



PETITION TO AMEND THE
ZONING REGULATIONS OF
HOWARD COUNTY

DPZ Office Use Only:

Case No. ZRA-190

Date Filed: _____

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 SECTIONS 104.0 G AND 105.0 G TO ALLOW THE MERGER OF ADJOINING PRESERVATION PARCELS UNDER SPECIFIC CONDITIONS.

[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 JOHN P. McDANIEL

Address 13032 HIGHLAND ROAD

Phone No. (W) 410-350-5151 (H) _____

Email Address JOHN.P.MCDANIEL@HRFMAIL.COM

3. Counsel for Petitioner MEGAN L. REUWER, PA

Counsel's Address 8318 FORREST STREET ELLICOTT CITY, MD 21043

Counsel's Phone No. W. 443-367-0422 C. 410-960-3755

Email Address mreuwer@reuwerlaw.com

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

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

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

HOWARD COUNTY COUNCIL
REGISTERS
2019 JUN 10 PM 2:28

6. The Legislative Intent of the Zoning Regulations in Section 100.0.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 100.0.A. SEE ATTACHED

[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

[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

[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.

SEE ATTACHED

[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

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 (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

PETITIONER: JOHN P. McDANIEL

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: JOHN P. McDANIEL

RECIPIENTS OF CONTRIBUTIONS:

<u>Name</u>	<u>Date of Contribution</u>	<u>Amount</u>
Gov. HARRY Hogan for Governor	10/5/17	\$ 2,000
_____	_____	_____
_____	_____	_____

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: JOHN P. McDANIEL

Signature: John P. McDaniel

Date: 3/5/20

PETITIONER: JOHN P. McDANIEL

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, JOHN P. McDANIEL, the applicant in the above zoning matter

_____, AM X 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: JOHN P. McDANIEL

Signature: John P. McDaniel

Date: 3/5/20

ZRA APPLICATION ATTACHMENT

4. REASON FOR PROPOSED AMENDMENT

Years ago, there was the issue of minor exchanges of land between agricultural preservation parcels. Since the minimum easement size was 20 acres the code provided for exchange as long as neither parcel became smaller than 20 acres.

Over a year ago, the petitioner with preservation parcels that were not in the ag program but had HOA easements wanted to merge parcels to enhance his horse operation. To do that he wanted to cut off a lot away from the good farmland. DPZ saw the wisdom of doing that and with assurance that no new rights or houses would be created and the farm operation would be enhanced the owner processed a subdivision plat. After drilling a well, resolving perc issues at the proposed lot location and over a year of processing he came to the end and the Law Office said the zoning does not allow what was proposed.

This legislation started as a way to make the procedure a permitted process.

Later we found this was not an isolated case. While the ag program started by looking at large farm operations, in recent years many very small parcels have come into the easement program. As some owners try to make a viable farm operation they realize additional adjoining land is needed. To purchase a part of an adjoining easement parcel while leaving 20 acres does not make economic sense.

5. THE PROPOSED AMENDMENT WILL BE IN HARMONY WITH THE GENERAL PLAN

General Plan 2030 contains several policies that identify the limitations on preservation properties. There is recognition that the ability to adapt the farms to changing conditions in the business is needed. Preservation parcels created through the cluster development process often leave multiple adjoining preservation parcels that can be merged to create a more viable network. In addition, many cluster preservation parcels remain as viable farms and the ability to increase the size of those farms furthers the goal of making rural land viable for farm use into the future.

POLICY 4.5 – Refine the Rural Conservation (RC) and the Rural Residential (RR) zoning regulations to provide greater flexibility for the agricultural community as well as appropriate protections for rural residents.

POLICY 4.6 – Formalize a Green Infrastructure Network Plan in Howard County.

As part of Plan Howard 2030, the County established a Rural West Advisory Committee to be a sounding board on various land use issues in the Rural West.

Another issue reviewed by the committee is the difference in uses and related standards between the RC and the RR zoning districts. Currently, there are not enough significant differences between the uses permitted in the two districts to reflect the purpose of each district. The purpose of the RC is "to conserve farmland and to encourage agricultural activities,

thereby helping to ensure that commercial agriculture will continue as a long term land use and a viable economic activity within the County.” The purpose of the RR is “to allow low density residential development within a rural environment,” while still allowing agriculture to continue as a permitted use. In a rapidly changing economy, Howard County farmers should be able to utilize innovative farming practices so they too can adapt to the evolving market. Enhancing their ability to farm efficiently is critical to the growth of Howard County and its ability to maintain a diverse economy. However, new development plans and conditional uses should include better buffers to reduce conflicts with neighboring residents.

6. THE PROPOSED AMENDMENT WILL PROMOTE THE HEALTH, SAFETY AND WELFARE OF THE COMMUNITY

The proposed amendment facilitates the enlargement of preservation parcels to make them more viable for long term preservation.

Here is a specific case.

The owner purchased a 52 acre parcel and started a horse boarding operation. The parcel has his main house and barns. The property adjoining this farm contains 37 acres.

Current law allows him to purchase 17 acres and leave 20 with the existing house.

If this legislation is approved the existing house on the 37 acres which is near the road and at the corner of the property can remain on 3 acres and the remaining 34 acres can be added to the 52 acres giving an 86 acre farm.

The legislation makes it clear that no additional house rights can be created and the underlying easements will continue in place. That would include the remaining 3 acre lot which would not be released from the easement.

7. PUBLIC BENEFITS GAINED BY ADOPTION OF THE PROPOSED AMENDMENT

There are currently many parcels that benefit from the ability to merge parcels to benefit from the larger opportunity for farming, and in the case of cluster preservation parcels enhanced opportunity for farming or environmental preservation.

One example to demonstrate the benefit of the proposed amendment is to use the scoring sheet for the Howard County Agricultural Preservation Program to value the easements for the independent adjoining farms and compare that to the merged farms excluding the 3 acre lot.

8. DOES THE AMENDMENT AFFECT MORE THAN ONE PROPERTY

Yes. Hundreds of preservation parcels exist today. Many if not most adjoin other preservation parcels. The impact of being able to merge parcels to create more viable long term preservation options is fully supported by the General Plan as well as the Howard County Agricultural Preservation Program that encourages and incentivizes the larger parcels for preservation.

9. OTHER FACTORS TO CONSIDER

The petitioner spent significant time and money in the attempt to create a viable thoroughbred operation by purchasing adjoining parcels and adding them to his horse operation. In his attempt to configure the farm operation and enhance the historic farm viability he invested in a subdivision to accomplish the goal. DPZ was supportive all along the way. Adoption of this amendment will allow the completion of the objective.

For property in the County and State Agricultural Preservation programs, the consent of the Agricultural Preservation Board will be a prerequisite to the merger of farm property.

PROPOSED TEXT

SECTION 104.0

G. Cluster Subdivision Requirements

1. Subdivision and Density Requirements

a. A cluster subdivision consists of cluster lots, which are located on a portion or portions of the parcel being subdivided, and a preserved area, which is the entire residual area of the parcel being subdivided.

b. The preserved area should be retained as a single preservation parcel whenever possible. It may be divided into more than one preservation parcel only at the time that the preserved area is originally recorded and only in accordance with the purposes of the RC District with the following exception:

(1) Subdivision of a preservation parcel after recordation of the preservation parcel easement may [only] be permitted if the subdivision is necessary to establish a boundary line respecting agricultural, historical, or environmental features or patterns of use; and

(2) Involves either:

(a) The transfer of land between adjoining parcels that are both entirely protected by an agricultural environmental or historic preservation easement held by Howard County or a State agency; or

(b) The exchange of equivalent acreage between adjoining parcels, one of which is a preservation parcel, created in accordance with section 104.0, 105.0 or 106.0 of these Regulations, wherein the resulting configuration will better facilitate the purpose of the preservation parcel and better ensure its protection; [[and]]

(3) THAT TWO OR MORE ADJOINING PRESERVATION PARCELS MAY BE COMBINED TO CREATE A PRESERVATION PARCEL, WHEREIN THE RESULTING CONFIGURATION WILL BETTER FACILITATE THE PURPOSE OF THE PRESERVATION PARCEL, PROVIDED THAT:

(a) AT THE TIME OF THE COMBINATION, IF A DEVELOPMENT RIGHT OR AN EXISTING PRINCIPAL DWELLING UNIT EXISTS, A LOT MAY BE CREATED TO ACCOMMODATE THE EXISTING HOUSE OR A PROPOSED HOUSE ON A PRESERVATION PARCEL.

1.FOR PARCELS WITH AN AGRICULTURAL PRESERVATION EASEMENT, THE MINIMUM LOT SIZE SHALL BE 3 ACRES

2.FOR PARCELS WITH OTHER DEDICATED EASEMENTS, THE MINIMUM LOT SIZE SHALL COMPLY WITH THE CLUSTER LOT SIZE REQUIREMENTS

(3) Such transfer may not:

(a) Result in a net increase in the number of farm tenant house rights for the parcel being enlarged; or

- (b) Undermine the original agricultural, environmental, or historic preservation purpose for creating the preservation parcel; or
- (c) Reduce the preservation parcel to less than 20 acres; ~~[[and]] UNLESS OTHERWISE PERMITTED IN SECTION 104.0.G.1.b.~~
- (d) **ACHIEVE ANY ADDITIONAL RESIDENTIAL DEVELOPMENT RIGHTS;
AND**

[[4) Such land transfer requires consent of all easement holders. All deed(s) of easements shall be amended to reflect the land transfer.]]

(4) SUCH LAND TRANSFER REQUIRES CONSENT OF ALL EASEMENT HOLDERS. ALL DEED(S) OF EASEMENTS SHALL BE AMENDED TO REFLECT THE LAND TRANSFER AND ALL OF THE PROPERTY SHALL REMAIN SUBJECT TO THE PROVISIONS OF THE EASEMENT TO WHICH IT WAS SUBJECT PRIOR TO THE TRANSFER.

4. Requirements for Preservation Parcel Easements

- a. The easement agreement for each preservation parcel shall be approved by the County and executed by the property owner prior to recordation. 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 the preservation parcel.
 - (2) Existing improvements on the preservation parcel.
 - (3) A prohibition on future residential, commercial or industrial development of the preservation parcel, other than the uses listed in Section 106.1. The easement must specify the primary purpose of the preservation parcel and prohibit the use of the preservation parcel for incompatible uses.
 - (4) A prohibition on future subdivision of the preservation parcel, **EXCEPT AS PERMITTED IN SECTION 104.0.G.1.b**
 - (5) Provisions for maintenance of the preservation parcel.
 - (6) Responsibility for enforcement of the easement.
 - (7) Provisions for succession in the event that one of the parties to an easement agreement ceases to exist.

PROPOSED TEXT

SECTION 105.0

G. Cluster Subdivision Requirements

1. Subdivision and Density Requirements

- a. A cluster subdivision consists of cluster lots, which are located on a portion or portions of the parcel being subdivided, and a preserved area, which is the entire residual area of the parcel being subdivided.
- b. The preserved area should be retained as a single preservation parcel whenever possible. It may be divided into more than one preservation parcel only at the time that the preserved area is originally recorded and only in accordance with the purposes of the RC District with the following exceptions:

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(a) The transfer of land between adjoining parcels that are both entirely protected by an agricultural environmental or historic preservation easement held by Howard County or a State agency; or

(b) The exchange of equivalent acreage between adjoining parcels, one of which is a preservation parcel, created in accordance with section 104.0, 105.0 or 106.0 of these Regulations, wherein the resulting configuration will better facilitate the purpose of the preservation parcel and better ensure its protection

(2) THAT TWO OR MORE ADJOINING PRESERVATION PARCELS MAY BE COMBINED TO CREATE A PRESERVATION PARCEL, WHEREIN THE RESULTING CONFIGURATION WILL BETTER FACILITATE THE PURPOSE OF THE PRESERVATION PARCEL, PROVIDED THAT:

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(b) Undermine the original agricultural, environmental, or historic preservation purpose for creating the preservation parcel; or

(c) Reduce the preservation parcel to less than 20 acres; [[and]] **UNLESS OTHERWISE PERMITTED IN SECTION 105.0.G.1.b.**

(d) ACHIEVE ANY ADDITIONAL RESIDENTIAL DEVELOPMENT RIGHTS;
AND

[[(4) Such land transfer requires consent of all easement holders. All deed(s) of easements shall be amended to reflect the land transfer.]]

(4) SUCH LAND TRANSFER REQUIRES CONSENT OF ALL EASEMENT HOLDERS. ALL DEED(S) OF EASEMENTS SHALL BE AMENDED TO REFLECT THE LAND TRANSFER AND ALL OF THE PROPERTY SHALL REMAIN SUBJECT TO THE PROVISIONS OF THE EASEMENT TO WHICH IT WAS SUBJECT PRIOR TO THE TRANSFER.

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 - (4) A prohibition on future subdivision of the preservation parcel, **EXCEPT AS PERMITTED IN SECTION 105.0.G.1.b**
 - (5) Provisions for maintenance of the preservation parcel.
 - (6) Responsibility for enforcement of the easement.
 - (7) Provisions for succession in the event that one of the parties to an easement agreement ceases to exist.

EXAMPLE OF HOW TEXT WOULD APPEAR NORMALLY

SECTION 104.0

G. Cluster Subdivision Requirements

I. Subdivision and Density Requirements

a. A cluster subdivision consists of cluster lots, which are located on a portion or portions of the parcel being subdivided, and a preserved area, which is the entire residual area of the parcel being subdivided.

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(b) The exchange of equivalent acreage between adjoining parcels, one of which is a preservation parcel, created in accordance with section 104.0, 105.0 or 106.0 of these Regulations, wherein the resulting configuration will better facilitate the purpose of the preservation parcel and better ensure its protection;

(3) that two or more adjoining preservation parcels may be combined to create a preservation parcel, wherein the resulting configuration will better facilitate the purpose of the preservation parcel, provided that:

(a) at the time of the combination, if a development right or an existing principal dwelling unit exists, a lot may be created to accommodate the existing house or a proposed house on a preservation parcel.

1. for parcels with an agricultural preservation easement, the minimum lot size shall be 3 acres

2. for parcels with other dedicated easements, the minimum lot size shall comply with the cluster lot size requirements

(3) Such transfer may not:

(a) Result in a net increase in the number of farm tenant house rights for the parcel being enlarged; or

(b) Undermine the original agricultural, environmental, or historic preservation purpose for creating the preservation parcel; or

(c) Reduce the preservation parcel to less than 20 acres; unless otherwise permitted in section 104.0.g.1.b.

(d) achieve any additional residential development rights; and

(4) such land transfer requires consent of all easement holders. all deed(s) of easements shall be amended to reflect the land transfer and all of the property shall remain subject to the provisions of the easement to which it was subject prior to the transfer.

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EXAMPLE OF HOW TEXT WOULD APPEAR NORMALLY

SECTION 105.0

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