

Introduced	<u>7-6-2021</u>
Public Hearing	<u>7-21-2021</u>
Council Action	<u>7-28-2021</u>
Executive Action	<u>7-28-2021</u>
Effective Date	<u>9-27-2021</u>

County Council of Howard County, Maryland

2021 Legislative Session

Legislative Day # 12

BILL NO. 55 - 2021

**Introduced by:
David Yungmann**

AN ACT to remove the minimum size criteria for a parcel on which a landowner's dwelling could be built; and generally relating to agricultural preservation.

Introduced and read first time July 6, 2021. Ordered posted and hearing scheduled.

By order Michelle Harrod
Michelle R. Harrod, Council 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 July 21, 2021.

By order Michelle Harrod
Michelle R. Harrod, Council Administrator

This Bill was read the third time on July 28, 2021 and Passed , Passed with amendments _____, Failed _____.

By order Michelle Harrod
Michelle R. Harrod, Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 28 day of July, 2021 at 4:00 a.m. (P.M.)

By order Michelle Harrod
Michelle R. Harrod, Council Administrator

Approved/Vetoed by the County Executive July 28, 2021

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 Code is amended as follows:*

3 *By amending:*

4 *Title 15. Natural Resources*

5 *Subtitle 5. Agricultural Preservation*

6 *Section. 15.514 (c)*

7
8
9 **HOWARD COUNTY CODE**

10 **Title 15. Natural Resources**

11 **Subtitle 5. Agricultural Preservation**

12 **Section 15.514. - Rights.**

13 (c) *Limited Number of Dwellings.* Only the following dwellings, which may not be subdivided from
14 the land, may be constructed on land subject to an agricultural land preservation easement, after the
15 Board has determined that they are located so as to minimize disruption of existing or potential future
16 agricultural activities:

17 (1) An existing dwelling which is no longer habitable may be replaced, provided that the
18 existing dwelling is demolished;

19 (2) If permitted under the deed of easement; tenant housing may be constructed at a density
20 of one tenant dwelling per 25 acres; this density includes tenant housing which existed when the
21 County acquired the easement;

22 (3) A landowner's dwelling, if:

23 (i) There were no dwellings other than tenant housing on the parcel when the
24 County acquired the easement; and

25 (ii) [[The parcel is 50 acres or larger; and

26 (iii)]] The parcel is not a subdivision or separate portion of the parcel on which the
27 County acquired the easement, unless the landowner has relinquished the right to subdivide one of the

1 one-acre lots allowed pursuant to section 15.517.

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

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on July 28, 2021.

Michelle Harrod
Michelle Harrod, 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 _____, 2021.

Michelle Harrod, 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 _____, 2021.

Michelle Harrod, 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 _____, 2021.

Michelle Harrod, 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 _____, 2021.

Michelle Harrod, 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 _____, 2021.

Michelle Harrod, Administrator to the County Council

Sayers, Margery

From: Jung, Deb
Sent: Tuesday, July 27, 2021 12:07 PM
To: Sayers, Margery
Subject: FW: HCCA Supports CB55-2021

From: Stuart Kohn <stukohn@verizon.net>
Sent: Tuesday, July 27, 2021 7:54 AM
To: Walsh, Elizabeth <ewalsh@howardcountymd.gov>; Jones, Opel <ojones@howardcountymd.gov>; Yungmann, David <dyungmann@howardcountymd.gov>; Jung, Deb <djung@howardcountymd.gov>; Rigby, Christiana <crigby@howardcountymd.gov>
Cc: calansharp@gmail.com; stukohn@verizon.net
Subject: HCCA Supports CB55-2021

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

To: Council Members,

Good Morning.

As you know the Howard County Citizens Association, HCCA testified regarding CB55-2021 with reservations about the Bill. Our prime concern was and continues to be to ensure transparency for all concerned parties to have all relevant information such as specifically the beneficiaries and the impact of given Bills or Resolutions.

After our testimony the next day, Chuck and Alan Sharp the affected property owners reached out to us to discuss the matter. Both parties completely understood one another's position. We asked the Sharp family to send an email explaining their position which is below. We are extremely pleased that through excellent communications the HCCA is in **FULL SUPPORT** of CB55-2021.

We are hoping that in ALL cases the word "Transparency" will be more then meaningful for your constituents. Wherever possible the HCCA would appreciate that Council members take the necessary action(s) to have Transparency become reality.

Thank You,

Stu Kohn
HCCA President

Sent from my iPhone

Begin forwarded message:

From: "C. Alan Sharp" <calansharp@gmail.com>
Date: July 26, 2021 at 9:14:35 AM EDT
To: Stuart Kohn <stukohn@verizon.net>

Cc: hadguhiruy@gmail.com

Subject: Re: CB55-2021 Land Preservation Bill

Hiruy & Stu,

To further clarify, CB55-2021 will amend the section that currently prevents farm owners from retaining the right to one dwelling on vacant properties that are placed into ALPP between 20 acres to less than 50 acres. Current code allows one primary dwelling on such a property if it is in existence prior to entering ALPP but not after. As a result, to retain that right the dwelling needs to be constructed prior to entering the property. As I explained I don't want or need a dwelling on the property. It seems counter to the goals of the program to require a farmer to build a house now as opposed to being able to retain the right for the future if and when needed.

The other economically viable option is to do a minor subdivision and development right transfer because there is no way to justify entering the program without the right to one dwelling. This is not an Ag. Board requirement but rather an economic necessity. The bill will allow for more properties to enter the program and limit development. Joy Levy did some research and found that in the history of the program only one vacant property less than 50 acres has ever gone into the program and in that case I believe the owner had adjacent property with dwelling rights. My hope is that the passage of this bill will allow my property and others like it to have a greater chance of being preserved. To answer your question, this bill is the change that needs to happen in order to allow my property to enter ALPP and not be subdivided. I will be giving up my right to subdivide by placing an easement on the property but I can make that work so long as I have the right to one future dwelling.

Given the short window we have until the Council votes, I'll be available anytime to discuss or if you'd like we can do a site visit on the property.

Alan

301-938-2142

On Mon, Jul 26, 2021 at 7:10 AM Stuart Kohn <stukohn@verizon.net> wrote:

Alan,

Good Morning.

Please reference the email inquiry below from Hiruy. If you want to pursue we would appreciate your response to Hiruy's question below in an attempt streamline the situation. As you know time might be running out.

Sincerely,

Stu Kohn
HCCA President

Sent from my iPhone

Begin forwarded message:

From: Hiruy Hadgu <hadguhiruy@gmail.com>
Date: July 25, 2021 at 10:20:25 AM EDT
To: Stuart Kohn <stukohn@verizon.net>

Cc: "C. Alan Sharp" <calansharp@gmail.com>
Subject: Re: CB55-2021 Land Preservation Bill

Thanks, Stu, for forwarding this to me. As you may remember we stated in our testimony that we don't want people to face undue burdens.

Alan, your testimony was helpful. There are some missing components, which may not be something that you're able to answer.

But I think it's relevant to this issue. You stated that without this bill, you may not enter the preservation program without subdividing the land and transferring two development units off site.

Is this an Agricultural Preservation Board rule? If so, what is preventing the APB from changing this rule to allow your property to enter the program without any subdivisions and not losing your future rights?

Best Regards,

Hiruy.

On Fri, Jul 23, 2021 at 5:59 PM Stuart Kohn <stukohn@verizon.net> wrote:

Alan,

Thanks for your email.

I have Hiruy Hadgu on the "To" Line and asked him to call you for further information before I go out to our HCCA Board for their Approval.

Stu Kohn
HCCA President

Sent from my iPhone

> On Jul 23, 2021, at 12:35 PM, C. Alan Sharp <calansharp@gmail.com> wrote:

>

> Good Afternoon,

>

> I appreciate you taking the time to discuss CB55-2021 with my father this morning. As discussed, the passage of CB55 allows us to preserve a 24+ acre highly productive farm. Without this legislation the alternative is a four lot minor subdivision and the off-site transfer of two development units. If we can enter the program with just one future dwelling right retained it will have a net reduction of 5 units and allow for the continued agricultural use on the farm.

>

> The benefits of the legislation include allowing more properties to enter the preservation program thereby decreasing subdivisions and urban sprawl. I would appreciate your support and if possible would you consider emailing the Council Members voicing your support prior to the 28th?

>

> Please feel free to reach out if you have any questions about the merits of the legislation to improve the viability and expand land preservation

>
> Thank you,
>
> Alan Sharp
> 301-938-2142

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

Council Bill No. 55-2021

Introduced: July 6, 2021

Auditor: Owen Clark

Fiscal Impact:

The estimated maximum operating fiscal impact of this legislation is as follows:

- Potential General Fund future impact:

Annual General Fund Revenue	305,000
HCPSS Pupil/Educational Costs	(236,000)
Annual Net Increase in General Fund Revenue	\$ 69,000

- One-time revenues \$1,196,000
- Annual non-general fund revenue \$68,000

Note: The potential General Fund impact only includes pupil costs of the Howard County Public School System (HCPSS) and does not include any possible capital costs or operating costs associated with the capital costs. See **Attachment A** for details related to the assumptions used for the estimates noted above.

To determine the potential maximum impact, the Administrator of the Agricultural Preservation Program (the Administrator) identified owners of 19 parcels that could create additional landowner dwellings due to changes in Section 15.514(c)(3)(ii).

The above estimate notes the fiscal impact if owners of all 19 parcels choose to create these landowner dwellings in the future. However, the actual fiscal impact will be predicated on the number of residential lots and dwellings that easement holders will elect to create as a result of this change. Per the Administrator, it is unlikely that this maximum impact will be recognized.

Purpose:

The purpose of this legislation is to amend Section 15.514(c)(3)(ii) of the County Code to reduce the acreage requirement for building a landowner dwelling for newly acquired Agricultural Land Preservation Program (ALPP) parcels from 50 acres to 20 acres. The proposed change would enable the construction of a landowner dwelling on smaller parcels.

Office of the County Auditor
Auditor's Analysis - REVISED

Other Comments:

Per the Administrator:

- On February 22, 2021, the Howard County Agricultural Preservation Board (APB) reviewed this proposed change as a component of Council Bill 19-2021. The APB voted in favor of recommending the change with no concerns being noted.
- There is no procedure or process document for creating a principal dwelling. Once the applicant receives APB approval for the house location, there is no other role or approval needed from the ALPP.

Attachment A - REVISED

Breakdown of revenue associated with removal of the 50-acre requirement

- Increased revenue from creation of 19 additional landowner dwellings due to changes in Section 15.514(c)(3)(ii):

Annual Revenue Sources	
Property Tax	221,000
Local Income Tax	84,000
Total	305,000

One-Time Revenue Sources	
County Transfer Tax**	0
Recordation**	0
School Surcharge	997,000
Road Excise Tax	199,000
ALPP Easement Release Revenue*	0
Total	1,196,000

Non-General Fund Revenue Sources	
Fire Tax	51,000
Ad Valorem	17,000
Total	68,000

Assumptions Used in Calculations

Housing Type	Average Square Feet	Average Sales Price (\$)	Assumed Taxable Income (\$)
SFD Rural West	6,999	1,145,051	138,690

Increase in Pupil/Educational Costs

ESTIMATED EDUCATIONAL COST PER 2020 APFO SCHOOL CAPACITY CHARTS					
Potential Impact	Allocations	Unit Type	Estimated Total Yield	Cost Per Pupil	Estimated Education Cost
19 Landowner Dwellings	19	SFD	15.4	15,340	235,594

* Office is assuming ALPP Easement Release Revenue will not be paid to the County by landowners because establishing a landowner dwelling does not require the parcels to subdivide from their preservation easement.

** Not Applicable. Since no subdivision of land is associated with the additional landowner dwellings, our estimate assumes they will not yield any additional County Transfer Tax, Recordation Tax, or Easement Release Revenue since these dwellings are assumed to be built on ALPP lots for the existing owner.



HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION

I, Hiruy Hadgu, have been duly authorized by
(name of individual)

Howard County Citizens Association (HCCA) to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB55-2021 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Hiruy Hadgu

Signature: Hiruy Hadgu Digitally signed by Hiruy Hadgu
Date: 2021.07.21 10:19:08 -04'00'

Date: 07/21/2021

Organization: Howard County Citizens Association

Organization Address: P.O.Box 89, Ellicott City, MD 21041

P.O.Box 89, Ellicott City, MD 21041

Number of Members: 500

Name of Chair/President: Stu Kohn

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 2 hours prior to the start of the Public Hearing.