

Introduced \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Council Action \_\_\_\_\_  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council Of Howard County, Maryland

2020 Legislative Session

Legislative Day No. 12

Bill No. 45-2020 (ZRA 191)

Introduced by: The Chairperson at the request of the County Executive

AN ACT revising the definition of Housing Commission Housing Development to include the Howard County Government so that the Department of Housing and Community Development can facilitate the construction of affordable housing on non-residentially zoned land; allowing the Planning Board to approve up to a maximum of 12 acres of housing developments on non-residentially zoned land owned by the Howard County Government or for housing developments owned by a business entity in which Howard County Government is a general partner or managing member; and generally relating to the Howard County Zoning Regulations.

Introduced and read first time September 8, 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 September 21, 2020.

By order

Diane Schwartz Jones  
Diane Schwartz Jones, Administrator

Withdrawn on 9/21/2020  
This Bill was read the third time on \_\_\_\_\_, 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 \_\_\_\_\_ day of \_\_\_\_\_, 2020 at \_\_\_\_\_ a.m./p.m.

By order \_\_\_\_\_

Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive \_\_\_\_\_, 2020

\_\_\_\_\_  
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  
2 Howard County Zoning Regulations are amended as follows:

- 3
- 4 1. By amending Section 103.0 of the Howard County Zoning Regulations.
- 5
- 6 2. By amending Section 128.0.J.2.c. of the Howard County Zoning Regulations.
- 7

8 **Howard County Zoning Regulations.**

9 **Section 103.0. Definitions.**

10

11 **Section 103.0: - Definitions**

12 Terms used in these Zoning Regulations shall have the definition provided in any  
13 standard dictionary, unless specifically defined below or in any other provision of these  
14 Zoning Regulations:

15

16 Housing Commission Housing Development: A housing development, as defined in  
17 Section 13.1303 of the Howard County Code, that is either (I) wholly owned by the  
18 Howard County Housing Commission ~~[[or]]~~; (II) owned by a limited partnership or  
19 limited liability company formed solely for the purpose of obtaining the benefit of  
20 federal low income housing tax credits under Section 42 of the Internal Revenue  
21 Code and in which the ~~[[commission]]~~ COMMISSION OR HOWARD COUNTY  
22 GOVERNMENT is the general partner or managing ~~[[member]]~~ MEMBER; OR (III)  
23 OWNED BY THE HOWARD COUNTY GOVERNMENT.

24

25 **Howard County Zoning Regulations.**

26 **Section 128.0. Supplementary Zoning District Regulations.**

27

28 **Section 128.0: - Supplementary Zoning District Regulations**

- 29 J. Housing Commission Housing Developments
- 30 2. Approval of the Site Development Plan by the Planning Board.

1 c. The Planning Board may approve up to a maximum of 12 acres of  
2 [[Housing Commission Housing Developments]] HOUSING DEVELOPMENTS  
3 OWNED BY THE HOUSING COMMISSION OR HOUSING DEVELOPMENTS IN  
4 WHICH THE HOUSING COMMISSION IS THE GENERAL PARTNER OR MANAGING  
5 MEMBER, AND 12 ACRES OF HOUSING DEVELOPMENTS OWNED BY THE  
6 HOWARD COUNTY GOVERNMENT OR IN WHICH THE HOWARD COUNTY  
7 GOVERNMENT IS THE GENERAL PARTNER OR MANAGING MEMBER, on non-  
8 residentially zoned land in a three-calendar year period.

9  
10 ***Section 2. And Be It Further Enacted*** by the County Council of Howard County,  
11 *Maryland, that this Act shall become effective 61 days after its enactment.*



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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Delphine Adler

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Phillips Engelke

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Kevin McAliley

ATTEST:

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Amy Gowan, Executive Secretary

**From:** [Jones, Diane](#)  
**To:** [Jung, Deb](#); [Walsh, Elizabeth](#); [Jones, Opel](#); [Rigby, Christiana](#); [Yungmann, David](#)  
**Cc:** [Dvorak, Nicole](#); [Gelwicks, Colette](#); [Harris, Michael](#); [Knight, Karen](#); [Williams, China](#); [Little, Cristiana](#); [Facchine, Felix](#); [Gick, Ginie](#); [Skalny, Cindy](#); [Berg, Kelli](#); [Hammond, Patricia](#); [Hightower, Rozonna](#); [Meyers, Jeff](#); [Nicholson, Ann](#); [Regner, Robin](#); [Respass, Charity](#); [Rosen, Lynne](#); [Sayers, Margery](#); [Smith, Brenda](#); [Wimberly, Theo](#); [Kuc, Gary](#); [Glendenning, Craig](#); [Harrod, Michelle R](#); [Alston, Ashley](#)  
**Subject:** FW: Request to withdraw CB45-2020 (ZRA 191)  
**Date:** Friday, September 18, 2020 11:58:25 AM

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Please see the below request from the Administration to withdraw CB45-2020.

Diane

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**From:** Sager, Jennifer  
**Sent:** Friday, September 18, 2020 10:57 AM  
**To:** Jung, Deb <[djung@howardcountymd.gov](mailto:djung@howardcountymd.gov)>  
**Cc:** Jones, Diane <[dijones@howardcountymd.gov](mailto:dijones@howardcountymd.gov)>; Glendenning, Craig <[cglendenning@howardcountymd.gov](mailto:cglendenning@howardcountymd.gov)>; Harrod, Michelle R <[mrharrod@howardcountymd.gov](mailto:mrharrod@howardcountymd.gov)>; Robbins, Lonnie <[lrobbins@howardcountymd.gov](mailto:lrobbins@howardcountymd.gov)>; Sidh, Sameer <[ssidh@howardcountymd.gov](mailto:ssidh@howardcountymd.gov)>; Arthurs, Maureen <[marthurs@howardcountymd.gov](mailto:marthurs@howardcountymd.gov)>  
**Subject:** Request to withdraw CB45-2020 (ZRA 191)

Chairperson Jung,

The Administration requests that Council Bill No. 45-2020 be withdrawn at the next legislative session.

We understand that the public hearing is scheduled for Monday, September 21, prior to the next legislative session. If you recall there is a legislative session also scheduled for September 21.

We will assume that Director Cimino will not need to testify at the public hearing on the 21<sup>st</sup>. Please advise if this assumption is incorrect.

Thanks,  
Jen Sager



CB45-2020

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

4 \* \* \* \* \*

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.

8  
 9 ACTION: *Recommended approval; Vote 5-0.*

10 \* \* \* \* \*  
 11

12 RECOMMENDATION

13  
 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.

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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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Delphine Adler

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Philips Engelke

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Kevin McAiley

ATTEST:

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Amy Gowan, Executive Secretary

**Sayers, Margery**

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**From:** Susan Garber <buzysusan23@yahoo.com>  
**Sent:** Monday, September 21, 2020 5:39 PM  
**To:** CouncilMail  
**Subject:** Testimony Against CB-45

[Note: This email originated from outside of the organization. Please only click on links or attachments if you know the sender.]

## Testimony Against CB-45-2020

My entire professional life was devoted to the needs of individuals with disabilities and seniors with functional limitations. Therefore one might readily expect my support of this bill which would facilitate an affordable development for adults with disabilities, seniors, and families. However I **cannot** support this bill for numerous reasons. It clearly appears as the old saying goes "penny wise and a pound foolish."

I simply can't justify the doubling of acreage for affordable housing on non-residential properties when non-residentially zoned properties are the ones that are actually income **positive** from a tax standpoint. Why does the county continue to whittle away at the remaining acreage available for job creation, commercial and Industrial endeavors--many of which are located in the Route 1 corridor?

Regrettably some non-residential zones actually do permit the construction of residences thanks to the excessive use of Overlay Districts. There is truly no need to remove 24 additional acres every 3 years for affordable housing projects that will ultimately once again not be affordable. Because economically integrated developments are best, the number of market-rate units often equals or exceeds the affordable ones and lately the County is only requiring that such developments include affordable units for a limited number of years. This just creates another way for developers to put market rate units on land they acquire at a lower price. By the county committing to considering a PILOT as part of the application for the project which stimulated this bill it further reduces any tax income to be derived from the project. This is not a good deal for the taxpayer!

In the case of the current project put forth by the Autism Society, one has to take a look at the numbers to see that it also is not a good deal for the Autism Society! If only 25% of the 78 units are reserved for adults with disabilities, a costly changing of the zoning for ever more still only yields 19 special needs units. Given that a mix of disabilities would be the appropriate approach, the number of units for young adults *with autism* again drops significantly. If 600 students are expected to transition out of special education services in the next 5 years it becomes obvious this effort is quite a drop in the bucket in terms of providing affordable Independent Living housing.

The previous division of the Housing Commission from the county DHCD resulted in duplicate administrative costs, yet another reason we don't seem to get ahead on providing 'affordable housing'. In reality neither the public nor private sector has shown much ability to bring to the marketplace units which rent or sell at a price affordable to low-income individuals including seniors and adults with developmental disabilities. The high price of residentially zoned land is often identified as a major reason and hence cheaper non-residential land is being looked to as a solution. But what guarantee do we have?

Rather than doubling the acreage to level the playing field for the commission and the county why not divide the current 12 acres between the two groups. To rush through this ZRA at this time, while we are working on the next general plan, is unconscionable!

It gives me nightmares to think what the result would be if all 24 permitted acres were to be developed in a single area! The impacts on a community of large Texas donut apartment buildings are significant!

If this bill should go forward I would certainly hope there would be amendments to prevent heavily concentrating in one area. For example, prohibit development of additional units for 6 or 9 years in the same Council District; prohibit additional

residential construction along the Route 1 Corridor since there already exists so much non residential land that nevertheless can be changed to residential due to overlays. Ask yourself does plopping residences in the midst of a warehouse area provide an **equitable and desirable** quality of life for low income residents? Just look at the Leola Dorsey facility in Jessup that is surrounded by commercial and industrial development. There was *nothing* low-cost about that project, especially since the land was purchased at a significantly higher cost than the then current owner had recently paid for it. We need to stop playing financial games in the name of affordable housing.

I truly support the need for affordable housing for existing Howard County residents, especially for individuals with special needs and for seniors. Reducing duplicate management and reducing the number of non-profits directing affordable housing efforts in the County—coupled with the elimination of the current fee in lieu system (where developers buy their way out at a fraction of the actual cost of a unit they are selling in their new development) is the only way we can truly begin to catch up on the needed units. We can't 'ZRA' our way out of the dilemma we face.

Respectfully yours,

Susan Garber

**Office of the County Auditor**  
**Auditor's Analysis**

**Council Bill No. 45-2020 (ZRA 191)**

Introduced: September 8, 2020

Auditor: Lisa Geerman and Ed Shulder

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Fiscal Impact:

This fiscal impact of this bill is unknown at this time.

Possible revenues from projects constructed as a result of this legislation could include income tax revenue from new residents. County revenues could be reduced due to lower property taxes or Payments in Lieu of Taxes (PILOT) granted to project developers.

Expenditures could include costs of development (to the extent that the County funded projects) and costs associated with adding enrollment to County schools.

The Administration noted that a project being considered if this bill passes will be funded primarily using State of Maryland funds for low-income housing tax credits (LIHTC) and will not require County funds.

Purpose:

This bill revises the definition of Housing Commission Housing Development (Commission) to include Howard County Government (Howard County) so that the Department of Housing and Community Development (Department) can facilitate the construction of affordable housing on non-residentially zoned land.

The bill allows the Planning Board to approve an additional 12 acres of housing developments on non-residentially zoned land owned by Howard County or for housing developments owned by a business entity in which Howard County is a general partner or managing partner over a three-year period.

Other Comments:

This bill blurs the distinction between the roles of the Department and the Commission. They were previously one entity and were separated in 2017 in order to better define their roles. Documents which support the basis of the change can be found on the website under related documents.

According to the Administration, the Department wants to have the same ability to create affordable housing that the Commission has, and passage of this bill will expand development opportunities for affordable housing in the County.

The impetus for the bill was a proposed partnership with the Howard County Autism Society (Autism Society). The Autism Society is interested in constructing a new multi-generational housing project that will provide approximately 78 affordable rental units for seniors, families, and adults with disabilities on a five-acre parcel of land in Columbia. Mission First is the developer.

According to the Commission, they have told Mission First that they could use their authority to support the project, but it might delay other projects. The Commission generally supports the project but believes a number of financing issues would need to be resolved before they could take it to their board for approval.

The bill will increase the total number of acres that can be developed in non-residential districts by the Department and the Commission to 24 acres in a three-calendar year period. There are approximately 3,110 acres of non-residentially zoned land available.

All new housing developments are subject to the County's Adequate Public Facilities Ordinance (APFO).

The Administration stated that it is sending a support letter for the project in which they commit to considering a PILOT as part of the project's LIHTC application.