

1 **Forest Venture II, LLC**
2 **(c/o Richard Talkin Esq.),**
3 **Petitioner**
4 **ZRA 122**

* **PLANNING BOARD OF**
* **HOWARD COUNTY, MARYLAND**

5 * * * * *

6 **MOTION:** To recommend denial of the proposal to amend Sections 118 and 119 of the Zoning
7 Regulations to permit residential dwelling units in the B-1 and B-2 Districts to comprise
8 up to a maximum of 50 percent of the floor area of a structure provided the dwelling units
9 are located above the first floor level.

10 **ACTION:** *Recommended denial of Petition; Vote 3 to 0.*

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12 **RECOMMENDATION**

13 On December 10, 2009, the Planning Board of Howard County, Maryland, considered the petition
14 of Forest Venture II, LLC (c/o Richard B. Talkin, Esq.) to amend Sections 118 and 119 of the Zoning
15 Regulations to permit residential dwelling units in the B-1 and B-2 Districts to comprise up to a maximum
16 of 50 percent of the floor area of a structure provided the dwelling units are located above the first floor
17 level.

18 The petition, the Department of Planning and Zoning Technical Staff Report and Recommendation
19 were presented to the Board for its consideration. The Department of Planning and Zoning recommended
20 that the Petitioner's request be approved.

21 The Petitioner was represented by Sang Oh, Esq. Angie Beltram, representative for the Howard
22 County Citizens Association (HCCA); Cathy Hudson; and Ralph Ballman appeared in opposition to the
23 petition.

24 Mr. Oh said that the Technical Staff Report talks about the evolution of residential use in B-1 and
25 B-2 through history. He said this particular use is treated differently today than it was in the 1950's and
26 even in 1977. Mr. Oh said that the residential provision was originally intended as more of a "mom and
27 pop" type set-up to allow small business owners to live over their business and today there are not many of
28 this type of business. He said that shopping centers are the typical format for businesses today in the Route
40 corridor, and the existing provision in the Zoning Regulations is extremely difficult to use and enforce.
He said the amendment is being proposed for the purpose of creating a mixed-use development for the
existing Forest Motel and Diner under ZB 1084M. He said if mixed-use is facilitated, the appearance of
retail should be softened and this is an attempt to improve on the residential component in B-1 and B-2 in
the current Zoning Regulations that is not used.

A board member asked Mr. Oh what a typical size would be for a building with a residential
component and questioned whether a minimum size should be established for residential units as some
buildings may be small enough that an apartment based on the size of a building would be impractical. Mr.

1 Oh said that may be a good idea to incorporate into the regulations. One board member questioned the
2 difference between mixed-use and the B-1 and B-2 zones.

3 **Testimony:**

4 Ms. Beltram testified that the HCCA is opposed to the amendment because it would apply to all B-
5 1 and B-2 zoned properties in the County when it is intended only for one project. She also stated that this
6 could result in a proliferation of residential units in the Route 40 corridor where there is approximately four
7 miles of B-1 and B-2 zoning. She questioned how APFO would apply to these residential units. In response
8 to a board member's question whether Ms. Beltram had been on the Route 40 Task Force, Ms. Beltram
9 stated that she was on the Task Force and the reason there is no mixed-use zoning on Route 40 is that the
10 MXD District requires a 25 acre minimum and the properties along Route 40 are typically too small to
11 qualify for MXD even if they were assembled. She said she opposes the amendment because it represents
12 piecemeal rezoning but has implications for all B-1 and B-2 properties.

13 Cathy Hudson testified that the amendment would create difficulty in planning schools and
14 adequate facilities. She said the amendment is really piecemeal rezoning and that it would better be
15 considered in comprehensive rezoning.

16 Ralph Ballman testified that he opposes the amendment because it has not been thoroughly thought
17 through. He said he believes this is more of an issue that should be considered in comprehensive rezoning.

18 **Discussion:**

19 In response to questions by board members, Ms. McLaughlin stated that Route 40 is very different
20 from Route 1 which has more obsolescence so there is more potential for redevelopment than for Route 40.
21 She said Route 40 is a good location from a Smart Growth perspective however, to accommodate some
22 additional housing, particularly more affordable housing which would support increased transit
23 opportunities.

24 The Board discussed the desirability of placing mixed uses in the Route 40 corridor. Questions
25 were posed as to the difference between mixed-use zoning and B-1/B-2 zoning. One board member said
26 that if mixed-uses are to be allowed on Route 40, why wouldn't properties be rezoned to a mixed-use
27 classification instead of diluting the B-1 and B-2 zones, and further stated that if mixed-use is desired, then
28 planning should be deliberate and properties should be rezoned accordingly. The Board generally concurred
that B-1 and B-2 zoning should be retained as it is.

Mr. Oh interjected that there have been no negative comments about mixed-use and that most of
the comments have focused on the issue that the amendment would apply to all B-1 and B-2 properties in
the County. He suggested that a Conditional Use may be the appropriate approach for allowing the
residential component.

Motion:

Paul Yelder made a motion to deny the petition as written. David Grabowski seconded the motion.

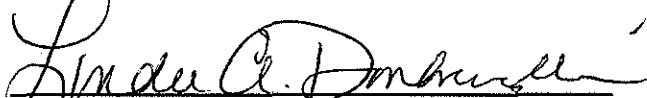
1 **Discussion:**

2 The Board discussed the "blanket" approach that the amendment would have on all B-1 and B-2
3 properties and agreed that it affects too many properties throughout the County. The Board concurred that a
4 Conditional Use may be the appropriate path for implementing the objectives of the proposal, and that the
5 currently limited intention of the regulations to provide living space should be retained as it exists in B-1
6 and B-2. Denial of the proposal as written was recommended with the recommendation that instead the use
7 be addressed through the Conditional Use process. The Board determined that such an approach does not
8 require the case to return to the Planning Board.

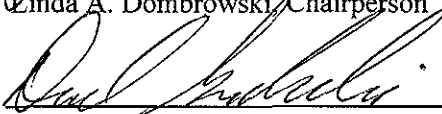
9 **Vote:**

10 Mr. Yelder restated the motion as being for denial of the petition as written with the stipulation that
11 the Board would support reworking the proposal as a Conditional Use. The restated motion passed by a
12 vote of 3 to 0.

13 HOWARD COUNTY PLANNING BOARD

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Linda A. Dombrowski, Chairperson

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16 David Grabowski, Vice Chairperson

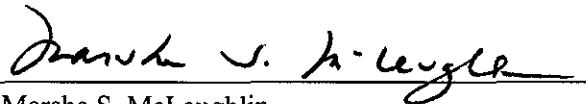
17 ABSENT

18 Tammy J. CitaraManis

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20 Paul Yelder

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22 ATTEST:

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24 Marsha S. McLaughlin
25 Executive Secretary

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