

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. 32 – 2017 (ZRA – 172)**

**Introduced by:** The Chairperson at the request of Stephen Ferrandi, Maryland Land Advisors

**AN ACT** amending the Howard County Zoning Regulations to make certain Neighborhood Preservation sending parcels eligible for a Conditional Use for Historic Building Uses; and generally relating to Historic Building Uses.

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 Amending*

5  
6 *Section 103.0: "Definitions"*  
7 *Letter N.*

8  
9 *Section 128.0: "Supplementary Zoning District Regulations"*

10 *Subsection K. "Neighborhood Preservation Density Exchange Option"*  
11 *Number 1.;*

12 *Number 2. "Neighborhood Preservation Parcel Easement Requirements"*  
13 *Letters b. and d.*

14 *Number 4. "Additional Requirements"*  
15 *Letter a. "Sending Parcels"*

16  
17  
18 **Howard County Zoning Regulations**  
19

20 **SECTION 103.0: DEFINITIONS**

21 **N.**

22  
23 Neighborhood Preservation Parcel: A residential infill parcel in the R-20, R-12, or R-ED  
24 Districts that existed on September 9, 2008 and is designated as a sending parcel on a  
25 Revision Plat or a Final Plat or easement. A Neighborhood Preservation Parcel shall be  
26 encumbered by a Neighborhood Preservation Parcel Easement, and is either improved with a  
27 Swimming Pool, Community OR AN HISTORIC STRUCTURE as defined in Section 103.0  
28 or an existing dwelling unit, or if unimproved, must be owned and maintained by a  
29 Homeowners Association or dedicated to the Howard County Department of Recreation and  
30 Parks as provided in Section 128.0.K. Any new structures placed on an improved site shall not  
31 be larger than 50 percent of the building footprint of the principal structure existing at the time  
32 the Neighborhood Preservation Easement is recorded, except as provided in Section 128.0.K.  
33

34 **SECTION 128.0: SUPPLEMENTARY ZONING DISTRICT REGULATIONS**

35 **K. Neighborhood Preservation Density Exchange Option**

36 1. In the R-ED, R-20, R-12 and R-SC Districts, a parcel that qualifies under the  
37 criteria for neighborhood infill development as defined in Section 16.108.(b) of

1 the Subdivision and Land Development Regulations or a parcel principally  
2 used for a Swimming Pool, Community OR AN HISTORIC STRUCTURE, as  
3 defined in the Zoning Regulations and is eligible to be developed for additional  
4 residential lots, may be a sending parcel for the Neighborhood Preservation  
5 Density Exchange Option within the same planning district or within a two-  
6 mile radius regardless of the planning district. However, sending parcels that  
7 contain a historic structure, as provided in Subsection 1.b below, may  
8 exchange density with a receiving parcel in any planning district.

9 2. Neighborhood Preservation Parcel Easement Requirements

10 b. A Neighborhood Preservation Parcel Easement improved with an existing  
11 dwelling unit, A STRUCTURE USED FOR AN HISTORIC BUILDING USES  
12 CONDITIONAL USE, or a Swimming Pool, Community shall not have any new  
13 structures placed on the site that are larger than 50% of the building  
14 footprint of the structure existing at the time the neighborhood preservation  
15 easement is recorded. However, if the average footprint size of the nearest six  
16 dwellings is greater than the footprint of an existing building, the Director may  
17 approve a footprint that does not exceed this average.

18 d. The easement shall run with the land, shall be in full force and effect in  
19 perpetuity, and shall describe and identify the following:

20 (3) A prohibition on future use or development of the parcel for uses  
21 incompatible with the Neighborhood Preservation Parcel Easement.  
22 Only principal or accessory residential uses, HISTORIC BUILDING  
23 USES CONDITIONAL USES, or principal or accessory Swimming  
24 Pool, Community uses are permitted in accordance with the Zoning  
25 Regulation.

26 4. Additional Requirements

27 a. Sending Parcels

28 (3) ON PARCELS IMPROVED WITH A STRUCTURE USED FOR AN  
29 HISTORIC BUILDING USES CONDITIONAL USE, ONE  
30 DEVELOPMENT RIGHT SHALL BE RETAINED ON THE SENDING

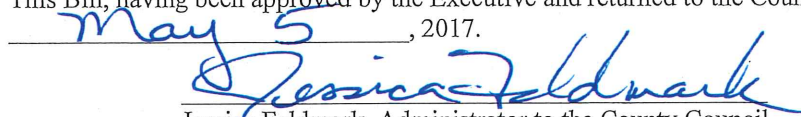
1 PARCEL TO ALLOW FOR THE OPERATION OF THE CONDITIONAL  
2 USE.

3  
4 *Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act*  
5 *shall become effective 61 days after its enactment.*

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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



PETITION TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY

DPZ Office Use Only: Case No. ZRA-172 Date Filed: 8-29-16

1. Zoning Regulation Amendment Request

I (we), the undersigned, hereby petition the County Council of Howard County to amend the Zoning Regulations of Howard County as follows: Amend Section 128.0.K., to make certain Neighborhood Preservation sending parcels eligible for a Conditional Use for Historic Building Uses.

[You must provide a brief statement here. "See Attached Supplement" or similar statements are not acceptable. You may attach a separate document to respond to Section 1 in greater detail. If so, this document shall be titled "Response to Section 1"]

2. Petitioner's Name Stephen Ferrandi, Maryland Land Advisors

Address 5771 Waterloo Road, Suite 1000, Ellicott City, MD 21043

Phone No. (W) (866) 910-5263 (H)

Email Address stephen@marylandland.com

3. Counsel for Petitioner Sang W. Oh, Esquire, Talkin & Oh, LLP

Counsel's Address 5100 Dorsey Hall Drive, Ellicott City, Maryland 21042

Counsel's Phone No. (410) 964-0300

Email Address soh@talkin-oh.com

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed

To permit owners of historic properties with Neighborhood Preservation Easements to be eligible for a conditional use for Historic Building Uses. This amendment is consistent with the policy goals of the Neighborhood Preservation Density Exchange Option program and the approval criteria for Historic Building Uses. Under the current regulations, historic properties are explicitly contemplated as sending parcels for Neighborhood Preservation. Similarly, Historic Building Uses is a conditional use specifically designed for properties with historic structures. These two uses are not mutually exclusive and the regulations should be amended to allow a Neighborhood Preservation sending parcel to be considered for a Historic Building Uses conditional use.

2016 AUG 29 AM 11:45

HOWARD COUNTY COUNCIL RECEIVED

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County. See attached Supplemental Statement

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[You may attach a separate document to respond to Section 5. If so, this document shall be titled "Response to Section 5"]

6. The Legislative Intent of the Zoning Regulations in Section 100.A. expresses that the Zoning Regulations have the purpose of "...preserving and promoting the health, safety and welfare of the community." Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.A. See attached Supplemental Statement

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[You may attach a separate document to respond to Section 6. If so, this document shall be titled "Response to Section 6."]

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s) See attached Supplemental Statement

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[You may attach a separate document to respond to Section 7. If so, this document shall be titled "Response to Section 7."]

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? Yes.

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

See attached Supplemental Statement

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[You may attach a separate document to respond to Section 8. If so, this document shall be titled "Response to Section 8."]

9. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition. None

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[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]



10. You must provide the full proposed text of the amendment(s) as a separate document entitled "Petitioner's Proposed Text" that is to be attached to this form. This document must use this standard format for Zoning Regulation Amendment proposals; any new proposed text must be in CAPITAL LETTERS, and any existing text to be deleted must be in [[ Double Bold Brackets ]]. In addition, you must provide an example of how the text would appear normally if adopted as you propose.

**After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file format, and may be submitted by email or some other media if prior arrangements are made with the Division of Public Service and Zoning Administration.**

11. The Petitioner agrees to furnish additional information as may be required by the Department of Planning and Zoning prior to the petition being accepted for scheduling, by the Planning Board prior to its adoption of a Recommendation, and/or by the County Council prior to its ruling on the case.
12. The undersigned hereby affirms that all of the statements and information contained in, or filed with this petition, are true and correct. The undersigned has read the instructions on this form, filing herewith all of the required accompanying information. If the Petitioner is an entity that is not an individual, information must be provided explaining the relationship of the person(s) signing to the entity.

Stephen Ferrandi, Maryland Land Advisors  
Petitioner's name (Printed or typed)

Stephen J. Ferrandi 26 August 2016  
Petitioner's Signature Date

Sang W. Oh  
Sang W. Oh, Counsel for Petitioner

[If additional signatures are necessary, please provide them on a separate document to be attached to this petition form.]

**FEE**

The Petitioner agrees to pay all fees as follows:

Filing fee.....\$695.00. If the request is granted, the Petitioner shall pay \$40.00 per 200 words of text or fraction thereof for each separate textually continuous amendment (\$40.00 minimum, \$85.00 maximum)

Each additional hearing night.....\$510.00\*

**The County Council may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the County Council that the payment of the fee would work an extraordinary hardship on the petitioner. The County Council may refund part of the filing fee for withdrawn petitions. The County Council shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.**

**APPLICATIONS: One (1) original plus twenty four (24) copies along with attachments.**

\*\*\*\*\*

**For DPZ office use only:**

**Hearing Fee \$ \_\_\_\_\_**

**Receipt No. \_\_\_\_\_**

**PLEASE CALL 410-313-2395 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION**

**County Website: [www.howardcountymd.gov](http://www.howardcountymd.gov)**

Revised:07/12

T:\Shared\Public Service and Zoning\Applications\County Council\ ZRA Application

## **INSTRUCTIONS TO THE APPLICANT/PARTY OF RECORD**

- As required by State Law, applicants are required to complete the AFFIDAVIT AS TO CONTRIBUTION that is attached, and if you have made a contribution as described in the Affidavit, please complete the DISCLOSURE OF CONTRIBUTION that is attached.
- If you are an applicant, Party of Record (i.e., supporter/protestant) or a family member and have made a contribution as described in the Affidavit, you must complete the DISCLOSURE OF CONTRIBUTION that is attached.
- Filed affidavits and disclosures will be available for review by the public in the office of the Administrative assistant to the Zoning Board during normal business hours.
- Additional forms may be obtained from the Administrative Assistant to the Zoning Board at (410-313-2395) or from the Department of Planning and Zoning.
- Completed form may be mailed to the Administrative Assistant to the Zoning Board at 3430 Courthouse Drive, Ellicott City, MD 21043.
- Pursuant to State Law, violations shall be reported to the Howard County Ethics Commission.

PETITIONER: Stephen Ferrandi, Maryland Land Advisors

**AFFIDAVIT AS TO CONTRIBUTION**

**As required by the Annotated Code of Maryland  
State Government Article, Sections 15-848-15-850**

I, Stephen J. Ferrandi, the applicant in the above zoning matter

\_\_\_\_\_, HAVE  \_\_\_\_\_, HAVE NOT

made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate or the treasurer of a political committee during the 48-month period before application in or during the pendency of the above referenced zoning matter.

I understand that any contribution made after the filing of this Affidavit and before final disposition of the application by the County Council shall be disclosed within five (5) business days of the contribution.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Printed Name: Stephen J. Ferrandi

Signature: Stephen J. Ferrandi

Date: 26 August 2016

PETITIONER: Stephen Ferrandi, Maryland Land Advisors

**DISCLOSURE OF CONTRIBUTION**

**As required by the Annotated Code of Maryland  
State Government Article, Sections 15-848-15-850**

This Disclosure shall be filed by an Applicant upon application or by a Party of Record within 2 weeks after entering a proceeding, if the Applicant or Party of Record or a family member, as defined in Section 15-849 of the State Government Article, has made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate of the treasurer of a political committee during the 48-month period before the application was file or during the pendency of the application.

Any person who knowingly and willfully violates Sections 15-848-15-850 of the State Government Article is subject to a fine of not more than \$5,000. If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty.

APPLICANT OR  
PARTY OF RECORD: Stephen Ferrandi/Maryland Land Advisors

RECIPIENTS OF CONTRIBUTIONS:

<u>Name</u>	<u>Date of Contribution</u>	<u>Amount</u>
<u>None</u>		

I understand that any contribution made after the filing of this Disclosure and before final disposition of the application by the County Council shall be disclosed with five (5) business days of the contribution.

Printed Name: Stephen J. Ferrandi  
Signature: Stephen J. Ferrandi  
Date: 26 August 2016

PETITIONER: Stephen Ferrandi, Maryland Land Advisors

**AFFIDAVIT AS TO ENGAGING IN BUSINESS WITH AN ELECTED OFFICIAL**

**As required by the Annotated Code of Maryland  
State Government Article, Sections 15-848-15-850**

I, Stephen J. Ferrandi, the applicant in the above zoning matter

\_\_\_\_\_, AM  \_\_\_\_\_, AM NOT

Currently engaging in business with an elected official as those terms are defined by Section 15-848 of the State Government Article of the Annotated Code of Maryland.

I understand that if I begin engaging in business with an elected official between the filing of the application and the disposition of the application, I am required to file an affidavit in this zoning matter at the time of engaging in business with elected official.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Printed Name: Stephen J. Ferrandi  
Signature: Stephen J. Ferrandi  
Date: 26 August 2016

**Petition to Amend the Zoning Regulations  
Of Howard County**

**Supplemental Statement**

**5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with the current General Plan for Howard County.**

The proposed Zoning Regulation Amendment making Neighborhood Preservation sending parcels eligible for a Historic Building conditional use is in harmony with many of the policy goals under PlanHoward 2030. First, the proposed amendment will expand the availability of existing programs focused on historic preservation in accordance with Policy 4.10. By allowing sending parcels to apply for this conditional use, the regulations will strengthen the preservation laws that exist, discourage the demolition of historic properties, and promote adaptive reuse of historic buildings. Both the Neighborhood Preservation Exchange Option and the Historic Buildings conditional use promote the preservation of historic properties and structures. Due to the overlapping eligibility of historic properties for both a Neighborhood Preservation easement and a Historic Building conditional use, the regulations governing these programs should be brought into harmony.

Second, the proposed amendment is also consistent with Policy 10.3, which encourages policy-makers to “[e]xpand the range and scope of community planning to identify... facilities...or other amenities that would create more complete communities and reflect community diversity.” This ZRA encourages the preservation of historic properties that contribute to community diversity. Furthermore, the Neighborhood Preservation regulations require that sending parcels with historic structures be made available to the public, which ensure that properties affected by this ZRA will ultimately operate as historic amenities for the community at large.

**6. The Legislative Intent of the Zoning Regulations in Section 100.A. expresses that the Zoning Regulations have the purpose of “...preserving and promoting the health, safety and welfare of the community.” Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.A.**

This ZRA promotes the preservation of Howard County’s historic properties and aligns the goals of preservation with the interests of property owners in retaining a practical use for their property. Furthermore, this ZRA encourages the use of the Neighborhood Preservation Density Exchange Option program by ensuring property owners will still be eligible for this conditional use despite entering into an easement that may preclude other uses.

**7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s).**

Please see above.



**8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? Yes. If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.**

The proposed amendment would potentially impact all historic properties in the R-ED, R-20, R-12 and R-SC zones for which the Neighborhood Preservation Density Exchange Option is available. That is a significantly circumscribed category of properties and the policy rationale stated above would apply universally to such parcels. Furthermore, as with all conditional uses, any petition for a Historical Building conditional use under this amendment would be evaluated for compliance with the conditional use criteria.

**Petitioner's Proposed Text**  
**Neighborhood Preservation Density Exchange Option ZRA**

**Amend Section 128.0.K.1.b. as follows:**

- b. A parcel that is either County-owned or encumbered with a Maryland Historic Trust Easement located in the R-ED, R-20, R-12, and R-SC District that qualifies as a Neighborhood Preservation sending parcel and that contains a historic structure which is open and accessible to the public may send density without limitation on the maximum number of development rights exchanged, provided that a single development right is retained in accordance with Subsection 4.a below. A PARCEL THAT QUALIFIES AS A NEIGHBORHOOD PRESERVATION SENDING PARCEL UNDER THIS SECTION MAY BE ELIGIBLE FOR A CONDITIONAL USE FOR HISTORIC BUILDING USES.

**Example of How Text of Section 128.0.K.1.b. Would Appear Normally if Adopted:**

- b. A parcel that is either County-owned or encumbered with a Maryland Historic Trust Easement located in the R-ED, R-20, R-12, and R-SC District that qualifies as a Neighborhood Preservation sending parcel and that contains a historic structure which is open and accessible to the public may send density without limitation on the maximum number of development rights exchanged, provided that a single development right is retained in accordance with Subsection 4.a below. A parcel that qualifies as a Neighborhood Preservation sending parcel under this section may be eligible for a Conditional Use for Historic Building Uses.



# HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Courthouse Drive

Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

December 1, 2016

## TECHNICAL STAFF REPORT

*Planning Board Meeting on December 15, 2016*

**Case No./Petitioner: ZRA-172 – Stephen Ferrandi, Maryland Land Advisors**

**Request:** Amend Section 128.0.K., Neighborhood Preservation Density Exchange Option, to allow the Historic Building Uses Conditional Use category on Neighborhood Preservation Parcels.

### **I. BACKGROUND**

In 2008, ZRA-95 established a new section of the Howard County Zoning Regulations (HCZR) to allow the transfer of density in the eastern area of the County. Section 128.L. entitled “Density Exchange for Neighborhood Preservation Parcels,” established criteria for Neighborhood Preservation Parcels and a process to transfer residential density to certain receiving districts.

In 2012, ZRA-137 amended the definition of “Preservation Parcel, Neighborhood”, various subsections in the R-ED, R-20, and R-12 Districts and Section 128.L to allow community swimming pools to send density and become Neighborhood Preservation Parcels.

In 2013, ZRA-141 allowed historic properties, under certain circumstances to be sending parcels. Additionally, amendments were made to definitions for “Land Conservation Organization”, “Neighborhood Preservation Density Exchange Option”, “Neighborhood Preservation Parcel Easement”, “Neighborhood Preservation Receiving Parcel”, and “Neighborhood Preservation Sending Parcel”. Furthermore, amendments were made to Section 128.L to improve the Neighborhood Preservation Parcel density exchange process.

The 2013 Comprehensive Zoning Plan changed Section 128.L to 128.0.K, entitled “Neighborhood Preservation Density Exchange Option” and made minor, non-substantive revisions.

### **II. DESCRIPTION AND EVALUATION OF PROPOSAL**

ZRA-172 proposes to amend four subsections of HCZR Section 128.0.K- Neighborhood Preservation Density Exchange Option. The proposed amendments would allow for additional historic building uses on Neighborhood Preservation sending parcels. Currently, only residential uses are permitted. The proposed ZRA expands allowable uses to those permitted under the Historic Building Use Conditional Use category (Section 131.0.N.27).

The Petitioner asserts that the passage of ZRA-141 created an inconsistency regarding the reuse of historic buildings subject to a Neighborhood Preservation Density Exchange Easement. ZRA-141 made properties that contain historic buildings eligible for the Neighborhood Preservation Density Exchange

Option, but did not amend Sec. 128.0.K.2.d.(3) to allow for the nonresidential use of historic buildings as provided for in Sec. 131.0.N.27-Historic Building Uses. DPZ concurs with the Petitioners assertion and recommends approval to correct this inconsistency and encourage the re-use of historic buildings.

The following section contains DPZ's technical evaluation of ZRA-172. The Petitioner's proposed amendment text is attached to this Technical Staff Report as Exhibit A, Petitioner's Proposed Text. Revisions and additional amendments recommended by staff are attached as Exhibit B, DPZ's Recommended Text.

## **SECTION 128.0.K: Neighborhood Preservation Density Exchange Option**

### **Section 128.0.K.1.b. - Proposal to allow Historic Building Uses Conditional Use**

Staff recommends inclusion of the amendment in Sec. 128.0.K.2.d.(3).

This subsection allows certain properties to qualify as a Neighborhood Preservation sending parcel, namely those that are owned by the County or are encumbered by a Maryland Historic Trust Easement; contain a historic building that is open to the public; and are located within the R-ED, R-20, R-12, or R-SC Districts.

The Petitioner proposes to allow properties that meet these requirements to be eligible for the Historic Building Uses Conditional Use category.

DPZ does not recommend inclusion of this language in Sec. 128.0.k.1.b, since this section establishes the criteria for sending parcel eligibility. The Petitioner's proposed amendment to 128.0.K.2.d.(3) below accomplishes the same objective in the appropriate section.

### **Section 128.0.K.2.b. – Add Historic Building Uses Conditional Use to building footprint limit**

Staff recommends approval of the amendment with revisions.

This subsection limits the maximum footprint of new structures on Neighborhood Preservation sending parcels and is only applicable to properties that contain a dwelling or community swimming pool.

The Petitioner proposes to add properties that are approved under the Historic Building Uses Conditional Use category.

DPZ recommends approval of the application of this section to Historic Buildings Uses Conditional Uses in order to maintain consistency with the other allowed uses and to control the expansion of existing buildings subject the easement. DPZ proposes minor revisions to reflect standard HCZR verbiage.

**Section 128.0.K.2.d.(3) – Add Historic Building Uses Conditional Use as a permitted use**

Staff recommends approval of the amendment.

This subsection limits the future use or development of Neighborhood Preservation Parcels to principal or accessory residential uses and principal or accessory community swimming pools.

The Petitioner proposes to allow Historic Building Uses through the Conditional Use process. Such uses include offices, personal services, restaurants, retail, and similar uses, as specified in Section 131.0.N.27.

**New Section 128.0.K.4.a.(3) - Add a requirement to Retain development right for Historic Building Uses Conditional Use**

Staff recommends approval of the amendment with minor revisions.

This subsection currently specifies that Neighborhood Preservation sending parcels improved with a dwelling or improved with a community swimming pool must always retain one development right to allow for the continued use of the existing dwelling unit or for the construction of a new one.

The Petitioner proposes to add the same requirement for parcels that are improved with structures used for Historic Building Uses Conditional Uses.

DPZ recommends approval of this amendment, since Sec. 131.0.C prohibits the approval of a Conditional Use on land in the R-ED and R-SC districts that was included in the density calculation for a residential development and has no remaining residential development potential. Additionally, the amendment is consistent with the requirement for residential uses and community swimming pools.

**III. ADDITIONAL RECOMMENDED AMENDMENTS**

Section 128.0.K.1. and the definition of Neighborhood Preservation Parcel in Section 103.0 should include the term historic structures. DPZ recommends amendments to these sections, which are included in Exhibit B.

**IV. GENERAL PLAN**

The Petitioner asserts that ZRA-172 is in harmony with Policy 4.10 of the PlanHoward 2030 General Plan.

**Policy 4.10**

“Expand on existing programs to enhance historic preservation and create an historic preservation plan”

**Implementing Action b. Programs and Laws**

“Strengthen historic preservation programs and laws both to prevent demolition and incentivize restoration and adaptive reuse.”

The existing Zoning Regulations limit the reuse of historic structures on Neighborhood Preservation Easements to residential uses. ZRA-172 proposes to allow the reuse of historic structures for commercial uses such as offices, personal service, restaurants, etc. through the Historic Building Uses Conditional Use process. The nonresidential reuse of historic buildings has been proven to be a viable option to prevent demolition and incentivize restoration, since it provides additional revenue that can be invested into the building/property. Therefore, DPZ concurs that ZRA-172 is in harmony with Policy 4.10 and Implementing Action b.

**V. AGENCY COMMENTS**

Bureau of Environmental Health, the Department of Inspections, Licenses and Permits, the Department of Recreation and Parks, and the Department of Fire and Rescue Services responded that they have no comments on ZRA-172.

**VI. RECOMMENDATION**

**APPROVAL WITH REVISIONS**

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-172 be **APPROVED** with the revisions noted in Exhibit B.

Approved by:

  
Valdis Lazdins, Director

12/1/16  
Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

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## Exhibit A – Petitioner’s Proposed Text

Section 128.0.K.1.b.:

### **K. Neighborhood Preservation Density Exchange Option**

1. In the R-ED, R-20, R-12 and R-SC Districts, a parcel that qualifies under the criteria for neighborhood infill development as defined in Section 16.108.(b) of the Subdivision and Land Development Regulations or a parcel principally used for a Swimming Pool, Community, as defined in the Zoning Regulations and is eligible to be developed for additional residential lots, may be a sending parcel for the Neighborhood Preservation Density Exchange Option within the same planning district or within a two-mile radius regardless of the planning district. However, sending parcels that contain a historic structure, as provided in Subsection 1.b below, may exchange density with a receiving parcel in any planning district.
  - a. With this Neighborhood Preservation Density Exchange Option, in the R-ED and R-20 zoning districts density may be exchanged from a Neighborhood Preservation sending parcel to an eligible receiving parcel based on a rate of 2 development rights per net acre, or fraction thereof. Except as provided below, up to a maximum of 3 development rights may be exchanged from a sending parcel located in either the R-ED, R-20, and R-SC district. In the R-12 District density may be exchanged from a Neighborhood Preservation sending parcel to an eligible receiving parcel based on a rate of 3 development rights per net acre, or fraction thereof. Except as provided below, up to a maximum of 3 development rights may be exchanged from a sending parcel located in the R-12 District.
  - b. A parcel that is either County-owned or encumbered with a Maryland Historic Trust Easement located in the R-ED, R-20, R-12, and R-SC District that qualifies as a Neighborhood Preservation sending parcel and that contains a historic structure which is open and accessible to the public may send density without limitation on the maximum number of development rights exchanged, provided that a single development right is retained in accordance with Subsection 4.a below. A PARCEL THAT QUALIFIES AS A NEIGHBORHOOD PRESERVATION SENDING PARCEL UNDER THIS SECTION MAY BE ELIGIBLE FOR A CONDITIONAL USE FOR HISTORIC BUILDING USES.

Section 128.0.K.2.b.:

2. Neighborhood Preservation Parcel Easement Requirements
  - a. The easement shall cover the entire sending parcel or lot that complies with the definition of a Neighborhood Preservation Parcel in the Zoning Regulations.
  - b. A Neighborhood Preservation Parcel Easement improved with an existing dwelling unit, A STRUCTURE UTILIZED FOR A HISTORIC BUILDING CONDITIONAL USE, or a Swimming Pool, Community shall not have any new structures placed on the site that are larger than 50% of the building footprint of the structure existing at the time the neighborhood preservation easement is recorded. However, if the average footprint size of the nearest six dwellings is greater than the footprint of an existing building, the Director may approve a footprint that does not exceed this average.

Section 128.0.K.2.d.(3):

- d. The easement shall run with the land, shall be in full force and effect in perpetuity, and shall describe and identify the following:
  - (1) The location and size of all existing improvements on the parcel covered by the easement.
  - (2) A prohibition on future subdivision of the Neighborhood Preservation Parcel.
  - (3) A prohibition on future use or development of the parcel for uses incompatible with the Neighborhood Preservation Parcel Basement. Only principal or accessory residential uses, PRINCIPAL OR ACCESSORY HISTORIC BUILDING USES, or principal or accessory Swimming Pool, Community uses are permitted in accordance with the Zoning Regulations.
  - (4) The provisions for maintenance of the neighborhood preservation parcel.
  - (5) The responsibility for enforcement of the deed of Neighborhood Preservation Parcel Easement.
  - (6) The provisions for succession in the event that one of the parties to the deed of Neighborhood Preservation Parcel Easement ceases to exist.

New Section 128.0.K.4.a.(3):

a. Sending Parcels

- (1) On improved residential parcels, one development right shall be retained on the sending parcel to allow for the continued existence of the existing dwelling unit. An unimproved Neighborhood Preservation Parcel must be owned and maintained by a homeowner's association or dedicated to Howard County.
- (2) On parcels improved with Swimming Pools, Community, one development right may be retained on the sending parcel to allow for a potential future dwelling unit.
- (3) ON PARCELS IMPROVED WITH A STRUCTURE UTILIZED FOR A HISTORIC BUILDING CONDITIONAL USE, ONE DEVELOPMENT RIGHT SHALL BE RETAINED ON THE SENDING PARCEL TO ALLOW FOR THE OPERATION OF THE CONDITIONAL USE.



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## Exhibit B – DPZ’s Recommended Text

### Section 103.0.A.:

Neighborhood Preservation Parcel: A residential infill parcel in the R-20, R-12, or R-ED Districts that existed on September 9, 2008 and is designated as a sending parcel on a Revision Plat or a Final Plat or easement. A Neighborhood Preservation Parcel shall be encumbered by a Neighborhood Preservation Parcel Easement, and is either improved with a Swimming Pool, Community OR AN HISTORIC STRUCTURE as defined in Section 103.0 or an existing dwelling unit, or if unimproved, must be owned and maintained by a Homeowners Association or dedicated to the Howard County Department of Recreation and Parks as provided in Section 128.0.K. Any new structures placed on an improved site shall not be larger than 50 percent of the building footprint of the principal structure existing at the time the Neighborhood Preservation Easement is recorded, except as provided in Section 128.0.K.

### Section 128.0.K.1.:

1. In the R-ED, R-20, R-12 and R-SC Districts, a parcel that qualifies under the criteria for neighborhood infill development as defined in Section 16.108.(b) of the Subdivision and Land Development Regulations or a parcel principally used for a Swimming Pool, Community OR AN HISTORIC STRUCTURE, as defined in the Zoning Regulations and is eligible to be developed for additional residential lots, may be a sending parcel for the Neighborhood Preservation Density Exchange Option within the same planning district or within a two-mile radius regardless of the planning district. However, sending parcels that contain a historic structure, as provided in Subsection 1.b below, may exchange density with a receiving parcel in any planning district.

### Section 128.0.K.2.b.:

- b. A Neighborhood Preservation Parcel Easement improved with an existing dwelling unit, A STRUCTURE ~~[[UTILIZED]]~~ USED FOR ~~[[A]]~~ AN HISTORIC BUILDING USES CONDITIONAL USE, or a Swimming Pool, Community shall not have any new structures placed on the site that are larger than 50% of the building footprint of the structure existing at the time the neighborhood preservation easement is recorded. However, if the average footprint size of the nearest six dwellings is greater than the footprint of an existing building, the Director may approve a footprint that does not exceed this average.

### Section 128.0.K.2.d.(3):

- (3) A prohibition on future use or development of the parcel for uses incompatible with the Neighborhood Preservation Parcel Easement. Only principal or accessory residential uses, HISTORIC BUILDING USES CONDITIONAL USES, or principal or accessory Swimming Pool, Community uses are permitted in accordance with the Zoning Regulation. New Section 128.0.K.4.a.(3):

### Section 128.0.K.4.a.(3)

- (3) ON PARCELS IMPROVED WITH A STRUCTURE ~~[[UTILIZED]]~~ USED FOR ~~[[A]]~~ AN HISTORIC BUILDING USES CONDITIONAL USE, ONE DEVELOPMENT

RIGHT SHALL BE RETAINED ON THE SENDING PARCEL TO ALLOW FOR THE  
OPERATION OF THE CONDITIONAL USE.

1 **STEPHEN FERRANDI, MARYLAND \* BEFORE THE**  
2 **LAND ADVISORS, PETITIONER \* PLANNING BOARD OF**  
3 **ZRA-172 \* HOWARD COUNTY, MARYLAND**

4 \* \* \* \* \*

5 **MOTION:** *To recommend approval of the petition in accordance with the Department*  
6 *of Planning and Zoning recommendation.*

7 **ACTION:** *Recommended approval; Vote 5 to 0.*

8 \* \* \* \* \*

9 **RECOMMENDATION**

10 On December 15, 2016, the Planning Board of Howard County, Maryland, considered the petition of  
11 Stephen Ferrandi, Maryland Land Advisors for an amendment to the Zoning Regulations to amend Section  
12 128.0.K., Neighborhood Preservation Density Exchange Option, to allow the Historic Building Uses  
13 Conditional Use category on Neighborhood Preservation Parcels.

14 The petition, the Department of Planning and Zoning Technical Staff Report and Recommendation,  
15 and the comments of reviewing agencies, were presented to the Board for its consideration. The Department  
16 of Planning and Zoning recommended approval of the petition with the revisions as noted in Exhibit B –  
17 DPZ's Recommended Text.


18 The Petitioner was represented by Sang Oh. Mr. Oh stated that the County had experienced some  
19 problems with the subdivision of infill lots in existing neighborhoods. As a result, the Neighborhood  
20 Preservation Parcel process was created to allow for density to be sent in-lieu of subdividing. He noted that  
21 the process was revised later to include community swimming pool parcels and to include historic properties.  
22 Mr. Oh said that the proposed amendments will also help to preserve historic properties. There was no  
23 testimony in opposition to the petition.

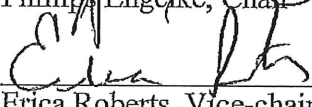
24 The Board acknowledged that maintaining historic properties can be a very expensive endeavor and  
25 that limiting their use for residential purposes is often not enough to preserve them. The Board agreed that  
26 there are a number of historic buildings in Howard County with worsening conditions. The proposed  
27 amendments will provide options to financially assist and maintain these historic properties.

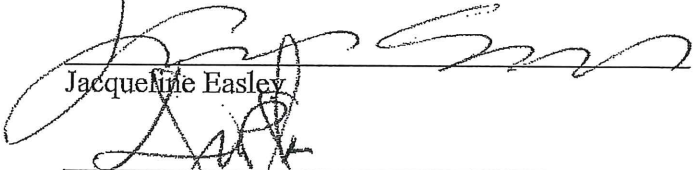
28  
29 Ed Coleman made the motion to recommend approval of the petition in accordance with the Department of  
30 Planning and Zoning recommendation. Jacqueline Easley seconded the motion. The motion passed by a vote  
31 of 5 to 0.

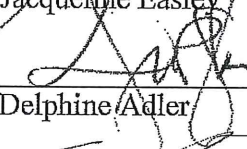
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3 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 19th day of  
4 January, 2017, recommends that ZRA-172, as described above, be APPROVED, with the revised text in  
5 Exhibit B – DPZ’s Recommended Text.  
6


7 HOWARD COUNTY PLANNING BOARD

8  
9   
Phillips Engelke, Chair

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11   
Erica Roberts, Vice-chair

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13   
Jacquelin Easley

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Delphine Adler

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17   
Ed Coleman  
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20

21 ATTEST:

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23 Valdis Lazdins, Executive Secretary  
24  
25  
26