

Introduced 4/3/17
Public hearing 4/19/17
Council action 5/1/17
Executive action 5/5/17
Effective date 7/5/17

County Council of Howard County, Maryland

2017 Legislative Session

Legislative day # 6

BILL NO. 29 – 2017 (ZRA – 176)

Introduced by: Greg Fox and Mary Kay Sigaty

AN ACT amending the Howard County Zoning Regulations to remove the Business Rural Crossroads (BRX) zoning district; and generally relating to BRX district.

Introduced and read first time April 3, 2017. Ordered posted and hearing scheduled.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on April 19, 2017.

By order Jessica Feldmark
Jessica Feldmark, Administrator

This Bill was read the third time on May 1, 2017 and Passed , Passed with amendments _____, Failed _____.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 3rd day of May 2017 at 1 a.m./p.m.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Approved Vetoed by the County Executive May 5, 2017

Allan H. Kittleman
Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1 *Section 1. Be it enacted by the County Council of Howard County, Maryland, that the Howard*
2 *County Zoning Regulations are hereby amended as follows:*

3
4 *By Repealing in its entirety*

5
6 *Section 117.0: "BRX (Business Rural Crossroads)"*

7
8
9 **Howard County Zoning Regulations**

10
11 **[[SECTION 117.0: - BRX (BUSINESS RURAL CROSSROADS) DISTRICT**

12
13 **A. Purpose**

14 The BRX District is established to provide opportunities for the expansion of commercial
15 businesses located within specific rural crossroad areas and to sustain and enhance these
16 existing rural crossroad areas.

17 Appropriate locations for the land uses allowed in the BRX district depend on factors which
18 are best examined through review of a site specific development proposal. Therefore, the
19 BRX district is a floating zone, which requires the submission of a preliminary development
20 plan for a particular site.

21 **B. Criteria**

22 The BRX district may be established at a particular location if the following criteria are met:

- 23 1. The proposed BRX District is located within the Dayton, Highland, Lisbon, and
24 Glenwood Rural Crossroads. The Dayton Rural Crossroads includes any
25 property a portion of which is located within 1,000 feet of the centerline of the
26 intersection of Ten Oaks Road and Greenbridge Road. The Highland Rural
27 Crossroads includes any property a portion of which is located within 1,000 feet
28 of the centerline of the intersection of MD 108 and MD 216; The Lisbon Rural
29 crossroads include any property a portion of which is located within: 550 feet of
30 MD 94 to the north of the centerline of the intersection of MD 144 and MD 94;
31 375 feet of MD 94 to the south of the centerline of the intersection of MD 144
32 and MD 94; 560 feet of MD 144 to the west of the centerline of the intersection

1 of MD 144 and MD 94; and 2,500 feet of MD 144 to the east of the centerline of
2 the intersection of MD 144 and MD 94. The Glenwood Rural crossroads include
3 any property a portion of which is located within: 930 feet of MD 97 to the north
4 of the centerline of the intersection of MD 97 and Carrs Mill and McKendree
5 Roads; 1,200 feet of MD 97 to the south of the centerline of the intersection of
6 MD 97 and Carrs Mill and McKendree Roads; 325 feet of Carrs Mill Road to
7 the west of the centerline of the intersection of MD 97 and Carrs Mill and
8 McKendree Roads; and 300 feet of McKendree Road to the east of the
9 centerline of the intersection of MD 97 and Carrs Mill and McKendree Roads;
10 and

- 11 2. The parcel or parcels comprising the proposed BRX District must entirely or
12 partially adjoin an existing BR, BRX, B-1, B-2, or CCT District; and
- 13 3. A BRX District at the proposed location will be compatible with traditional rural
14 architectural character of existing commercial land uses in the vicinity of the
15 site.

16 **C. Uses Permitted as a Matter of Right**

- 17 1. Animal hospitals, completely enclosed.
- 18 2. Antique shops, art galleries, craft shops.
- 19 3. Bakeries, provided all goods baked on the premises shall be sold at retail from
20 the premises.
- 21 4. Banks, savings and loan associations, investment companies, credit unions,
22 brokers, and similar financial institutions without drive-through lanes.
- 23 5. Bicycle sales and repairs.
- 24 6. Carnivals and fairs sponsored by and operated on a nonprofit basis for the
25 benefit of charitable, social, civic or educational organizations, subject to the
26 requirements of Section 128.0.D.
- 27 7. Catering establishments and banquet facilities.
- 28 8. Child day care centers and nursery schools.
- 29 9. Clothing and apparel stores with goods for sale or rent.

- 1 10. Convenience stores, not to exceed 4,000 square feet.
- 2 11. Drug and cosmetic stores, not to exceed 7,500 square feet.
- 3 12. Farmers markets and farm produce stands.
- 4 13. Food stores, not to exceed 7,500 square feet.
- 5 14. Furniture, appliance and business machine repair, furniture upholstery, and
6 similar services.
- 7 15. Government structures, facilities and uses, including public schools and
8 colleges.
- 9 16. Hardware stores, not to exceed 7,500 square feet.
- 10 17. Home improvement stores including, but not limited to, the following: electrical
11 supplies, glass, garden supplies, hardware, plumbing supplies, wallpaper, and
12 building materials and supplies related to home improvements, not to exceed
13 7,500 square feet, provided such building materials and supplies are enclosed in
14 a building.
- 15 18. Liquor stores.
- 16 19. Multi-plex Dwellings.
- 17 20. Nursing homes and residential care facilities.
- 18 21. Nonprofit clubs, lodges, community halls.
- 19 22. Offices, professional and business.
- 20 23. One square foot of residential space is permitted for each square foot of
21 commercial space and must be located within the same structure.
- 22 24. Personal service establishments.
- 23 25. Pet grooming establishments and daycare, completely enclosed.
- 24 26. Religious facilities, structures and land used primarily for religious activities.
- 25 27. Repair of electronic equipment, radios, televisions, computers, clocks, watches,
26 jewelry, and similar items.
- 27 28. Restaurants, carryout, including incidental delivery service.

1 29. Restaurants, standard, and beverage establishments, including those serving
2 beer, wine and liquor.

3 30. Seasonal sale of Christmas trees or other decorative plant materials, subject to
4 the requirements of Section 128.0.D.

5 31. Service agencies.

6 32. Specialty stores.

7 **D. Modifications to nonconforming uses**

8 Commercial uses other than those listed in Section 117.0.C may be permitted in the BRX
9 District subject to the following requirements:

10 1. The Zoning Board finds that the use is a nonconforming use that legally existed
11 on the site prior to the property's designation as a BRX District.

12 2. The use is defined and described by the approved preliminary development
13 criteria.

14 3. The site may be redeveloped to accommodate a redesign of the existing use,
15 including demolition of existing buildings, construction of new buildings, and
16 alterations to parking or driveways. The redevelopment must be shown on the
17 approved Preliminary Development Plan.

18 **E. Accessory Uses**

19 1. Any use normally and customarily incidental to any use permitted as a matter of
20 right in this district.

21 2. Communication towers and antennas which are accessory to a principal use on
22 the lot and which exclusively serve that use. Towers are subject to the
23 requirements of Section 128.0.E.

24 3. Small wind energy system, building mounted, subject to the requirements of
25 Section 128.0.L.

26 4. Accessory solar collectors.

27

28

1 **F. Bulk Regulations**

2 (Also see section 128.0.A, supplementary bulk regulations.)

- 3 1. The following maximum limitations shall apply:
- 4 a. Height40 feet
- 5 2. The following minimum structure and use setbacks shall apply:
- 6 a. From a public street right-of-way10 feet
- 7 b. From all RC or RR zoned property30 feet
- 8 c. From a business district0 feet
- 9 d. If a BRX District is separated from a different zoning district by a public
- 10 street, only the setback from a public street right-of-way shall apply.
- 11 3. In its approval of a BRX District, the Zoning Board may grant an increase in the
- 12 maximum height or maximum lot coverage, and reductions in minimum
- 13 structure and use setbacks, upon a finding that these proposed revisions will still
- 14 ensure that the development is compatible with the neighboring land uses.

15 **G. Procedure for Creation of a BRX District**

- 16 1. The owner of an interest in a tract of land in Howard County may petition the
- 17 Zoning Board to designate the property as a BRX District.
- 18 2. The Preliminary Development Plan and the architectural design of proposed
- 19 building(s) shall have been reviewed by the Design Advisory Panel in
- 20 accordance with Title 16, Subtitle 15 of the Howard County Code, prior to the
- 21 submission of the zoning petition to the Department of Planning and Zoning.
- 22 The petitioner shall provide documentation with the petition to show compliance
- 23 with this criterion. The parcel shall assess and make recommendations regarding
- 24 the compatibility of the proposal with the traditional rural character of existing
- 25 commercial uses in the vicinity.
- 26 3. The petition shall include:
- 27 a. A boundary survey of the property covered by the petition.

- 1 b. A Preliminary Development Plan of the property covered by the petition.
2 The Preliminary Development Plan shall show:
- 3 (1) Existing topography, 100-year floodplain areas and wetland areas.
4 (2) The location of proposed points of access to the site.
5 (3) The location of proposed landscaped areas and development areas,
6 including the approximate acreage of each.
7 (4) The location of proposed wells and septic system percolation areas.
- 8 4. The petition may also include preliminary development criteria that includes the
9 following:
- 10 a. Permitted uses. The preliminary development criteria may, but is not
11 required to, limit the uses permitted by right to a subset of those permitted
12 by Section 117.0.C.
13 b. Text defining an existing commercial use on the site that will continue to be
14 allowed as permitted by Section 117.0.D.
15 c. Additional bulk or design requirements.
- 16 5. The Zoning Board may grant a petition for a BRX District based upon findings
17 that:
- 18 a. The proposed district will accomplish the purposes of the BRX District; and
19 b. The site meets the criteria listed in Subsection B of this Section; and
20 c. The proposed landscaping provides appropriate buffering of the permitted
21 uses from existing land uses in the vicinity in accordance with the
22 requirements of the Howard County Landscape Manual.
- 23 6. If the petition is granted:
- 24 a. The Zoning Board shall, by decision and order, approve the preliminary
25 development plan and criteria and shall create a BRX District covering the
26 land in the petition. The Zoning Board may restrict the uses permitted in the
27 Preliminary Development Plan.

1 b. The Zoning Board may in its Decision and Order modify or attach
2 conditions to the Preliminary Development Plan or criteria, stating the
3 reasons for its actions. The Zoning Board may approve Variances in
4 conjunction with the Preliminary Development Plan or documented site
5 plan.

6 c. A copy of the Preliminary Development Plan and criteria shall be certified
7 as approved by the Zoning Board and a verified copy of the same shall be
8 forwarded to the Department of Planning and Zoning and the petitioner.

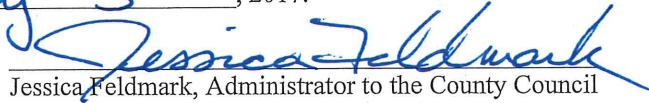
9 **H. Conformance with Preliminary Development Plan**

10 No Site Development Plan shall be approved for a BRX District unless the Site Development
11 Plan conforms substantially to the Preliminary Development Plan. The Department of
12 Planning and Zoning may approve minor modifications to the configuration of buildings or
13 other improvements as long as they do not move closer to abutting residential properties or
14 other uses that might be adversely impacted, unless the Zoning Board revokes this
15 administrative authority in the Decision and Order. More significant modifications to the uses
16 or the development area shown on the Preliminary Development Plan must be approved by
17 the Zoning Board, following the same procedures used for a petition to create a BRX
18 District.]]

19 *Section 2. Be it further enacted by the County Council of Howard County, Maryland, that*
20 *this Act shall become effective 61 days after its enactment.*

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on May 5, 2017.


Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2017.

Jessica Feldmark, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2017.

Jessica Feldmark, Administrator to the County Council

CB 29-2017 (ZRA 176)- IN SUPPORT OF.

Keith Ohlinger
2790 Florence Road
Woodbine, MD 21797

Dear Howard County Council:

I am writing in support of CB29-2017 (ZRA 176). While the BRX zone was well intentioned in theory each of these communities is unique in its own right and a "one size fits all" approach is not appropriate. Perhaps we can revisit this in the future with a more diverse plan to help small business growth in these areas. I believe that given the anger this issue fueled at the public hearings and the fact that no one attempted to use this option it should be removed as recommended by the Department of Planning and Zoning. Thank you for your time and consideration.

Very Truly Yours,

Keith Ohlinger
Heritage Hill Farm

Sayers, Margery

From: Weinstein, Jon
Sent: Wednesday, April 19, 2017 4:49 PM
To: Sayers, Margery; Feldmark, Jessica
Subject: FW: Opposing: Council Bill 29-2017 (ZRA 176) The Removal of BRX Zoning. For ease of reading a Word file is attached.
Attachments: brx zoning--oppose.docx

-----Original Message-----

From: Shafqet Ashai [mailto:samashai@gmail.com]
Sent: Wednesday, April 19, 2017 4:09 PM
To: Weinstein, Jon <jweinstein@howardcountymd.gov>; Ball, Calvin B <cball@howardcountymd.gov>; Terrasa, Jen <jterrasa@howardcountymd.gov>; Sigaty, Mary Kay <mksigaty@howardcountymd.gov>; Fox, Greg <gfox@howardcountymd.gov>
Subject: Opposing: Council Bill 29-2017 (ZRA 176) The Removal of BRX Zoning. For ease of reading a Word file is attached.

Opposing: Council Bill 29-2017 (ZRA 176) The Removal of BRX Zoning
Jon Weinstein jweinstein@howardcountymd.gov
Dr. Calvin Ball cball@howardcountymd.gov
Jen Terrasa jterrasa@howardcountymd.gov
Mary Kay Sigaty mksigaty@howardcountymd.gov
Greg Fox gfox@howardcountymd.gov

Dear Council Members:

BRX provides an opportunity to develop lots that are mostly small in the Highland Business District by sharing well and septic. Because of the fact: 150 Beazer homes are being built on Route 108, Maple Lawn South is coming along the way, a residential development is coming at the intersection of Brown Bridge Road and Route 216, and Route 32 is being widened from West of Clarksville, denying the residents of Highland to have a vibrant shopping center through BRX does not make sense. Thank you for your time.

Respectfully submitted,

Shafqet ("Sam") Ashai April 19, 2017
Stakeholder: 13440 and 13454 Clarksville Pike, Highland, MD 20777
Address: 11906 Hall Shop Road, Clarksville, MD 21029

Opposing: Council Bill 29-2017 (ZRA 176) The Removal of BRX Zoning

Jon Weinstein jweinstein@howardcountymd.gov

Dr. Calvin Ball cball@howardcountymd.gov

Jen Terrasa jterrasa@howardcountymd.gov

Mary Kay Sigaty mksigaty@howardcountymd.gov

Greg Fox gfox@howardcountymd.gov

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Thank you for your time.

Respectfully submitted,

Shafqet ("Sam") Ashai

April 19, 2017

Stakeholder: 13440 and 13454 Clarksville Pike, Highland, MD 20777

Address: 11906 Hall Shop Road, Clarksville, MD 21029



Greater Highland
Crossroads
Association

April 19, 2017

Members Of The Council
Howard County, MD

RE: CB29, ZRA-176

Dear Council Members:

This subject requires little or no introduction. We want to express our deepest thanks to Mr. Fox and Ms. Sigaty for sponsoring this Bill, and to Dr. Bell and Ms. Terrasa for attendance at our meeting of June 2016 which occasioned a lively discussion of BRX.

Since 2013 we have strongly advocated repeal of the BRX, specifically in Highland. Why? You need only read the DPZ memo addressed to the Council. I refer you to pages 2 through 4, specifically:

"Overwhelmingly/ residents in each area expressed dissatisfaction with the BRX Zoning District. Major issues included:

- *Adequacy of infrastructure: water/ sewer, roads/ and fire rescue*
- *Lack of market demand to support additional commercial*
- *Potential to impact rural character*
- *Increased traffic*
- *Potential for development to expand beyond four comers*
- *Potential to aggregate properties - increasing size and scale*
- *Lack of a comprehensive vision for each crossroad area*
- *Ability of Zoning Board to vary bulk regulations*
- *Compatibility of land uses*

DPZ considered community input/ conducted a technical analysis of the regulations/ and identified four major deficiencies with the current BRX zoning:

1. *One size fits all approach*
2. *Water/sewer Infrastructure*
3. *Unintended consequences*
4. *Lack of demand"*

Furthermore, section F.3 completely destroys the intent and the integrity of the bulk regulations. It was inserted into the final version without warning or comment. It gives the Zoning Board unprecedented power to alter the bulk regulations on a property that adjoins residential property.

In summary, BRX was unwanted, un-needed, and a poorly written measure laced with unintended, but negative consequences. Please vote to repeal the BRX.

Sincerely,

Dan O'Leary

Chair, Planning & Zoning Committee and the Board of GHCA

Date: 19 April 2017

Subject: Howard County Citizens Association Supports CB29-2017 – Removal of BRX

The Howard County Citizens Association, HCCA and I as a member of the Greater Highland Crossroads Association fully supports CB29-2017 the removal of the BRX zoning type.

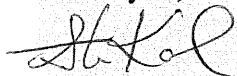
We are extremely pleased and appreciative that the Council took the time to not only meet with approximately 150 concerned residents of Highland and other community members last summer. You not only listened, but you are now taking the appropriate action on the BRX zoning. We want to especially thank both Councilwoman Sigaty and Councilman Fox for teaming together and introducing this Bill. It clearly shows that people can indeed work together with the hope of having a very positive outcome.

The real question in this case and other zoning cases is what is the real vision of Howard County? We are glad you are taking the necessary "Action" so the residents of Highland will be able to no longer be concerned with the BRX zoning.

As stated last year, HCCA requested the County Council not only have DPZ evaluate the BRX zoning, but look into the other 42 types of zoning currently permitted in our County. We only hope that all these Zoning Types, ZRAs, Conditional Uses, Redlines, and Variances will be fully examined by DPZ and Clarion when evaluating the zoning regulations. I am proud to say that HCCA was recognized by Val Lazdins, Director of DPZ in the local newspaper as being instrumental in suggesting that the zoning assessment be performed. To this end we are optimistic that progress will be made to permit a more balanced zoning regulation system to not just benefit the developers, but have a fairer system for residents.

There is a quote by Henry Ford which I believe sums up this situation it states, "Coming together is a beginning. Keeping together is progress. Working together is success."

Thank you,



Stu Kohn
HCCA, President