaging in business with an elected official as those terms are defined by Section 15-848 of the State Government Article of the Annotated Code of Maryland.

I understand that if I begin engaging in business with an elected official between the filing of the application and the disposition of the application, I am required to file an affidavit in this zoning matter at the time of engaging in business with elected official.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Name: [signature]

Date: 7/27/12

Revised: 7/08
T:\shared\PubServ\DPZPub&App\Applications\ZB\AmendPDP

ZONING MATTER: _____

_____

AFFIDAVIT AS TO CONTRIBUTION

As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850

I, Kellogg CCP-LLC, the applicant in the above zoning matter

_____, HAVE ✓ HAVE NOT

made any contribution or contributions having a cumulative value of $500 or more to the treasurer of a candidate or the treasurer of a political committee during the 48-month period before application in or during the pendency of the above referenced zoning matter.

I understand that any contribution made after the filing of this Affidavit and before final disposition of the application by the County Council shall be disclosed within five (5) business days of the contribution.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Name: David R. Schaff

Date: 7/27/12

ZONING MATTER: _____

_____

DISCLOSURE OF CONTRIBUTION

As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850

This Disclosure shall be filed by an Applicant upon application or by a Party of Record within 2 weeks after entering a proceeding, if the Applicant or Party of Record or a family member, as defined in Section 15-849 of the State Government Article, has made any contribution or contributions having a cumulative value of $500 or more to the treasurer of a candidate of the treasurer of a political committee during the 48-month period before the application was file or during the pendency of the application.

Any person who knowingly and willfully violates Sections 15-848-15-850 of the State Government Article is subject to a fine of not more than $5,000. If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty.

APPLICANT OR
PARTY OF RECORD: Please see attached exhibit

RECIPIENTS OF CONTRIBUTIONS:

Name	Date of Contribution	Amount

I understand that any contribution made after the filing of this Disclosure and before final disposition of the application by the County Council shall be disclosed with five (5) business days of the contribution.

Name: David A. Schaffer

Date: 7/27/12

ZONING MATTER: _____

_____

AFFIDAVIT AS TO ENGAGING IN BUSINESS WITH AN ELECTED OFFICIAL

As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850

I, Kellogg CCP - UCI, the applicant in the above zoning matter

_____, AM ✓ AM NOT

Currently engaging in business with an elected official as those terms are defined by Section 15-848 of the State Government Article of the Annotated Code of Maryland.

I understand that if I begin engaging in business with an elected official between the filing of the application and the disposition of the application, I am required to file an affidavit in this zoning matter at the time of engaging in business with elected official.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Name: [signature]

Date: 7/27/12

Revised: 7/08
T:\shared\PubServ\DPZPub&App\Applications\ZB\AmendPDP

Affidavit as to Contribution
Feb-12

Calvin Ball	Howard County Council	David P. Scheffenacker	$2,000.00	4/21/2011
Calvin Ball	Howard County Council	Falkland Venture HE2 LLC	$2,000.00	4/15/2011
Calvin Ball	Howard County Council	Falkland Venture HE2 LLC	$2,000.00	12/8/2011
Calvin Ball	Howard County Council	Gateway North Investors LLC	$4,000.00	12/27/2011
Calvin Ball	Howard County Council	Preston & Butler Investment Trust	$4,000.00	12/8/2011
Calvin Ball	Howard County Council	Preston Jakarta HFR II LLC	$2,000.00	12/8/2011
Calvin Ball	Howard County Council	Preston Jakarta HFR II LLC	$2,000.00	12/27/2011
Calvin Ball	Howard County Council	Telegraph Rd Investors LLC	$4,000.00	12/20/2011
Calvin Ball	Howard County Council	Madagascar AM LLC	$4,000.00	12/27/2011
Calvin Ball	Howard County Council	Preston Scheffenacker Properties Inc.	$4,000.00	12/22/2011
CALVIN BALL TOTAL			**$30,000.00**	
Courtney Watson	Howard County Council	David P. Scheffenacker	$1,000.00	3/18/2011
Courtney Watson	Howard County Council	David P. Scheffenacker	$500.00	6/6/2011
Courtney Watson	Howard County Council	David P. Scheffenacker	$750.00	6/10/2011
Courtney Watson	Howard County Council	Louise Scheffenacker Prusak (David sister)	$4,000.00	10/1/2011
Courtney Watson	Howard County Council	Jean Scheffenacker (David sister)	$4,000.00	10/1/2011
Courtney Watson	Howard County Council	Neil Brownawell (David brother-in-law)	$4,000.00	10/1/2011
COURTNEY WATSON TOTAL			**$14,250.00**	
Guy Guzzone	MD House of Delegates	Preston & Butler Investment Trust	$2,000.00	12/28/2011
Guy Gazone	MD House of Delegates	Telegraph Rd Investors LLC	$4,000.00	12/27/2011
GUY GAZONE TOTAL			**$6,000.00**	
Jennifer Terrasa	Howard County Council	David P. Scheffenacker	$2,500.00	4/21/2011
Jennifer Terrasa	Howard County Council	David P. Scheffenacker	$500.00	6/6/2011
JENN TERRASA TOTAL			**$3,000.00**	
Ken Ulman	Howard County Exec	David P. Scheffenacker	$1,000.00	2/6/2008
Ken Ulman	Howard County Exec	David P. Scheffenacker	$2,000.00	10/26/2010
Ken Ulman	Howard County Exec	Falkland Venture HE2 LLC	$4,000.00	10/26/2010
Ken Ulman	Howard County Exec	David P. Scheffenacker	$500.00	3/21/2011
Ken Ulman	Howard County Exec	David P. Scheffenacker	$500.00	6/30/2011
Ken Ulman	Howard County Exec	Falkland Venture HE2 LLC	$2,000.00	12/27/2011
Ken Ulman	Howard County Exec	Gateway North Investors LLC	$4,000.00	12/27/2011
Ken Ulman	Howard County Exec	Preston & Butler Investment Trust	$2,000.00	12/28/2011
Ken Ulman	Howard County Exec	Preston Jakarta HFR II LLC	$4,000.00	12/27/2011
Ken Ulman	Howard County Exec	Madagascar AM LLC	$4,000.00	12/27/2011
Ken Ulman PARTY AT MD CLUB	Howard County Exec	Falkland Venture HE2 LLC	$59.75	11/1/2011
Ken Ulman PARTY AT MD CLUB	Howard County Exec	Preston Scheffenacker Properties Inc.	$4,000.00	11/1/2011
KEN ULMAN TOTAL			**$21,059.75**	
Mary Kay Sigaty	Howard County Council	David P. Scheffenacker	$500.00	6/6/2011
MARY KAY SIGATY TOTAL			**$500.00**	

Narrative in Support of Petition to Amend the Zoning Regulations of Howard County

Response to Section 1

The Petitioner proposes to amend Section 127.4 of the Howard County Zoning Regulations applicable to the TOD (Transit Oriented Development) zoning district. The purposes of the proposed amendments are to: 1) permit more diversity of housing types in TOD development projects encompassing 50 or more gross acres; 2) permit single story stand alone retail uses in TOD development projects encompassing 50 or more gross acres; 3) permit in all TOD development projects certain drive-through service operations for banks, restaurants, drug and cosmetic stores, and similar uses provided that no portion of the drive through service shall face a public roadway.

Response to Section 4

The amendments described above are being proposed in order to respond to the current and projected future demands for residential housing products in the Route 1 Corridor. In particular, the proposal to permit the development of a limited amount of Multi-family Dwellings in larger TOD development projects will permit the development of relatively small town house components within the residential area of the TOD project. Evaluation of the current and projected market demand for housing in Howard County indicates that there is a healthy demand for town house type development within the Route 1 Corridor, especially among families with children of middle school age.

The proposal to permit single story stand alone retail uses within larger TOD projects is likewise a response to the current and projected demand for retail space within the Route 1 Corridor. Experience gained subsequent to the 2004 Comprehensive Zoning has demonstrated a rather weak market demand for vertically integrated retail uses within the Route 1 Corridor. In contrast, there remains a viable demand for single story stand alone retail uses within the Route 1 Corridor. Permitting such retail uses within larger TOD development projects will permit the residents of the larger TOD communities to shop locally for many of their retail needs, thus reducing the demands on local roads and highways.

Finally, the proposal to permit certain drive-through retail services for banks, restaurants, drug and cosmetic stores and similar businesses is intended to respond to the current and projected future needs of such businesses. Again, experience gained subsequent to the 2004 Comprehensive Zoning has demonstrated that the businesses identified above require the ability to have (at a minimum) limited drive-through services. The proposal to permit such drive through service uses provided the drive-through itself does not face a public road is intended to accommodate this demand and need.

Response to Section 5

The proposed amendments to the TOD zoning regulations described above are very much in harmony with the newly adopted General Plan for Howard County (see, PlanHoward 2020). In particular, the proposal to permit Multi-family Dwellings or town houses within larger TOD

developments will promote the goals of ensuring the adequate supply of a diversity of housing types. In turn, this policy will promote the availability of affordable housing choices.

PlanHoward 2030, Chapter 9 addresses the need for housing within the County. PlanHoward 2030 on page 123 cites with approval the following State of Maryland Vision: "*A range of housing densities, types, and sizes provides residential options for citizens of all ages and incomes.*" The new general plan also makes the following important observation regarding the importance of having diversity of housing types in order to meet the affordable housing needs of county residents:

> While Howard County has a wide variety of housing types, densities, and designs, limited land resources and County growth policies are shifting the focus from past patterns where single-family detached homes dominated to a current mix that includes more townhouses and apartments, a trend that can help increase affordable housing choices.

Id.

The first zoning regulation amendment proposed herein would permit Multi-family Dwellings (townhouses) in larger TOD projects. This proposal is in harmony with the goals, policies and objectives of the current general plan because it will promote the availability of affordable housing choices for Howard County residents as called for by the general plan.

The other two zoning regulation amendments proposed herein seek greater flexibility in the design of retail commercial uses in TOD development projects. The first of these amendments applies only to larger sized TOD sites and would permit single story stand alone retail uses in projects encompassing 50 gross acres or more. The remaining proposed zoning regulation amendment would apply to all TOD development projects and would permit drive-through retail services (such as banks, restaurants, and drug and cosmetic stores) provided the drive-through facility is not facing a public roadway. Both of these proposed zoning regulations changes seek greater flexibility for commercial uses in the Route 1 Corridor and are in response to the experience gained subsequent to the 2004 Comprehensive Zoning. These proposals are likewise in harmony with and will promote the objectives set forth in Policy 5.4 of PlanHoward 2030 which provides:

> POLICY 5.4 – 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.
>
> ♦♦♦
>
> b. Zoning Review. Evaluate the efficacy of existing Route 1 zoning districts (CE, CAC, TOD); consider more flexibility, especially regarding commercial uses, and revise zoning as needed to ensure County vision is achieved.

Response to Section 6 and Section 7

The proposed zoning regulation amendments provided herein are in harmony with and will promote the legislative intent of the zoning regulations as set forth in Section 100A. Specifically, the proposed regulations will benefit the public by preserving and promoting the health, safety and welfare of the community. In particular, the proposed zoning amendments will expand the availability of diverse housing options by permitting Multi-family Dwellings (townhouses) in larger TOD development projects. This in turn will help to ensure adequate housing choices in a suitable living environment within the economic reach of all citizens.

Similarly, amending the zoning regulations to permit more flexibility in the design of commercial and retail uses in the TOD district will help to ensure that Howard County citizens continue to benefit from and enjoy the availability of conveniently located and well designed retail businesses in the communities where they live.

Response to Section 8

Two of the proposed zoning regulation amendments advanced herein will apply to and impact only one other existing TOD project in the county. The third proposed zoning regulation amendment would impact all TOD development projects in the county regardless of size. Because the Laurel Park TOD project is greater than 50 gross acres in size, it would be permissible if this Petition is approved to have Multi-family (townhouse) dwelling types as part of the Laurel Park TOD project, subject to the limitations proposed herein. Similarly, the Laurel Park TOD project, because of its size would be permitted to develop single story stand alone retail uses.

If this Petition is granted, all TOD development projects within the county, regardless of size, would be permitted to have drive-through retail services. Subject to the restriction that no part of the drive-through facility shall face a public road.

Response to Section 9

The Petitioner's market research has indentified a market demand for townhouse dwellings particularly among families with children of middle school age. Because the Oxford Square TOD project contains a site for a future middle school, the public would benefit from the availability of a reasonable quantity of townhouse dwellings in close proximity to the planned middle school.

4825-3818-2160, v. 1

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 every2 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]*

4827-8426-4464, v. 5