

1 AMY GOWAN, * BEFORE THE
2 PETITIONER * PLANNING BOARD OF
3 ZRA-191 * HOWARD COUNTY, MARYLAND

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5 MOTION: Recommend approval to amend Sections 103.0 and Section 128.0.J.2.c. of the
6 Zoning Regulations as modified by the Department of Planning and Zoning in in
7 Exhibit B.

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9 ACTION: Recommended approval; Vote 5-0.

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12 RECOMMENDATION

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14 On May 21, 2020 and July 16, 2020, the Planning Board of Howard County, Maryland, considered
15 the petition of Amy Gowan (Petitioner) to amend Sections 103.0 and 128.0.J.2.c to revise the definition of
16 Housing Commission Housing Development to include the Howard County Government which encompasses
17 the Department of Housing and Community Development, and to allow the Planning Board to approve up to a
18 maximum of 12 acres of housing developments owned by the Howard County government or in which the
19 Howard County government is general partner or managing member on non-residentially zoned land in a
20 three-calendar year period.

21 The Planning Board considered the petition and the Department of Planning and Zoning (DPZ)
22 Technical Staff Report and Recommendation on May 21, 2020 and requested that DPZ return to a subsequent
23 meeting to respond to questions. Answers to the Planning Board’s questions were presented on July 16, 2020
24 by Mary Kendall, Deputy Director of DPZ. DPZ recommended approval of ZRA-191, with modifications
25 included in Exhibit B of the Technical Staff Report. The proposed modification permits Howard County
26 Government, as a general partner/managing member of a housing development, to qualify as a Housing
27 Commission Housing Development – similar to the Housing Commission.

28 Kelly Cimino, Director of the DHCD, testified on behalf of the Petitioner. Ms. Cimino testified that
29 because DHCD and the Housing Commission were separated, it is important that DHCD have the same rights
30 as the Housing Commission. However, Ms. Cimino also stated that since 2017, there are many discrepancies
31 in the County Code and the Zoning Regulations where the DHCD does not have the same development
32 opportunities as the Housing Commission. The proposed ZRA attempts to fix some of these discrepancies
33 and creates equal opportunities for both agencies.

1 One Board Member asked about a concern raised by a member of the public in relation to a
2 grammatical/drafting error. Ms. Gowan stated that any grammatical or drafting errors could be corrected
3 when the Council Bill is drafted.

4 On May 21, 2020, three members from the public testified which included Mr. Joel Hurewitz, Ms.
5 Susan Garber and Mr. Brent Loveless. Their testimony included concerns about grammatical and definitional
6 errors within the Technical Staff Report; the fact that the amount of nonresidential land that could be
7 converted to residential would double; income loss for the County; and the absence of any restrictions on
8 clustering the housing developments.

9 On July 16, 2020, two members of the public provided testimony. Mr. Joel Hurewitz stated that he
10 thought that it was a bad policy decision to allow both the Housing Commission and the DHCD to own
11 housing development properties. He also pointed out a definitional error in the Technical Staff Report (TSR).

12 Ms. Susan Garber was the second member of the public who provided testimony. She expressed
13 concerns about decreasing the tax base, increasing acreage allocated to housing developments, concentration
14 of housing development units, and the quality of life for the residents. The same person suggested finding
15 another way to rezone just for this project.

16 17 Board Discussion and Recommendation

18 The Planning Board convened in work session on May 21, 2020 and July 16, 2020. On May 21, 2020,
19 the Board discussed the need for additional information to better understand the different roles of the
20 Department of Housing and Community Development and the Housing Commission. There was not
21 consensus among the Board members regarding the proposed increase in acreage from 12 to 24 acres over
22 three years and potential impacts of losing non-residential land. The Board decided that additional
23 background information was needed to better understand why the Housing Commission and the DHCD split,
24 the consequences of rejoining the Housing Commission and the DHCD, any unintended consequences of
25 converting non-residential land to residential, and the impacts of increasing the acreage for housing
26 developments from 12 acres to 24 acres. Mr. Coleman motioned to table the recommendation pending the
27 additional information. Ms. Adler seconded the motion. The motion passed 5-0.

28 At the July 16, 2020 meeting Mary Kendall presented the additional information that the Planning
29 Board had requested on May 21, 2020. A Planning Board Member asked for clarification regarding the total
30 amount of land available for conversion. Ms. Kendall clarified that the number contained in her presentation
31 referred to 12 new acres being available for conversion for a total of 24 acres available to both agencies.

32 In response to a question about what triggered the need for an additional 12 acres, Kelly Cimino
33 testified that a proposed partnership with the Howard County Autism Society was the impetus for this ZRA.

1 Ms. Cimino also stated that the 12-acre threshold was chosen so that both agencies have the same
2 opportunities.

3 A member of the Planning Board asked if consideration was given to increasing the acreage just for
4 this project. Ms. Kendall responded by saying that there was interest in making the development opportunities
5 equal for both agencies, not just moving the current project forward. Ms. Gowan indicated that the desire was
6 to approach the ZRA holistically rather than tailoring it to a specific project. From a policy perspective, it
7 made sense to give the DCHD the same rights as the Housing Commission.

8 The Board, staff and General Counsel discussed whether a time limit or “sunset clause” on the ability
9 to convert non-residential land to residential for the purpose of this ZRA would be appropriate and decided
10 that the concern be noted rather than suggest a specific sunset. Ms. Gowan explained that the general plan
11 update, comprehensive zoning, and code rewrite all serve as mechanisms for re-evaluating the need for this.
12 Further, Mr. Peter Engel testified that he would not support a “sunset clause” that would impact the Housing
13 Commission’s ability to utilize this regulation especially since the residential zoning districts in which multi-
14 family developments are permitted are limited.

15 There was also concern about clustering affordable housing developments and whether projects
16 would be mixed income or 100% affordable housing. Ms. Cimino indicated that this project will be mixed
17 income, and not 100% affordable housing. Ms. Cimino stated that a project is considered affordable housing
18 if at least 40% of the housing in the development is affordable. However, all plans will not be the same. It
19 was then asked if there could ever be a single, large project that contained 100% affordable housing. Ms.
20 Cimino and Mr. Engle confirmed that this would not be possible given restrictions they are required to follow.

21 In the Board’s July 16, 2020 work session, it was pointed out that a “sunset clause” would be very
22 hard to implement since these projects take so long to complete. The Planning Board members indicated
23 more comfort knowing that all 24 acres would not be developed on a single site and that these projects were
24 anticipated to be mixed income.

25 There was some concern about maintaining a mix of uses in Howard County so that everything does
26 not just become residential. It was noted that 24-acres is the maximum for housing developments and that it
27 will not all necessarily be used.

28 Mr. Engelke motioned to recommend approval of ZRA 191 as modified by DPZ. Mr. McAliley
29 seconded the motion, which passed 5-0.

30 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this **20th** day of
31 August 2020, recommends that ZRA-191, as modified in Exhibit B by the Department of Planning and
32 Zoning, be **APPROVED**.

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HOWARD COUNTY PLANNING BOARD

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Erica Roberts, Chair

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Ed Coleman, Vice-chair

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Phillips Engelke

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Kevin McAiley

ATTEST:

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Amy Gowan, Executive Secretary