



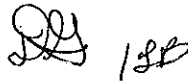
Howard County

Internal Memorandum

Subject: *Planning Board Recommendation for GPA 2012-1*

To: *Mary Kay Sigaty, Council Chairperson
Courtney Watson, Council Vice-Chairperson
Calvin Ball, Council Member
Gregory Fox, Council Member
Jen Terrasa, Council Member*

From: *Dave Grabowski, Chairperson
Planning Board*



Date: *October 23, 2012*

Process

On October 18, 2012, the Planning Board of Howard County, Maryland, held a public hearing to consider General Plan Amendment 2012-1 to *PlanHoward 2030*, submitted by the Department of Planning and Zoning. The amendment text and maps; the technical staff report, dated September 20, 2012; and, a presentation summarizing the amendment were provided for the Planning Board. Staff also presented an alternative map for the Tier III and Tier IV growth areas that reflected comments from the Maryland Department of Planning urging inclusion of areas dominated by farm or forest lands in the RR (Rural Residential) district being included in the Tier IV boundary.

In conjunction with Section 16.900 (i) of the Howard County Code, a 30-day notice of the time and place of the hearing was published twice in a newspaper of general circulation in the County – once in the *Baltimore Sun* and once in the *Howard County Times*. Copies of these advertisements are on file in the Department of Planning and Zoning. An agenda and technical staff report were also posted.

Prior to the Chair opening the public hearing for citizen comment, staff presented an overview of the amendment. Eleven members of the public presented written and/or oral input and feedback on the general plan amendment which reflected varying degrees of support or opposition. Several suggestions were made to mitigate the impact of major subdivision restrictions on Tier IV properties. The sign-in sheet, an audio recording of the proceedings, and a copy of all written input are on file in the Department of Planning and Zoning.

Recommendations

Based on the public input and Board member discussion at the public hearing and the work session that immediately followed, on October 18, 2012, the Planning Board recommended the following:

Bill Santos made a motion to recommend approval of Amendment 2012-1 as presented in the technical staff report with two further recommendations that the County Council: (a) consider increasing the number of lots in a minor subdivision from four lots to seven lots in Tier IV only; and (b) study the use of multipliers for Tier IV density exchange to the east to reflect different property values and unit types. Josh Tzucker seconded. The motion passed by a vote of 3 to 0.





DEPARTMENT OF
PLANNING AND ZONING

Marsha S. McLaughlin, Director

TECHNICAL STAFF REPORT

September 20, 2012

*Planning Board Meeting of October 18, 2012
County Council Hearing to be scheduled*

Case No. /Petitioner: Marsha S. McLaughlin, Director, Department of Planning and Zoning

Request: An ACT amending PlanHoward 2030, the general plan for Howard County, by defining Growth Tiers, as required by The Sustainable Growth and Agricultural Preservation Act of 2012 (Maryland Senate Bill 236); specifying additional designated place types to correspond with the Growth Tiers; revising Map 6-2 to reflect the additional designated place types, adding new text to describe Growth Tiers and adding a new Map 6-3; and generally relating to planning, zoning and land use in Howard County, Maryland.

Department of Planning and Zoning recommendation:

Approval

I. BACKGROUND

On July 26, 2012, the County Council adopted *PlanHoward 2030* as Howard County's new general plan. During the process, the County Council amended *PlanHoward 2030* removing the proposed Growth Tiers to allow additional time for review and reflection by both the public and the County Council. As part of the amendment the two rural designated place types were also removed, as they directly relate to the Growth Tiers.

The original text and maps are being re-presented here for inclusion in *PlanHoward 2030*. There are no changes from the original being proposed by DPZ, and to date the County Council has not requested that the content be changed. Allowing additional time and study are the primary purposes for this amendment.

To prepare for this meeting, DPZ visited with the Agricultural Land Preservation Board, the Farm Bureau and the Home Builders Association of Maryland to present the proposal. The attached information and fact sheet summarizes the content discussed.

The full text of enrolled Council Bill 26-2012, adopting *PlanHoward 2030*, as amended, and all of the background information related to the *PlanHoward 2030* process are available at www.planhoward.org.

II. DESCRIPTION

General Plan Amendment 2012-1 adds new text and a new Map 6-3 identifying the Rural Conservation (RC) zoning district as Tier IV and the Rural Residential (RR) zoning district as Tier III. Both the text and the map are identical to the original text and Map 6-3 previously reviewed by the Planning Board.

Also, Map 6-2 which identifies the designated place types is revised to include the two place types which correspond with the Growth Tiers: Rural Resource for Tier IV and Low Density Development for Tier III. Again, these are the same place types in the same locations previously reviewed by the Planning Board.

The attached information and fact sheet explains how the development rights in Tier IV can be preserved as sending rights to be utilized in Tier III. Tier III has adequate accepting capacity for all existing rights not yet sent and for all rights that would no longer be available for use within Tier IV. Additionally, DPZ expects some receiving potential in the eastern portion of the County would be proposed by DPZ during the Comprehensive Rezoning process. This would create a better market for properties looking to send development rights from Tier IV to receiving sites outside of Tier IV.

Pursuant to SB 236 adopted by the General Assembly earlier this year, using existing zoning to determine tiers is one of the methods specifically anticipated and authorized by the legislation. Please see excerpt from page 51 of the chaptered bill below.

SECTION 4. (2) The tiers may be adopted as an amendment to the comprehensive plan under Article 66B, § 1.05 of the Code or Title 1, Subtitle 5 of the Land Use Article and be included as an appendix that delineates the tiers and the comprehensive plan land use categories and zoning ordinance districts that are included in each tier.

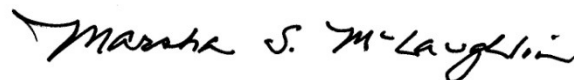
Also, the Maryland Department Planning's Implementation Guidance for The Sustainable Growth and Agricultural Preservation Act of 2012 Senate Bill 236 (version 2.0), dated August 1, 2012, specifically references zoning district based tiers as an acceptable methodology. Please see the excerpt below from page 13 in the section entitled: 'What is "Dominated by Agricultural or Forest Land"?'

Consideration of Zoning Districts

Another approach is to determine if entire zoning districts that are not planned and zoned for preservation and/or conservation are dominated by agricultural, forest and other natural cover types with significant resource values.

III. RECOMMENDATION

The Department of Planning and Zoning recommends **approval** of the proposed Amendment 2012-1 to *PlanHoward 2030*.



Marsha S. McLaughlin, Director September 20, 2012

Attachment

- Exhibit A for GPA 2012-1 to *PlanHoward 2030*
- SB 236 – Growth Tiers information and fact sheet

GENERAL PLAN AMENDMENT 2012-1

EXHIBIT A

Workforce development and the promotion of training in science, technology, engineering, and math (STEM) are another focus.

- **Growth.** Addressing new State Smart Growth requirements, the County's existing pace of housing allocations is maintained but redistributed based on designated place types and "growth tiers". Maintaining adequate public facilities remains a strong focus for the future, so a Fiscal Impact Analysis was prepared as a technical supplement.
- **Transportation.** Transit, bicycle, and pedestrian transportation receive greater emphasis, while also providing for the existing roadway network to be improved. Goals for strategies are proposed for enhancing the existing transit system via new service and increased regional cooperation, and for reducing personal vehicle miles traveled to improve air quality.
- **Public Facilities and Services.** County agencies' key programs and capital project needs are presented, as well as budget constraints and strategies for coordinated planning, priority setting, and partnerships.
- **Housing.** The County will continue to develop new models to provide sustainably affordable housing in mixed income communities, and to educate both home-seekers and the general public on the many benefits of compact, mixed-use, mixed income, location-efficient homes.
- **Community Design.** The County will encourage well designed, context sensitive redevelopment in revitalization area, as well as selective infill in existing neighborhoods to create more complete communities. Community plans, updates to zoning regulations, and other mechanisms will implement these goals.
- **Implementation and Stewardship.** County government must continue to innovate and provide leadership; however, everyone has a stake in enhancing Howard County's high quality of life. The foundation is laid for broad stakeholder collaboration and coordination to advance sustainability.

uComment

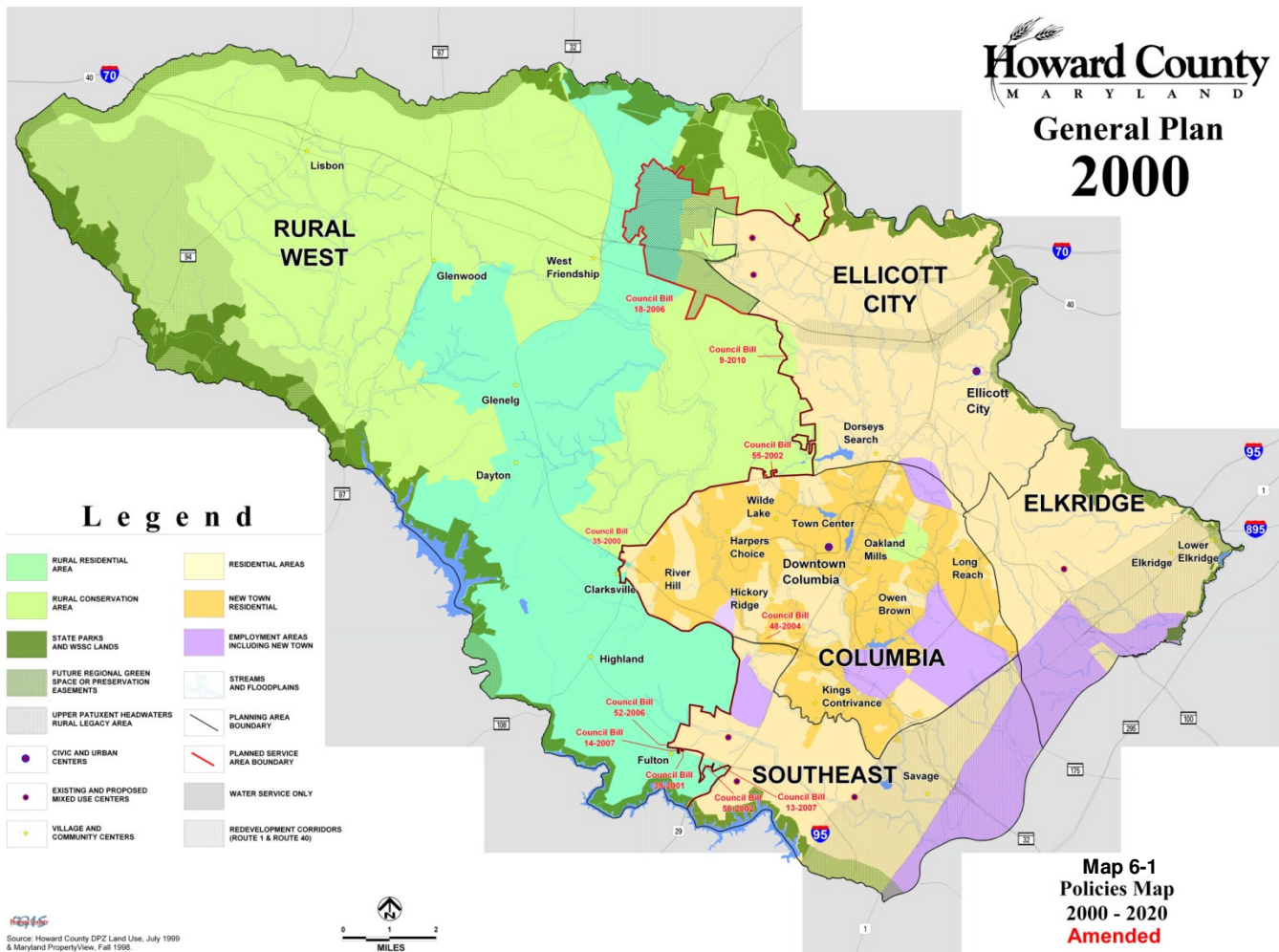
PlanHoward 2030's motto is "Your County. Your Plan." The County invites your comments and input on this document via a new feedback tool—uComment. uComment allows anyone to read and provide feedback on *PlanHoward 2030* anytime, 24 hours a day, seven days a week. *PlanHoward 2030* will be posted online in uComment for the duration of the public review process, so you may actively participate. Please visit the website and provide feedback at www.PlanHoward.org. The *PlanHoward 2030* website will also post notices about meetings and County Council hearings.

PlanHoward 2030 also incorporates the recently adopted State legislation that implements new restrictions on major subdivisions using septic systems in rural areas. This legislation, known as the Sustainable Growth and Agricultural Preservation Act, requires local jurisdictions to classify land into one of four "Growth Tiers." The intent of this legislation is to prohibit major subdivisions of five or more lots in Tier IV areas. The tiers for Howard County are designated in accordance with this 2012 law and are also shown in this chapter on Map 6-3.

Progress under General Plan 2000

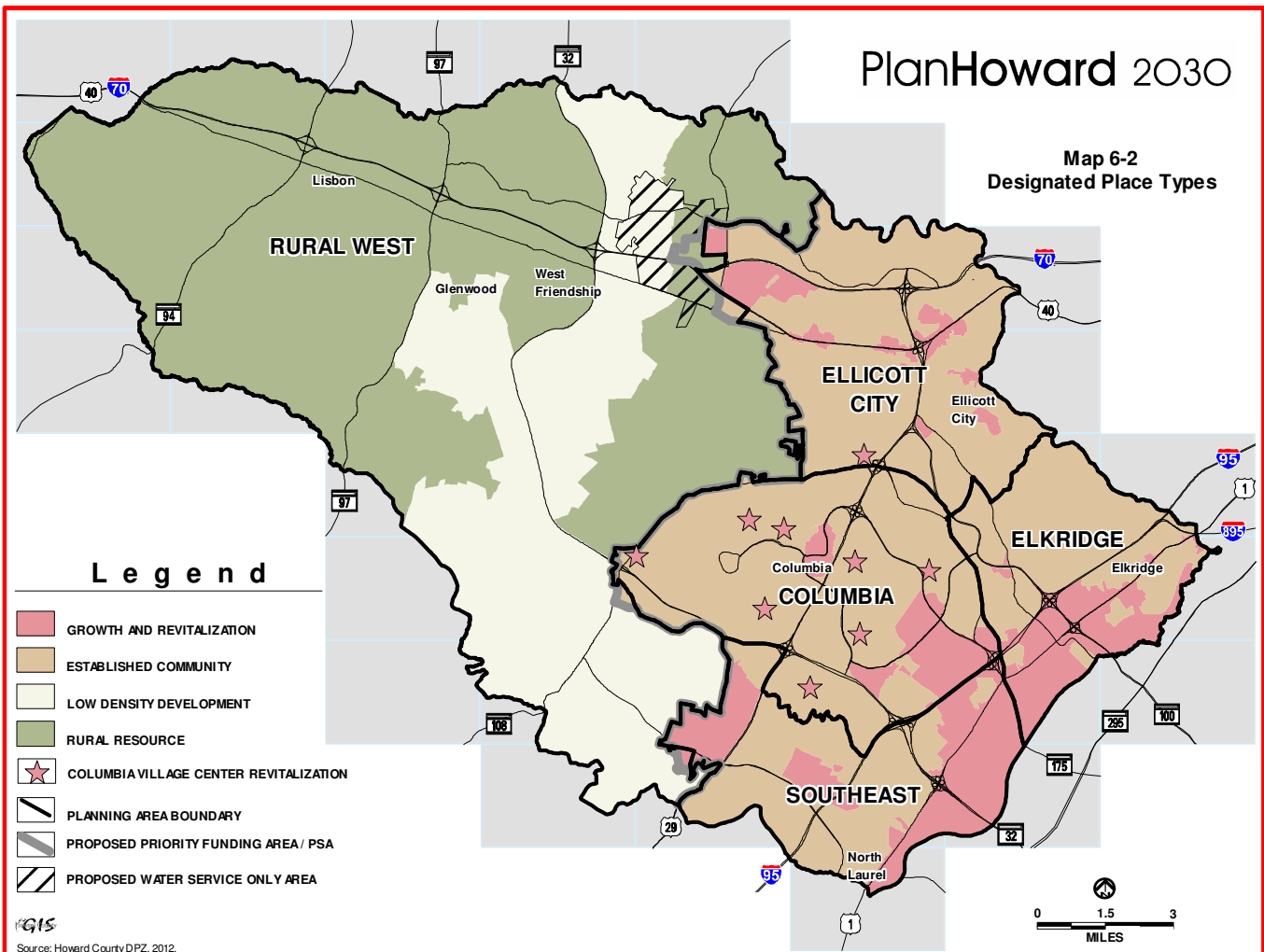
Since adoption of *General Plan 2000*, most residential and nonresidential growth has occurred in the County's PFA. Zoning changes were approved allowing higher-density, mixed-use development in targeted areas, particularly along the Route 1 Corridor where several projects have been completed and others are under construction or planned. Some mixed-use development has also been planned in parts of the Route 40 Corridor. The Downtown Columbia Plan was adopted, establishing the framework for progressive redevelopment and intensification of Howard County's urban center. Regulations allowing revitalization of older Columbia Village Centers have also been adopted.

Map 6-1 is the Policies Map from *General Plan 2000* summarizing the major land use policies implemented with that plan. This map shows the five planning areas established under *General Plan 2000*. In that plan growth projections were established for each of the planning areas and serve as the basis for the annual



As established in *General Plan 2000* and subsequent amendments, institutional or public use expansions of the Planned Service Area boundary are limited to:

- 1) Properties adjoining the existing PSA boundary without including an intervening privately owned parcel;
- 2) The minimum area necessary to serve the proposed use. Subdivision of the parcel consistent with the PSA boundary amendment is required after approval of the General Plan amendment and prior to the inclusion of the parcel into the Metropolitan District; and
- 3) The particular use proposed at the time of expansion, with a deadline for the completion of the improvements for the proposed use and connection to the public water and/or sewerage system. If the proposed public or institutional use is not actually constructed and connected to the public water and/or sewerage system by the deadline specified in the Bill, the Planned Service Area expansion shall be null and void and the Planned Service Area automatically shall revert to its location prior to the Council Bill approving the expansion.



Designated Place Types – Future Residential Development

As indicated at the beginning of this chapter, *PlanMaryland* asks local jurisdictions to refine their Priority Funding Areas (PFA) by identifying more focused target areas for future growth. These include three designated place types within the PFA: Growth and Revitalization areas, Established Community areas, and Future Growth areas. The Future Growth area is not proposed for Howard County as this place type applies to large areas of rural land outside the PFA/PSA that are planned for extension of public water and sewer service in the future. An example of this would be a Maryland county that has municipalities with future annexation potential. The other two place types are for rural areas outside the PFA: Low Density Development areas and Rural Resource areas where agricultural land preservation has priority, ~~which are combined on Map 6-2 “Designated Place Types” as the “Rural West” until the Sustainable Growth and Agricultural Preservation Act Growth Tiers are established in the Fall of 2012.~~ These correspond to the County’s RR (Rural Residential) and RC (Rural Conservation) zoning districts. *PlanMaryland* place designations are intended both to decrease sprawl via compact development and to focus local and State resources to support smart growth. Map 6-2 designates the relevant four place types for Howard County.

Map 6-2 also shows the five planning areas that were introduced and have been utilized since the adoption of *General Plan 2000* (also shown in Map 6-1). These five planning areas will continue to be used for some development tracking and statistical purposes, coordination with other County master plans such as the Howard County Land Preservation, Recreation and Parks Plan, and potential small area planning efforts.

Sustainable Growth and Agricultural Preservation Act of 2012

New restrictions on the development of major subdivisions using septic systems in rural areas were adopted by the Maryland General Assembly in April 2012 through the Sustainable Growth and Agricultural Preservation Act (Senate Bill 236). This Act requires local jurisdictions to classify land into one of four “Growth Tiers” based on the following:

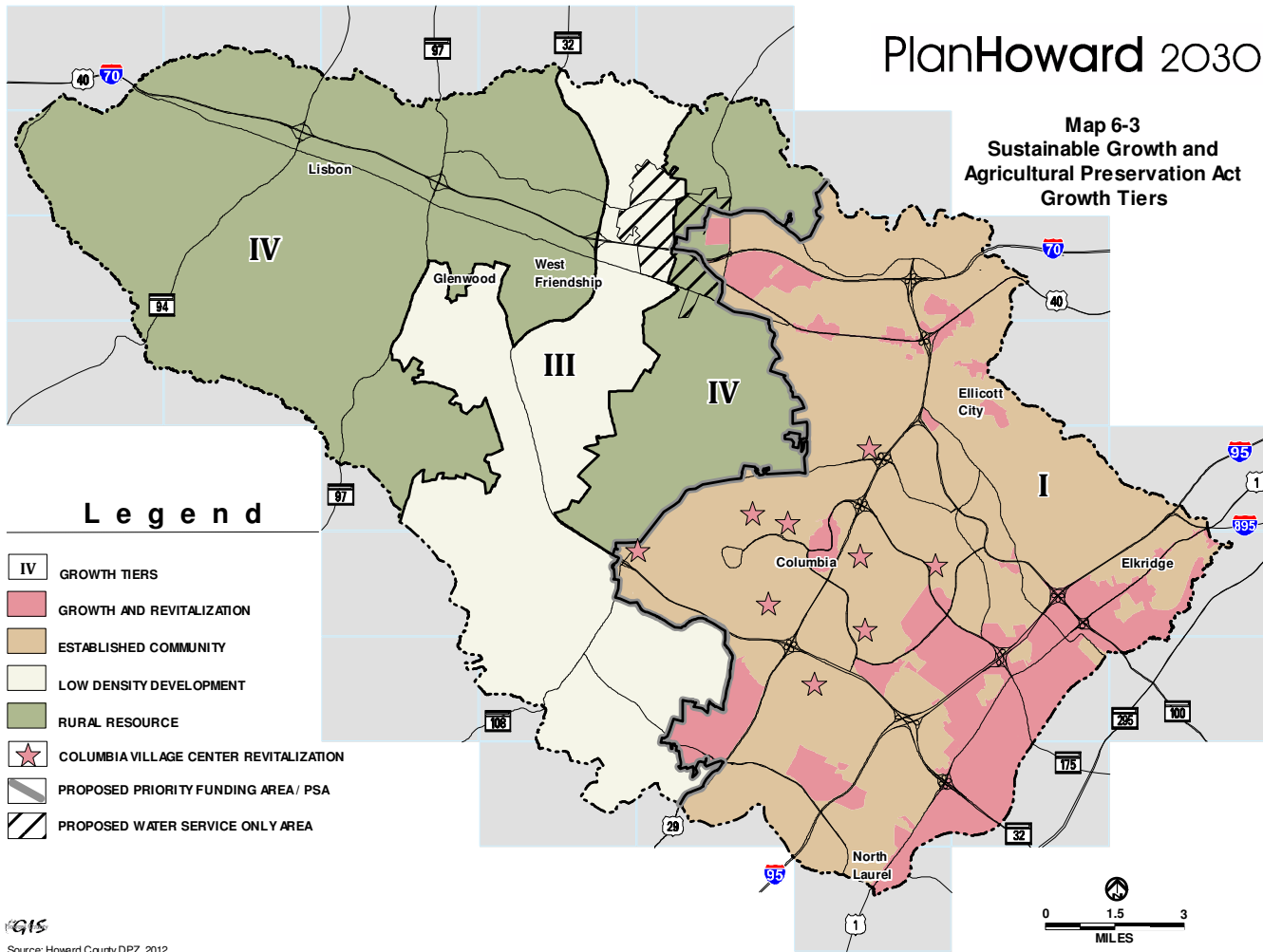
- Tier I - designated growth area served by public sewer;
- Tier II - designated for future extension of public sewer service;
- Tier III - not planned for sewer service, not dominated by agricultural or forest, and planned for large lot development with septic systems;
- Tier IV - not planned for sewer service, dominated by agricultural and forest land planned for resource protection.

The intent of this legislation is to prohibit major subdivisions or five or more lots in Tier IV areas. Local jurisdictions must adopt tier designations by December 31, 2012 or all areas not served by public sewer will be restricted to minor subdivisions of four or fewer lots. Map 6-3 shows the Growth Tiers for Howard County. Tier I is our Priority Funding Area, which is the Planned Public Water and Sewer Service Area. No areas are designated for Tier II, since there are no plans for further extension of the Public Water and Sewer Service Area in the future. Tier III equates to the RR zoning district and Tier IV is the RC zoning district. The purpose statements in these two zoning districts clearly reflect the planning objectives for these two tiers.

Two amendments were adopted to this State law to moderate the impact of prohibiting new major subdivisions in Tier IV. One is to “grandfather” any subdivision rights that were specifically retained in an agricultural, environmental,

PlanHoward 2030

Map 6-3
Sustainable Growth and
Agricultural Preservation Act
Growth Tiers



GIS
Source: Howard County DPZ, 2012.

or historic preservation easement for a particular property. The other is an allowance for the possibility of density transfer of development rights from Tier IV properties. Howard County's DEO (Density Exchange Option) zoning district currently allows for density transfer under certain conditions. The density transfer provisions in the DEO district should be reviewed and updated to reflect SB 236 during the Comprehensive Zoning process.

Amount & Phasing of Future Residential Development

Howard County adopted Adequate Public Facility (APF) Regulations in 1992 in response to growth that exceeded 4,000 new homes per year in the late 1980s. The APF regulations control the pace of residential development and ensure the adequacy of school and road capacity in relation to growth. The pace of residential growth is set by the General Plan and controlled by a system of annual housing allocations that limit the amount of new residential development that is allowed to be processed through the plan review process each year. The APF Housing Allocation chart, which controls how allocations are distributed geographically to achieve General Plan policies, is adopted annually by the County Council. Currently allocations are distributed among the five planning areas shown on Maps 6-1 and 6-2 with additional pools of allocations for senior housing, moderate income housing, Route 1, Downtown, and Green Neighborhoods.

larger than the entire Growth and Revitalization area, but has much less growth capacity and at 400 units per year contains only a third of the phased growth compared to the Targeted Growth and Revitalization area.

- **Green Neighborhood.** This category replicates the Green Neighborhood set-aside in the currently adopted APF allocation chart. This set-aside was first added to the allocation chart in 2007. These units can be built anywhere in the County if the proposed plans meet Green Neighborhood standards as defined in the Howard County Subdivision and Land Development Regulations. The current APF chart includes 100 Green Neighborhood allocations per year. *PlanHoward 2030* increases the annual number to 150 with the goal of promoting more green development in Howard County.
- **Rural West.** This area is outside of the Priority Funding Area, is not served by public water and sewer, and includes both the Low Density Development and Rural Resource designated place types. The current APF chart includes 150 Rural West allocations per year. *PlanHoward 2030* decreases the annual number to 100, slowing future development in the West through 2030. There are, however, currently a significant number of grandfathered lots.

The total annual pace in Figure 6-10 for all areas combined is based on the current adopted APF allocation totals through 2020, with the same pace extended through 2030. Development has slowed due to the recession that began at the end of 2008, but it is expected that as the economy picks up over the next several years the housing market will return to more typical levels. The APF allocation chart based on Figure 6-10 allows for renewed development opportunities, while still capping growth so that it will not exceed current housing allocation levels. The APF schools test will continue to prevent development in areas of school overcrowding.

As noted above, Figure 6-10 does not include the Senior East, Route 1 and MIHU allocation set-asides, nor the Columbia, Elkridge, Ellicott City, and Southeast Planning areas that are included in the current APF chart, thus reducing the number of allocation pools from ten to five. Age-restricted units and moderate income housing units can continue to be built, but rather than having their own allocation pool, they will utilize allocations from the areas in the new APF chart. The new chart simplifies APF and better targets future development to intended targeted growth and revitalization areas.

As stated earlier, a lot of future development will consist of higher density projects. Numerous allocation categories with small numbers of allocations have not worked well for larger multifamily or mixed-use projects. Project design, financing, and market flexibility will be better supported by having larger numbers of allocations available in fewer areas, while retaining the same overall residential development cap.

Policies and Implementing Actions

POLICY 6.1 – Maintain adequate facilities and services to accommodate growth.

Implementing Actions

- a. **Limited Planned Service Area Expansion.** Zoning requirements for approved PSA expansions should include a development proposal that is consistent with the General Plan and establishes a transition that is compatible with and enhances surrounding communities and provides an environmental benefit.

SB 236 – Growth Tiers
Information and Facts

SB 236 – Growth Tiers

Senate Bill 236 was enacted in early May this year and mandates that all local jurisdictions adopt “Growth Tiers” by December 31, 2012. SB 236 is a very complicated bill, with significant implications. Due to time constraints, the Count Council decided to defer a decision as to how PlanHOWARD 2030 should address this new State requirement, pending further discussion this Fall. This memo provides background on Growth Tier provisions and implications.

SB 236:

- SB 236 (The Sustainable Growth and Agricultural Preservation Act) will prohibit major subdivisions on well and septic in areas local jurisdictions designate as “Tier IV” Growth Areas.
- Local jurisdictions must designate all land as one of four “Growth Tiers” by December 31, 2012 or they will be prohibited from approving *any* major subdivisions with septic systems.
- Growth Tiers may be adopted administratively in the interim, but must be included in the next update of the local Comprehensive Plan.
- Growth Tier definitions/designations are:
 - Tier I: Areas currently within the adopted PFA/PSA for both public water and sewer
 - Tier II: Areas intended for future extension of the PSA (not applicable)
 - Tier III: Areas dominated by/intended to accommodate large lot residential development
 - Tier IV: Areas dominated by/intended for agricultural and natural resource conservation
- The purpose statements in our Zoning Regulations very clearly match the intent of the tiers:
 - RR (Rural Residential) district fits Tiers III (accommodates large lot residential development)
 - RC (Rural Conservation) district fits Tier IV (agricultural and natural resource conservation),
- PlanHOWARD 2030’s Map 4-1 - Rural Land Preservation - shows the distribution of preservation easements and other protected lands. It reflects the results of the RC vs. RR designations, which were first established in the 1990 General Plan, as well as the County’s multi-decade \$253 million investment in the State purchase of development rights to preserve agricultural lands.
- The proposed PlanHOWARD 2030 Growth Tier Map corresponds to the two rural zoning districts
- “Major” subdivisions are defined in the Subdivision and Land Development Regulations as five or more lots from a single original parcel. (The “major/minor” distinction was adopted in 1974 and establishes the requirement for public road improvements vs. a shared driveway).

Implications:

- The State prohibition on major subdivisions in Tier IV areas is estimated to impact 59 properties. These would continue to be allowed to undertake minor subdivisions of 4 or fewer lots, but would larger subdivisions would not be allowed. This is estimated to result in a loss of 419 lots. (Properties with agricultural or environmental easements that retained a specific number of lot rights are exempted and retain their subdivision rights).

- SB 236 includes “grandfathering” provisions that protect any major subdivision on septic if the septic “perc” testing application is submitted by July 1, 2012 and the subdivision meets two subsequent deadlines for continued processing. There are 12 RC/Tier IV parcels that have the potential to be grandfathered. If all 12 properties complete the subdivision process this would reduce the impact of RC/ Tier IV designation by 253 units, leaving only 166 lots rights impacted.
- To mitigate the loss of major subdivision rights, SB 236 allows density transfer from Tier IV properties to other Tiers. Fortunately, Howard County’s zoning authorizes a well established density transfer mechanism (the DEO - Density Exchange Option). It allows density transfer from RC (Tier IV) to RR (Tier III). Since 1992, 4,841 acres of land have been preserved by sending density to other subdivisions. This generated 1,106 lot rights to be transferred, of which 866 have been developed and 240 have not yet been “received”.
- There are currently 3042 acres of uncommitted RR land in parcels of 10 acres or greater (the minimum practical size to receive density from RC/Tier IV properties). This acreage is estimated to have the potential to receive approximately 500 additional density transfer rights (beyond the receiving parcel’s base density rights).
- This “receiving capacity” of uncommitted RR/Tier III parcels should be able to absorb the density transferred from the RC/Tier IV properties. However, the Comprehensive Zoning will also examine options for sending some density to the PSA (Tier I).

Alternatives:

- One alternate for Tier III/ IV designations has been suggested -- to only assign Tier IV to properties that are already under easement and can’t be further subdivided. This conflicts with the SB 236’s criteria for Tier IV designation: land dominated by agricultural or natural resources.
- Conversely, the Maryland Department of Planning’s (MDP) recently released “SB 236 Guidance” which encourages using a more fine grained analysis of the RR district to designate remaining farms and forests as Tier IV, rather than Tier III.
- SB 236 was amended to eliminate State approval of local tier designations in favor of granting approval authority to the local level, but requires MDP to report to the General Assembly in February 2013 on local jurisdictions’ Growth Tier designations. If MDP determines there are a lot of “rogue” jurisdictions that adopt tier designations that circumvent the intent of SB 236, they will file legislation to reinsert the requirement for State approval of local tier designations.

Conclusion

- Howard County should use the Growth Tier designations that were proposed in PlanHOWARD 2030 (Map 6-3), but encourage density exchange to RR/Tier III properties to mitigate the loss of subdivision rights by RC/Tier IV properties.
- Additional options for density transfer to the PFA/Tier I should be considered during formulation and adoption of the Comprehensive Zoning Plan.