

- specific text in two page Word document titled "corrections SRSOD HB 948.doc"

By: **Delegate Holmes**

Introduced and read first time: February 11, 2011

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Land Use – State Rail Station Overlay Districts**

3 FOR the purpose of authorizing local jurisdictions to establish State rail station
4 overlay districts in certain areas; setting forth the purposes of a State rail
5 station overlay district; requiring the Department of Planning and the
6 Department of Transportation to consult with a local jurisdiction to establish
7 the boundaries of a certain State rail station overlay district; declaring the
8 intent of the General Assembly; requiring the Department of Planning, in
9 consultation with the Department of Transportation, to adopt certain
10 regulations relating to State rail station overlay districts; authorizing the
11 Department of Planning, in consultation with the Department of
12 Transportation, to vary certain requirements for a State rail station overlay
13 district under certain circumstances; requiring the Department of Planning to
14 consider implementing less restrictive height and density limits in a State rail
15 station overlay district that may be established in a local zoning ordinance;
16 providing that, in a State rail station overlay district, certain regulations
17 prevail over certain local zoning and subdivision ordinances or regulations;
18 providing that properties within a State rail station overlay district are not
19 subject to a certain adequate public facilities ordinance; requiring a certain local
20 jurisdiction to attempt to maximize the potential number of pedestrians who
21 can access rail stations by establishing certain procedures and guidelines for
22 development in a State rail station overlay district, developing a certain plan for
23 development in the State rail station overlay district, facilitating a streamlined
24 development review and approval process for certain projects within a State rail
25 station overlay district, and establishing a certain amenity fund for certain
26 purposes; setting forth requirements for a certain streamlined development
27 review and approval process; authorizing a certain person to appeal a certain
28 decision of a local jurisdiction to the Department of Planning; requiring the
29 Department of Planning to hold a certain hearing and make a certain
30 determination under certain circumstances; authorizing a certain aggrieved
31 party to appeal a certain decision of the Department of Planning to a certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 circuit court under certain circumstances; requiring a party to a certain appeal
2 to post a certain bond or deposit with the court other security; requiring the
3 circuit court to hold a hearing within a certain time to determine the amount of
4 the bond or other security; providing for the calculation of the amount of the
5 bond or other security; requiring the circuit court to dismiss a certain case
6 without prejudice if a certain party fails to pose a certain bond or other security
7 with the court within a certain time; authorizing the circuit court to uphold,
8 revoke, or modify a certain decision of the Department of Planning or remand
9 the issue back to the Department of Planning under certain circumstances;
10 authorizing a local jurisdiction to sell to developers certain floor area ratios and
11 other development rights above a certain base standard for a certain price in a
12 State rail station overlay district under certain circumstances; requiring a local
13 jurisdiction to calculate the value of certain floor area ratios and other
14 development rights in a certain manner; requiring a developer to pay to the
15 amenity fund of a local jurisdiction the price for certain floor area ratios at a
16 certain time; authorizing a certain owner of a certain building to sell certain
17 development rights to another property owner or developer within the same
18 State rail station overlay district under certain circumstances; requiring a
19 certain owner selling certain development rights to pay to the amenity fund of a
20 certain local jurisdiction a certain percentage of the purchase price received
21 from the sale of certain development rights and invest a certain percentage of
22 the purchase price received from the sale of certain development rights in
23 improvements to the building from which the rights were sold; requiring a local
24 jurisdiction to make a certain determination before the local jurisdiction may
25 issue an occupancy permit to the owner of a certain building under certain
26 circumstances; authorizing a local jurisdiction to establish a tax increment
27 financing district whose borders coincide with the borders of a State rail station
28 overlay district; authorizing a local jurisdiction to establish a special taxing
29 district whose borders coincide with the borders of a State rail station overlay
30 district for certain purposes; requiring the State to pay to the amenity fund of a
31 local jurisdiction an amount equal to a certain percentage of the increased
32 revenues from the State sales tax generated within the State rail station
33 overlay district that are attributable to the sale of floor area ratios and other
34 development rights under certain circumstances; requiring a certain local
35 jurisdiction to establish and administer a certain amenity fund; requiring a
36 certain local jurisdiction to use money in a certain amenity fund for certain
37 purposes; requiring a local jurisdiction to invest the money in its amenity fund
38 in a certain manner and credit certain investment earnings to the amenity fund;
39 defining certain terms; and generally relating to State rail station overlay
40 districts.

41 BY repealing and reenacting, with amendments,
42 Article 66B – Land Use
43 Section 1.03 and 2.13
44 Annotated Code of Maryland
45 (2010 Replacement Volume)

46 BY adding to

1 Article 66B – Land Use
2 Section 9.01 through 9.04 to be under the new title “State Rail Station Overlay
3 Districts”
4 Annotated Code of Maryland
5 (2010 Replacement Volume)

6 Preamble

7 WHEREAS, The overarching public purpose of Maryland’s Smart, Green and
8 Growing initiative and the Sustainable Communities Act of 2010 is sustainability,
9 including quality of our natural resources, quality of life, and sustainable government;
10 and

11 WHEREAS, These goals are interdependent in that one cannot be achieved
12 without the others; and

13 WHEREAS, A major challenge to sustainability has been to provide the
14 planning tools, appropriate context, and market incentives for developers to invest in
15 the creation and maintenance of attractive, mixed–use urban environments and
16 communities within walking distance of rail stations; and

17 WHEREAS, Maryland’s road networks are overloaded, and traffic congestion
18 wastes human and natural resources, pollutes air and water at rates many times
19 greater than both rail and unimpeded traffic, and harms the health, safety, and
20 welfare of Marylanders in numerous ways; and

21 WHEREAS, Billions of public dollars have already been invested in creating rail
22 networks whose capability to support the State’s sustainability objectives in a
23 cost–effective manner is proportionate to the number of pedestrians served; and

24 WHEREAS, Rail networks are regional, not local; people measure distance
25 between places in minutes, not in miles; rail networks serve pedestrians, not
26 automobiles; and land within walking distance of a rail station is among the scarcest
27 resources in Maryland; and

28 WHEREAS, Increasing the numbers of floors in buildings in a State rail station
29 overlay district would increase sources and destinations of pedestrians, with elevators
30 functioning as vertical rail–transit systems transporting pedestrians to a sidewalk,
31 without the use of cars and buses, and without additional impervious area, while
32 improving life, energy, and economic sustainability in mixed–use neighborhoods
33 located within walking distance of rail stations; and

34 WHEREAS, It is a clear public priority to design neighborhoods within walking
35 distance of rail stations to support sustainable communities, optimize the economic
36 viability and quality of life within those communities, minimize energy consumption,
37 and protect rural resource lands from the impacts of sprawling suburban and exurban
38 development patterns; and

1 WHEREAS, Continuation of sprawling development patterns in Maryland will
2 result in continued high rates of energy consumption and greenhouse gas emissions,
3 more person–hours in congested traffic, more deaths and injuries from auto accidents,
4 increased costs for highway and utility construction and maintenance, increased costs
5 for delivery of government services, further degraded environmental quality,
6 consumption of nonrenewable natural resources, loss of productive farmland and
7 natural habitat, reduced public health, and a deteriorating quality of life; and

8 WHEREAS, No two sites are identical, and thus the regulations that control
9 their development must be context–sensitive; and

10 WHEREAS, Sustainable development is responsible development that
11 maximizes the opportunity for people to function productively and enjoyably as
12 pedestrians, utilizing the billions of public dollars already invested in rail transport
13 networks; and

14 WHEREAS, Intensive uses of lands within walking distance of rail stations are
15 public priorities for sustainability; and

16 WHEREAS, The State finds that State rail station overlay districts will benefit
17 the general health, safety, and welfare of the citizens of the State by fulfilling existing
18 and future housing, transportation, employment, and recreation needs and policies
19 without having to build new roads or cause people to spend as much time sitting in
20 traffic as people must do today; now, therefore,

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article 66B – Land Use**

24 1.03.

25 (a) Except as provided in this section, this article does not apply to charter
26 counties.

27 (b) The following sections of this article apply to a charter county:

28 (1) § 1.00(j) (Definition of “sensitive areas”);

29 (2) § 1.01 (Visions);

30 (3) § 1.02 (Consistency with comprehensive plans);

31 (4) § 1.04 (Charter county – Comprehensive plans);

32 (5) § 3.02(h) (Planning Commission – Education);

33 (6) § 3.09 (Annual report – Preparation and filing);

1 (7) § 3.10 (Annual report – Smart Growth goals, measures, and
2 indicators);

3 (8) § 4.01(b)(2) (Regulation of bicycle parking);

4 (9) § 4.04(c) (Exceptions related to the Maryland Accessibility Code);

5 (10) § 4.07(i) (Board of Appeals – Education);

6 (11) § 5.03(d) (Easements for burial sites);

7 (12) § 7.02 (Civil penalty for zoning violation);

8 (13) **§§ 9.01 THROUGH 9.04 (STATE RAIL STATION OVERLAY**
9 **DISTRICTS);**

10 **(14)** § 10.01 (Adequate Public Facilities Ordinances);

11 **[(14)] (15)** § 11.01 (Transfer of Development Rights);

12 **[(15)] (16)** § 12.01 (Inclusionary Zoning);

13 **[(16)] (17)** Except in Montgomery County or Prince George’s County, §
14 13.01 (Development rights and responsibilities agreements);

15 **[(17)] (18)** For Baltimore County only, § 14.02; and

16 **[(18)] (19)** For Howard County only, § 14.06.1.

17 (c) This section supersedes any inconsistent provision of Article 28 of the
18 Code.

19 2.13.

20 (a) Except as provided in subsection (b) of this section, §§ 3.01 through 8.15
21 of this article do not apply in Baltimore City.

22 (b) The following sections of this article apply to Baltimore City:

23 (1) § 1.00(j) (Definition of “sensitive areas”);

24 (2) § 1.01 (Visions);

25 (3) § 1.02 (Consistency with comprehensive plans);

26 (4) § 1.04 (Charter county – Comprehensive plans);

- 1 (5) § 3.02(h) (Planning Commission – Education);
- 2 (6) § 3.09 (Annual report – Preparation and filing);
- 3 (7) § 3.10 (Annual report – Smart Growth goals, measures, and
4 indicators);
- 5 (8) § 4.01(b)(2) (Regulation of bicycle parking);
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- 8 (11) § 5.03(d) (Easements for burial sites);
- 9 (12) § 7.02 (Civil penalty for zoning violation);
- 10 (13) **§§ 9.01 THROUGH 9.04 (STATE RAIL STATION OVERLAY**
11 **DISTRICTS);**
- 12 (14) § 10.01 (Adequate Public Facilities Ordinances);
- 13 [(14)] (15) § 11.01 (Transfer of Development Rights);
- 14 [(15)] (16) § 12.01 (Inclusionary Zoning); and
- 15 [(16)] (17) § 13.01 (Development Rights and Responsibilities
16 Agreements).

17 STATE RAIL STATION OVERLAY DISTRICTS

18 9.01.

19 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (B) “FUND” MEANS AN AMENITY FUND ESTABLISHED IN ACCORDANCE
22 WITH § 9.04 OF THIS TITLE.

23 (C) (1) “PUBLIC REALM” MEANS EACH AREA WITHIN A STATE RAIL
24 STATION OVERLAY DISTRICT THAT CAN BE VIEWED FROM PUBLIC STREETS,
25 EXCEPT FOR PRIVATELY OWNED LAND DEVELOPED, APPROVED FOR
26 DEVELOPMENT, OR INTENDED FOR PRIVATE DEVELOPMENT.

1 **(2) “PUBLIC REALM” INCLUDES STREETS, RIGHTS-OF-WAY,**
2 **SIDEWALKS, ALLEYS, PARKS, PLAZAS, OTHER OPEN SPACES, UTILITY**
3 **STRUCTURES, STORMWATER MANAGEMENT STRUCTURES, AND PROXIMATE**
4 **ENVIRONMENTALLY SENSITIVE NATURAL AREAS THE EXPANSION AND**
5 **ENHANCEMENT OF WHICH WOULD IMPROVE THE QUALITY OF LIFE OF PEOPLE**
6 **IN THE STATE RAIL STATION OVERLAY DISTRICT.**

7 **(D) “STATE RAIL STATION OVERLAY DISTRICT” OR “DISTRICT” MEANS**
8 **AN AREA WITHIN WALKING DISTANCE OF A RAIL STATION ESTABLISHED AS A**
9 **STATE RAIL STATION OVERLAY DISTRICT THAT IMPOSES ALTERNATIVE**
10 **REGULATIONS TO THOSE REQUIRED BY THE UNDERLYING ZONING**
11 **CLASSIFICATION IN THE LOCAL ZONING ORDINANCE.**

12 **9.02.**

13 **(A) NOTWITHSTANDING ANY OTHER LAW, A LOCAL JURISDICTION MAY**
14 **ESTABLISH A STATE RAIL STATION OVERLAY DISTRICT ADJACENT TO EACH**
15 **RAILROAD STATION, METRO STATION, AND LIGHT RAIL STATION IN THE LOCAL**
16 **JURISDICTION.**

17 **(B) THE PURPOSES OF A STATE RAIL STATION OVERLAY DISTRICT ARE**
18 **TO:**

19 **(1) ACCOMMODATE A MIX OF HIGH DENSITY DEVELOPMENT**
20 **ADJACENT TO RAIL STATIONS, INCLUDING COMMERCIAL AND RESIDENTIAL**
21 **STRUCTURES, PRIVATE OR PUBLIC PARKING FACILITIES, AND PUBLIC OPEN**
22 **SPACES;**

23 **(2) CREATE AN ENVIRONMENT THAT MAXIMIZES THE POTENTIAL**
24 **NUMBER OF PEDESTRIANS WHO USE RAIL TRANSIT AS WELL AS THE**
25 **DESTINATIONS FOR RAIL TRANSIT RIDERS WITHOUT RELIANCE ON**
26 **AUTOMOBILES;**

27 **(3) ENCOURAGE THE RETENTION, IMPROVEMENT, AND REUSE OF**
28 **UNIQUE BUILDING AND PUBLIC SPACES;**

29 **(4) PRESERVE AND ENHANCE THE CHARACTER OF EXISTING**
30 **NEIGHBORHOODS WITHIN WALKING DISTANCE OF RAIL STATIONS BY**
31 **IMPROVING THE PUBLIC REALM;**

32 **(5) ENCOURAGE INFILL DEVELOPMENT; AND**

33 **(6) REDUCE THE TIME AND EXPENSE USED TO DEVELOP**
34 **MIXED-USE DEVELOPMENTS WITHIN WALKING DISTANCE OF RAIL STATIONS.**

1 **(C) (1) THE DEPARTMENT OF PLANNING AND THE DEPARTMENT OF**
2 **TRANSPORTATION SHALL CONSULT WITH THE LOCAL JURISDICTION IN WHICH**
3 **THE DISTRICT WILL BE LOCATED TO ESTABLISH THE BOUNDARIES OF THE**
4 **DISTRICT.**

5 **(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE**
6 **BOUNDARIES OF A STATE RAIL STATION OVERLAY DISTRICT EXPAND OVER TIME**
7 **WITH THE PUBLIC AND PRIVATE SECTORS COLLABORATING TO:**

8 **(I) MAKE THE DISTRICT EASILY ACCESSIBLE TO**
9 **PEDESTRIANS; AND**

10 **(II) MAXIMIZE THE NUMBER OF INDIVIDUALS WHO WILL BE**
11 **ABLE TO WORK AND LIVE IN THE DISTRICT WITHOUT RELIANCE ON**
12 **AUTOMOBILES.**

13 **(D) (1) (I) IN CONSULTATION WITH THE DEPARTMENT OF**
14 **TRANSPORTATION, THE DEPARTMENT OF PLANNING SHALL ADOPT**
15 **REGULATIONS ESTABLISHING:**

16 **1. REQUIREMENTS FOR THE CONSTRUCTION,**
17 **ALTERATION, RECONSTRUCTION, AND DEMOLITION OF STRUCTURES AND THE**
18 **PUBLIC REALM WITHIN A STATE RAIL STATION OVERLAY DISTRICT; AND**

19 **2. PROCEDURES THAT LOCAL JURISDICTIONS SHALL**
20 **FOLLOW IN IMPLEMENTING REGULATIONS FOR DEVELOPMENT IN A STATE RAIL**
21 **STATION OVERLAY DISTRICT.**

22 **(II) IN CONSULTATION WITH THE DEPARTMENT OF**
23 **TRANSPORTATION, THE DEPARTMENT OF PLANNING MAY VARY SPECIFIC**
24 **REQUIREMENTS TO ACCOMMODATE PHYSICAL OR ECONOMIC CONDITIONS**
25 **PRESENT IN EACH DISTRICT.**

26 **(III) THE DEPARTMENT OF PLANNING SHALL CONSIDER**
27 **IMPLEMENTING LESS RESTRICTIVE HEIGHT AND DENSITY LIMITS IN A STATE**
28 **RAIL STATION OVERLAY DISTRICT THAN MAY BE ESTABLISHED FOR THE**
29 **UNDERLYING ZONING CLASSIFICATION IN A LOCAL ZONING ORDINANCE.**

30 **(2) IN A STATE RAIL STATION OVERLAY DISTRICT, THE**
31 **REGULATIONS ADOPTED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS**
32 **SUBSECTION PREVAIL OVER ANY LOCAL ZONING AND SUBDIVISION ORDINANCES**
33 **OR REGULATIONS.**

1 (3) PROPERTIES WITHIN A STATE RAIL STATION OVERLAY
2 DISTRICT ARE NOT SUBJECT TO ANY ADEQUATE PUBLIC FACILITIES PROVISIONS
3 ENACTED BY A LOCAL JURISDICTION.

4 (4) THE LOCAL JURISDICTION IN WHICH THE STATE RAIL
5 STATION OVERLAY DISTRICT IS LOCATED SHALL ATTEMPT TO MAXIMIZE THE
6 POTENTIAL NUMBER OF PEDESTRIANS WITH ACCESS TO RAIL STATIONS BY:

7 (I) ESTABLISHING PROCEDURES AND GUIDELINES FOR
8 DEVELOPMENT IN THE STATE RAIL STATION OVERLAY DISTRICT THAT ARE
9 CONSISTENT WITH THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF
10 THIS SUBSECTION;

11 (II) DEVELOPING A PLAN FOR THE DEVELOPMENT OF THE
12 STATE RAIL STATION OVERLAY DISTRICT TO IMPLEMENT IMPROVEMENTS TO
13 THE PUBLIC REALM BY THE LOCAL JURISDICTION TO ENCOURAGE THE PRIVATE
14 SECTOR TO ACTIVELY COOPERATE AND PLAN PRIVATE INVESTMENTS TO
15 ACHIEVE THE PURPOSES OF THIS SECTION, INCLUDING A PLAN FOR:

16 1. UTILITY IMPROVEMENTS; AND

17 2. STORMWATER MANAGEMENT IMPROVEMENTS.

18 (III) IN CONSULTATION WITH THE DEPARTMENT OF
19 PLANNING, FACILITATING A STREAMLINED DEVELOPMENT REVIEW AND
20 APPROVAL PROCESS FOR DEVELOPMENT PROJECTS IN THE DISTRICT; AND

21 (IV) ESTABLISHING AN AMENITY FUND IN ACCORDANCE
22 WITH § 9.04 OF THIS TITLE TO:

23 1. ACCEPT PAYMENTS FROM OWNERS AND
24 DEVELOPERS FOR ADDITIONAL DEVELOPMENT RIGHTS; AND

25 2. PROVIDE A MEANS FOR MAKING PAYMENTS TO
26 IMPROVE AND ENHANCE THE PUBLIC REALM.

27 (E) THE STREAMLINED DEVELOPMENT REVIEW AND APPROVAL
28 PROCESS DEVELOPED BY THE LOCAL JURISDICTION IN ACCORDANCE WITH
29 SUBSECTION (D) OF THIS SECTION SHALL PROVIDE:

30 (1) FOR A SINGLE PUBLIC HEARING FOR A COMPLETED
31 APPLICATION FOR DEVELOPMENT WITHIN A STATE RAIL STATION OVERLAY
32 DISTRICT;

1 **(2) FOR A MAXIMUM APPROVAL TIME PERIOD OF 3 MONTHS FROM**
2 **RECEIPT OF A COMPLETED APPLICATION UNDER THIS SUBSECTION; AND**

3 **(3) ACCESS BY THE DEVELOPER TO APPROPRIATE LOCAL**
4 **AGENCIES FOR ASSISTANCE WITH THE APPLICATION BEFORE THE PUBLIC**
5 **HEARING.**

6 **(F) (1) A DEVELOPER OR OTHER AGGRIEVED PARTY WITH STANDING**
7 **MAY APPEAL A DECISION OF A LOCAL JURISDICTION IN CONNECTION WITH**
8 **DEVELOPMENT IN A STATE RAIL STATION OVERLAY DISTRICT TO THE**
9 **DEPARTMENT OF PLANNING.**

10 **(2) ON RECEIPT OF AN APPEAL FROM A DECISION OF A LOCAL**
11 **JURISDICTION, THE DEPARTMENT OF PLANNING SHALL HOLD A HEARING ON**
12 **THE DECISION AND MAY:**

13 **(I) UPHOLD THE DECISION OF THE LOCAL JURISDICTION;**

14 **(II) REVOKE THE DECISION OF THE LOCAL JURISDICTION;**

15 **(III) MODIFY THE DECISION OF THE LOCAL JURISDICTION;**

16 **OR**

17 **(IV) REMAND THE ISSUE TO THE LOCAL JURISDICTION.**

18 **(3) (I) AN AGGRIEVED PARTY TO AN APPEAL TO THE**
19 **DEPARTMENT OF PLANNING MAY FILE A PETITION FOR JUDICIAL REVIEW OF**
20 **THE DECISION OF THE DEPARTMENT IN THE CIRCUIT COURT OF THE COUNTY**
21 **WHERE THE STATE RAIL STATION OVERLAY DISTRICT IS LOCATED.**

22 **(II) A PARTY TO AN APPEAL UNDER THIS PARAGRAPH**
23 **SHALL POST A BOND OR DEPOSIT WITH THE CIRCUIT COURT OTHER SECURITY**
24 **IN AN AMOUNT CALCULATED IN ACCORDANCE WITH PARAGRAPH (III) OF THIS**
25 **PARAGRAPH.**

26 **(III) 1. THE COURT SHALL HOLD A HEARING TO**
27 **DETERMINE THE AMOUNT OF THE BOND OR OTHER SECURITY POSTED IN**
28 **ACCORDANCE WITH PARAGRAPH (II) OF THIS PARAGRAPH WITHIN 10 DAYS**
29 **AFTER THE FILING OF THE REQUEST FOR JUDICIAL REVIEW.**

30 **2. THE AMOUNT OF THE BOND OR OTHER SECURITY**
31 **SHALL EQUAL:**

1 **A. THE REASONABLY ANTICIPATED COST INCREASE**
2 **DUE TO A DELAY OF A DEVELOPMENT PROJECT; AND**

3 **B. THE REASONABLY ANTICIPATED COSTS OF EACH**
4 **OTHER PARTY TO THE JUDICIAL REVIEW FOR THE DEFENSE OF THE JUDICIAL**
5 **REVIEW, INCLUDING ATTORNEY'S FEES, COSTS, AND COURT COSTS.**

6 **(IV) IF THE PARTY FAILS TO POST A BOND OR OTHER**
7 **SECURITY WITH THE CIRCUIT COURT WITHIN 15 DAYS AFTER THE**
8 **DETERMINATION OF THE AMOUNT TO BE PAID, THE COURT SHALL ISSUE AN**
9 **ORDER DISMISSING THE CASE WITHOUT PREJUDICE.**

10 **(V) THE CIRCUIT COURT MAY:**

11 **1. UPHOLD THE DECISION OF THE DEPARTMENT OF**
12 **PLANNING;**

13 **2. REVOKE THE DECISION OF THE DEPARTMENT OF**
14 **PLANNING;**

15 **3. MODIFY THE DECISION OF THE DEPARTMENT OF**
16 **PLANNING; OR**

17 **4. REMAND THE ISSUE TO THE DEPARTMENT OF**
18 **PLANNING.**

19 **9.03.**

20 **(A) NOTWITHSTANDING ANY OTHER LAW, IN A STATE RAIL STATION**
21 **OVERLAY DISTRICT A LOCAL JURISDICTION MAY SELL TO DEVELOPERS FLOOR**
22 **AREA RATIOS AND OTHER DEVELOPMENT RIGHTS THAT ARE ABOVE THE BASE**
23 **STANDARD ESTABLISHED FOR THE UNDERLYING ZONING CLASSIFICATION IN**
24 **THE LOCAL ZONING ORDINANCES, ADJUSTED BY ANY FLOOR AREA RATIOS OR**
25 **OTHER DEVELOPMENT RIGHTS ACQUIRED FROM OTHER PROPERTIES IN THE**
26 **DISTRICT, FOR A PRICE EQUAL TO 50% OF THE VALUE OF THE ADDITIONAL**
27 **FLOOR AREA RATIOS OR OTHER DEVELOPMENT RIGHTS.**

28 **(B) THE LOCAL JURISDICTION SHALL CALCULATE THE VALUE OF THE**
29 **ADDITIONAL FLOOR AREA RATIOS OR OTHER DEVELOPMENT RIGHTS BASED ON**
30 **STATISTICS AND FINANCIAL RECORDS USED BY THE DEVELOPER TO PLAN AND**
31 **FINANCE THE PROJECT FOR WHICH THE ADDITIONAL FLOOR AREA RATIOS OR**
32 **DEVELOPMENT RIGHTS ARE BEING PURCHASED, INCLUDING LAND ACQUISITION**
33 **RECORDS AND PROJECT FINANCING APPRAISALS.**

1 (C) THE DEVELOPER SHALL PAY TO THE AMENITY FUND OF THE LOCAL
2 JURISDICTION THE PURCHASE PRICE FOR THE ADDITIONAL FLOOR AREA
3 RATIOS OR OTHER DEVELOPMENT RIGHTS ACQUIRED UNDER SUBSECTION (A)
4 OF THIS SECTION AT THE TIME THE BUILDING PERMIT IS ISSUED.

5 (D) (1) IN A STATE RAIL STATION OVERLAY DISTRICT, AN OWNER OF
6 AN EXISTING BUILDING MAY SELL THE DEVELOPMENT RIGHTS FOR THE BASE
7 STANDARD FOR FLOOR AREA RATIOS ESTABLISHED FOR THE UNDERLYING
8 ZONING CLASSIFICATION IN THE LOCAL ZONING ORDINANCES AND ANY OTHER
9 DEVELOPMENT RIGHTS TO ANOTHER PROPERTY OWNER OR DEVELOPER IN THE
10 SAME OVERLAY DISTRICT.

11 (2) AN OWNER SELLING DEVELOPMENT RIGHTS UNDER THIS
12 SUBSECTION SHALL:

13 (I) PAY TO THE AMENITY FUND OF THE LOCAL
14 JURISDICTION 25% OF THE PURCHASE PRICE RECEIVED FROM THE SALE OF
15 THE DEVELOPMENT RIGHTS; AND

16 (II) INVEST AT LEAST 25% OF THE PURCHASE PRICE
17 RECEIVED FROM THE SALE OF THE DEVELOPMENT RIGHTS IN IMPROVEMENTS
18 TO THE BUILDING FROM WHICH THE RIGHTS WERE SOLD.

19 (3) THE LOCAL JURISDICTION SHALL DETERMINE THAT THE
20 IMPROVEMENTS REQUIRED UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION
21 ARE COMPLETE BEFORE THE LOCAL JURISDICTION MAY ISSUE AN OCCUPANCY
22 PERMIT TO THE OWNER OF THE BUILDING FOR WHICH THE DEVELOPMENT
23 RIGHTS ARE PURCHASED UNDER THIS SUBSECTION.

24 (E) NOTWITHSTANDING ANY OTHER LAW, A LOCAL JURISDICTION MAY
25 ESTABLISH A TAX INCREMENT FINANCING DISTRICT WHOSE BORDERS COINCIDE
26 WITH THE BORDERS OF A STATE RAIL STATION OVERLAY DISTRICT.

27 (F) NOTWITHSTANDING ANY OTHER LAW, A LOCAL JURISDICTION MAY
28 ESTABLISH A SPECIAL TAXING DISTRICT WHOSE BORDERS COINCIDE WITH THE
29 BORDERS OF A STATE RAIL STATION OVERLAY DISTRICT FOR THE PURPOSE OF
30 FUNDING INFRASTRUCTURE IMPROVEMENTS IN THE DISTRICT.

31 (G) THE STATE SHALL PAY TO THE AMENITY FUND OF A LOCAL
32 JURISDICTION AN AMOUNT EQUAL TO 50% OF THE INCREASED REVENUES FROM
33 THE STATE SALES TAX GENERATED WITHIN THE STATE RAIL STATION OVERLAY
34 DISTRICT THAT ARE ATTRIBUTABLE TO SALE OF FLOOR AREA RATIOS AND
35 OTHER DEVELOPMENT RIGHTS IN ACCORDANCE WITH THIS SECTION.

1 **9.04.**

2 (A) A LOCAL JURISDICTION THAT ESTABLISHES A STATE RAIL STATION
3 OVERLAY DISTRICT SHALL ESTABLISH AND ADMINISTER AN AMENITY FUND.

4 (B) AN AMENITY FUND SHALL CONSIST OF PAYMENTS FROM OWNERS
5 AND DEVELOPERS FOR ADDITIONAL DEVELOPMENT RIGHTS AND FUNDS
6 RECEIVED FROM THE STATE AS A RESULT OF INCREASED REVENUES FROM THE
7 STATE SALES TAX IN THE OVERLAY DISTRICT AS PROVIDED IN § 9.03 OF THIS
8 TITLE.

9 (C) THE LOCAL JURISDICTION SHALL USE THE MONEY IN THE FUND TO
10 IMPROVE THE PUBLIC REALM, INCLUDING PROVIDING FOR:

11 (1) STORMWATER MANAGEMENT;

12 (2) UNDERGROUNDING UTILITIES;

13 (3) LANDSCAPING;

14 (4) STREET LIGHTING;

15 (5) PUBLIC PARKS AND OPEN SPACES;

16 (6) THE PRESERVATION OF THE CHARACTER OF EXISTING
17 NEIGHBORHOODS;

18 (7) THE PRESERVATION AND ENHANCEMENT OF UNIQUE
19 BUILDINGS AND PUBLIC SPACES;

20 (8) PROGRAMS THAT REDUCE DEPENDENCY ON THE
21 AUTOMOBILE; AND

22 (9) THE EXPANSION, PROTECTION, AND PRESERVATION OF
23 ENVIRONMENTAL RESOURCES IN THE STATE RELEVANT TO IMPROVING THE
24 QUALITY OF LIFE FOR RESIDENTS AND VISITORS IN THE STATE RAIL STATION
25 OVERLAY DISTRICT.

26 (D) (1) THE LOCAL JURISDICTION SHALL INVEST THE MONEY IN ITS
27 AMENITY FUND.

28 (2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE
29 CREDITED TO THE FUND.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2011.