

Introduced October 5, 2020
Public hearing October 19, 2020
Council action November 2, 2020
Executive action November 4, 2020
Effective date January 5, 2021

County Council of Howard County, Maryland

2020 Legislative Session

Legislative day # 14

BILL NO. 58 – 2020 (ZRA – 190)

Introduced by: The Chair
at the request of John P. McDaniel

AN ACT amending the Howard County Zoning Regulations to allow the merger of adjoining preservation parcels under specific conditions; and generally relating to preservation parcels.

Introduced and read first time October 5, 2020. Ordered posted and hearing scheduled.

By order Diane Schwartz Jones
Diane Schwartz Jones, 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 October 19, 2020.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

This Bill was read the third time on November 2 2020 and Passed , Passed with amendments _____, Failed _____.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 3rd day of November, 2020 at 1:20 a.m./p.m.

By order Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive November 4, 2020

Calvin Ball
Calvin Ball, 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 104.0: "RC (Rural Conservation) District"*

7 *Subsection G. "Cluster Subdivision Requirements"*

8 *Number 1. "Subdivision and Density Requirements"*

9 *Number 4. "Requirements for Preservation Parcel Easements"*

10
11 *Section 105.0: "RR (Rural Residential) District"*

12 *Subsection G. "Cluster Subdivision Requirements"*

13 *Number 1. "Subdivision and Density Requirements"*

14 *Number 4. "Requirements for Preservation Parcel Easements"*

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16 *Section 106.0: "106.0 DEO (Density Exchange Option) Overlay District"*

17 *Subsection B. "Criteria"*

18 *Subsection F. "Requirements for Use of the Density Exchange Option or Cluster Exchange*
19 *Option"*

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21
22
23 **Howard County Zoning Regulations**

24
25 SECTION 104.0 RC (Rural Conservation) District

26
27 G. Cluster Subdivision Requirements

28 1. Subdivision and Density Requirements

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

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

1 exceptions:]]

2 [[(1)]] C. Subdivision of a preservation parcel after recordation of the preservation parcel
3 easement may [[only]] be permitted if the subdivision is necessary to establish a
4 boundary line respecting agricultural, historical, or environmental features or
5 patterns of use; AND INVOLVES:

6 [[(2) Involves either:]]

7 [[(a)]] (1)The transfer of land between adjoining parcels that are both
8 entirely protected by an agricultural, environmental, or historic
9 preservation easement held by Howard County or a State agency; or

10 [[(b)]] (2) The exchange of equivalent acreage between adjoining
11 parcels, one of which is a preservation parcel, created in accordance
12 with Section 104.0, 105.0 or 106.0 of these Regulations, wherein the
13 resulting configuration will better facilitate the purpose of the
14 preservation parcel and better ensure its protection; [[and;]] or

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

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

23 1. FOR PARCELS WITH AN AGRICULTURAL
24 PRESERVATION EASEMENT, THE MINIMUM LOT SIZE
25 SHALL BE 3 ACRES; OR

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

29 (4) Such [[transfer]] RECONFIGURATIONS may not:
30

- 1 (a) Result in a net increase in the number of farm tenant house rights
- 2 for the parcel being enlarged; or
- 3 (b) Undermine the original agricultural, environmental or historic
- 4 preservation purpose for creating the preservation parcel; or
- 5 (c) Reduce the preservation parcel to less than 20 acres, [[and]]
- 6 UNLESS OTHERWISE PERMITTED IN SECTION 104.0.G.1.C; OR
- 7 (D) ACHIEVE ANY ADDITIONAL RESIDENTIAL DEVELOPMENT RIGHTS.

8
9 [[(4) Such transfer requires consent of all easement holders. All deed(s) of
10 easement shall be amended to reflect the land transfer.]]

- 11 (5) SUCH LAND RECONFIGURATIONS REQUIRE CONSENT OF ALL EASEMENT
- 12 HOLDERS. ALL DEED(S) OF EASEMENT SHALL BE AMENDED TO
- 13 REFLECT THE LAND RECONFIGURATION AND ALL OF THE PROPERTY
- 14 SHALL REMAIN SUBJECT TO THE PROVISIONS OF THE EASEMENT TO
- 15 WHICH IT WAS SUBJECT PRIOR TO THE RECONFIGURATION.

16
17 4. Requirements for Preservation Parcel Easements

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19 a. The easement agreement for each preservation parcel shall be approved by the
20 County and executed by the property owner prior to recordation. The easement shall run
21 with the land, shall be in full force and effect in perpetuity, and shall describe and
22 identify the following:

- 23 (1) The location and size of the preservation parcel.
- 24 (2) Existing improvements on the preservation parcel.
- 25 (3) A prohibition on future residential, commercial or industrial
- 26 development of the preservation parcel, other than the uses listed in
- 27 Section 106.1. The easement must specify the primary purpose of the
- 28 preservation parcel and prohibit the use of the preservation parcel for
- 29 incompatible uses.
- 30 (4) A prohibition on future subdivision of the preservation parcel, EXCEPT
- 31 AS PERMITTED IN SECTION 104.0.G.1.c.

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(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.

SECTION 105.0 RR (Rural Residential) District

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.

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:]]

[[1)] C. 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 INVOLVES:

[[2) Involves either:]]

[[a)] (1) 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)] (2) 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

1 resulting configuration will better facilitate the purpose of the
2 preservation parcel and better ensure its protection; [[and;]] or

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

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

11 1. FOR PARCELS WITH AN AGRICULTURAL
12 PRESERVATION EASEMENT, THE MINIMUM LOT SIZE
13 SHALL BE 3 ACRES; OR

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

17
18 (4) Such [[transfer]] RECONFIGURATIONS may not:

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

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

24 (c) Reduce the preservation parcel to less than 20 acres, [[and]]
25 UNLESS OTHERWISE PERMITTED IN SECTION 104.0.G.1.C; OR

26 (D) ACHIEVE ANY ADDITIONAL RESIDENTIAL DEVELOPMENT
27 RIGHTS.
28

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

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(5) SUCH LAND RECONFIGURATIONS REQUIRE CONSENT OF ALL EASEMENT HOLDERS. ALL DEED(S) OF EASEMENT SHALL BE AMENDED TO REFLECT THE LAND RECONFIGURATION AND ALL OF THE PROPERTY SHALL REMAIN SUBJECT TO THE PROVISIONS OF THE EASEMENT TO WHICH IT WAS SUBJECT PRIOR TO THE RECONFIGURATION.

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 105.0.G.1.c.
- (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.

1 B. Criteria

2 Residential density may be exchanged between properties which are eligible to be sending and receiving
3 parcels based on the criteria given below.

4 1. Sending Parcels

5 Properties within the DEO Overlay District which meet the following criteria are eligible to be
6 sending parcels:

7 a. The underlying zoning shall be RC;

8 b. The minimum preservation parcel easement area shall be 20 acres for all sending
9 parcels, EXCEPT AS PERMITTED IN SECTION 106.0.F.10.

10 c. The sending area shall not be subject to a forest conservation easement, Agricultural Land
11 Preservation Easement, gasoline easement or other recorded easement that reduces or
12 removes its development rights. If a portion of a parcel is encumbered with such an
13 easement, the encumbered area shall be subtracted from the acreage of the sending parcel
14 for density calculations. After the encumbered acreage is deducted, the sending parcel must
15 still fulfill the size criteria specified in paragraph 1.b of this subsection. When calculating
16 density sending rights, floodplain easements and driveway/access easements do not need to
17 be deducted.

18 d. A property consisting of one or more contiguous parcels or lots may be eligible to be a
19 sending parcel if the parcels, when combined meet the size criteria specified in paragraph
20 1.b. All parcels that do not meet the size criteria specified in paragraph 1.b of this subsection
21 must be combined at the time that the preservation easement agreement for the sending
22 parcel is recorded.

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24 F. Requirements for Use of the Density Exchange Option or Cluster Exchange Option

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26 10. SUBDIVISION OF PRESERVATION PARCEL AFTER RECORDATION

27 A RECORDED PRESERVATION PARCEL BE MAY SUBDIVIDED IN ACCORDANCE WITH SECTIONS
28 104.0.G.1.c AND 105.0.G.1.c.

1 **Section 2. Be it further enacted by the County Council of Howard County, Maryland, that**
2 **Sections 104.0 and 105.0 be renumbered accordingly,**

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4 **Section 3. Be it further enacted by the County Council of Howard County, Maryland, that this**
5 **Act 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 November 4, 2020.

Diane Schwartz Jones
Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, Administrator to the County Council