



September 30, 2008

TECHNICAL STAFF REPORT

*Petition Accepted on August 29, 2008
Planning Board Meeting of October 23, 2008
County Council Hearing to be scheduled*

Case No./Petitioner: ZRA - 110 – Aladdin Rock, LLC

Request: Zoning Regulation Amendment to Section 127.5 (CAC: Corridor Activity Center District) to remove the requirement that 25 percent of dwelling units be moderate income housing (MIHUs) units if the CAC development requires closing of a mobile home park existing on the property when CAC rezoning occurs.

Department of Planning and Zoning Recommendation:

DENIAL

I. DESCRIPTION OF PROPOSAL

- **The proposal is for one amendment to Section 127.5 of the Zoning Regulations.**

According to the petition, the reason for the amendment is to preserve and promote the health, safety and welfare of the community in that it proposes a change to the regulations that will result in a fairer and more equitable treatment of all property owners. The Petitioner states that the amendment would correct a mistake made during Comp Lite.

- **The complete proposed amendment text is attached to this Technical Staff Report as Attachment A (CAPITALS indicates text to be added; [[brackets indicate text to be deleted]]).**

II. EXISTING AND PRIOR REGULATIONS

- **In the current CAC regulations which became effective July 28, 2006 with the Continuation of the Comprehensive Zoning Plan (“2005 Continuation of the CZP” or “Comp Lite”), the requirements for moderate income housing units are that:**
 - (1) At least 15 percent of the dwelling units be moderate income housing units, except that**
 - (2) At least 25 percent of the dwelling units be moderate income housing units if the CAC Development requires closing of a mobile home park existing on the property when CAC rezoning occurs.**

- **Prior to that date, under the CAC regulations which became effective April 13, 2004 with the Comprehensive Zoning Plan, the requirements for moderate income housing units were that:**

(1) At least 15 percent of the dwelling units be moderate income housing units.

(2) The moderate income housing units in the CAC district are to be made available to the following individuals prior to making them available to the general public:

- (a) Employees of the development;**
- (b) All income-eligible Howard County employees and employees of the Howard County Board of Education [Council Bill 34-2004 (ZRA-49), effective September 8, 2004]**
- (c) Residents that are dislocated by Route 1 redevelopment projects**

These individuals must also meet the qualifications of the MIHU program as established in 13.400 of the Howard Code.

III. BACKGROUND INFORMATION

A. Scope of Proposed Amendments

- **The proposed amendment would affect only the moderate income housing unit provisions of the CAC District.**

IV. EVALUATIONS AND CONCLUSIONS

- It appears the proposal is to remove the requirement that 25 percent of dwelling units be MIHUs if the CAC development requires closing of a mobile home park existing on the property when CAC rezoning occurs, and to return the text to the regulations which became effective with the 2005 Continuation of the CZP. The Petitioner alleges a mistake was made during the 2005 Continuation of the CZP which resulted in the removal of this language and the addition of the provision regarding the 25 percent requirement.
- The proposed amendment would cause a significant reduction in the number of MIHUs with no compensating public benefit. The clear intent of the 25 percent MIHU requirement is that when a developer is replacing a mobile home park, a large stock of moderately priced housing homes is removed in favor of potentially high-priced homes. It is reasonable public policy to require a developer under these circumstances to provide a higher percentage of MIHUs than a developer building on raw land or a redeveloped commercial lot.
- The Council Bill (CB 2-2005) adopting the 2005 Continuation of the CZP indicates that this language was intentionally added to the Zoning Regulations and there is no evidence that a mistake was made in amending the provisions of this section. Additionally, the Petitioner presented no evidence of a mistake and ultimately, the issue of mistake is not relevant to zoning regulation amendments.

V. RECOMMENDATION

DENIAL

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-110, as noted above, be **DENIED**.

<u><i>Marsha S. McLaughlin</i></u>	<u>10-09-08</u>
Marsha S. McLaughlin, Director	Date

ATTACHMENT A

Proposed Text

(CAPITALS indicates text to be added; [[brackets indicate text to be deleted]].)

SECTION 127.5 CAC (Corridor Activity Center) District

E. Requirements for CAC Development

3. Requirements for Residential Uses

(e) Moderate income housing

(1) At least 15 percent of the dwelling units shall be moderate income housing units, except that

[[2) At least 25 percent of the dwelling units shall be moderate income housing units if the CAC Development requires closing of a mobile home park existing on the property when CAC rezoning occurs.]]

[[3)]] (2) THE MODERATE INCOME HOUSING UNITS IN THE CAC DISTRICT ARE TO BE MADE AVAILABLE TO THE FOLLOWING INDIVIDUALS PRIOR TO MAKING THEM AVAILABLE TO THE GENERAL PUBLIC:

A. EMPLOYEES OF THE DEVELOPMENT;

B. ALL INCOME-ELIGIBLE HOWARD COUNTY EMPLOYEES AND EMPLOYEES OF THE HOWARD COUNTY BOARD OF EDUCATION

C. RESIDENTS THAT ARE DISLOCATED BY ROUTE 1 REDEVELOPMENT PROJECTS

THESE INDIVIDUALS MUST ALSO MEET THE QUALIFICATIONS OF THE MIHU PROGRAM AS ESTABLISHED IN 13.400 OF THE HOWARD CODE.