

Introduced October 1, 2012  
Public Hearing October 15, 2012  
Council Action November 5, 2012  
Executive Action November 9, 2012  
Effective Date January 9, 2013

## County Council Of Howard County, Maryland

2012 Legislative Session

Legislative Day No. 13

### Bill No. 33 -2012 (ZRA 141)

Introduced by: The Chairperson at the request of the Marsha S. McLaughlin,  
Director, Department of Planning and Zoning

AN ACT defining certain terms; allowing certain parcels within the R-ED zoning district to both send and receive development density through the Neighborhood Preservation Density Exchange Option; establishing a maximum receiving lot yield; providing certain regulations for sending parcels that contain a historic structure; making certain technical corrections; amending certain setbacks; and generally relating to the Howard County Zoning Regulations.

Introduced and read first time October 1, 2012. Ordered posted and hearing scheduled.

By order Stephen LeGendre  
Stephen LeGendre, 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 15, 2012.

By order Stephen LeGendre  
Stephen LeGendre, Administrator

This Bill was read the third time on November 5 2012 and Passed     , Passed with amendments ✓, Failed     .

By order Stephen LeGendre  
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 6<sup>th</sup> day of November, 2012 at 1:00 am/p.m.

By order Stephen LeGendre  
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive NOV 9, 2012

Ken Ulman, 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        WHEREAS, the preserving of parcels with historic structures and keeping them  
2        open and accessible to the public not only benefits the area surrounding the historic  
3        structure, but also benefits the entire County.

4  
5        **NOW, THEREFORE,**

6  
7        *Section 1. Be It Enacted by the County Council of Howard County, Maryland, that the*  
8        *Howard County Zoning Regulations is amended as follows:*

- 9        (1)     *Section 103 "Definitions" is amended;*  
10       (2)     *Subsection G of Section 107 "R:ED (Residential: Environmental Development)*  
11       *District is amended; and*  
12       (3)     *Subsection L of Section 128 "Supplementary Zoning District Regulations" is*  
13       *amended.*

14  
15                    **Howard County Zoning Regulations.**

16                    **Section 103. Definitions.**

17  
18       115. Land Conservation Organization. A nonprofit organization which has been  
19       approved by resolution of the Howard County Council as a potential holder of  
20       preservation parcel easement agreements for cluster subdivisions in the RC and RR  
21       ZONING Districts AND FOR SENDING PARCELS USING THE NEIGHBORHOOD DENSITY  
22       EXCHANGE OPTION.

23  
24       137. Multi-Family: see Dwelling, Multi-Family.

25  
26       138. NEIGHBORHOOD PRESERVATION DENSITY EXCHANGE OPTION: AN OPTION FOR  
27       TRANSFERRING DENSITY FROM A QUALIFYING SENDING PARCEL IN THE R-ED, R-20, OR R-  
28       12 ZONING DISTRICT TO A QUALIFYING RECEIVING PARCEL IN THE R-ED, R-20, R-12, RSA-  
29       8, R-A-15 OR CAC ZONING DISTRICT.

1 139. NEIGHBORHOOD PRESERVATION PARCEL EASEMENT: A PERMANENT EASEMENT THAT  
2 PROHIBITS A PRESERVATION PARCEL FROM SUBDIVISION AND MOST TYPES OF  
3 DEVELOPMENT, AS SPECIFIED IN THE REQUIREMENTS FOR THE NEIGHBORHOOD  
4 PRESERVATION DENSITY EXCHANGE OPTION.

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6 140. NEIGHBORHOOD PRESERVATION RECEIVING PARCEL: A PARCEL IN THE R-ED, R-20,  
7 R-12, RSA-8, R-A-15 OR CAC ZONING DISTRICT WHICH RECEIVES DEVELOPMENT RIGHTS  
8 FROM A SENDING PARCEL, IN ACCORDANCE WITH THE REQUIREMENTS OF THE  
9 NEIGHBORHOOD PRESERVATION DENSITY EXCHANGE OPTION, AND WHICH, AS A RESULT,  
10 CAN BE DEVELOPED AT A GREATER DENSITY THAN WOULD OTHERWISE BE ALLOWED IN THE  
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13 141. NEIGHBORHOOD PRESERVATION SENDING PARCEL: A PARCEL SUBJECT TO A  
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15 DISTRICT AND FROM WHICH DEVELOPMENT RIGHTS ARE REMOVED AND TRANSFERRED TO A  
16 RECEIVING PARCEL IN ACCORDANCE WITH THE REQUIREMENTS OF THE NEIGHBORHOOD  
17 PRESERVATION DENSITY EXCHANGE OPTION.

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19 **Section 107. R:ED (Residential: Environmental Development) District.**

20  
21 **G. Density Exchange For Neighborhood Preservation Parcels**

22 1. SENDING PARCEL FOR THE NEIGHBORHOOD PRESERVATION DENSITY EXCHANGE  
23 OPTION:

24 A parcel qualifying with the criteria for residential infill development as defined in Section  
25 16.108 (b) of the Subdivision and Land Development Regulations or parcels principally used for  
26 a Swimming Pool, Community as defined in Section 103 of the Zoning Regulations may be a  
27 sending ~~parcel~~ parcels for THE [[neighborhood preservation]] NEIGHBORHOOD PRESERVATION  
28 DENSITY EXCHANGE OPTION in accordance with the requirements of Section 128.L of the zoning  
29 regulations.

30  
31 2. RECEIVING PARCEL FOR THE NEIGHBORHOOD PRESERVATION DENSITY EXCHANGE  
32 OPTION:

1 A PARCEL MAY BE DEVELOPED AS A RECEIVING PARCEL UNDER THE NEIGHBORHOOD  
2 PRESERVATION DENSITY EXCHANGE OPTION AT A BONUS OF UP TO 10% MORE DWELLING  
3 UNITS THAN WOULD BE ACHIEVABLE BASED ON NET DENSITY IN THE R-ED ZONING  
4 DISTRICT, IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 128.L OF THE ZONING  
5 REGULATIONS.

7 **Section 128. Supplementary Zoning District Regulations.**

9 **A. Supplementary Bulk Regulations**

10 The following supplementary regulations shall apply in addition to the requirements of  
11 the applicable zoning district.

13 **1. Exceptions to Setback Requirements**

j. Sunrooms and Room Extensions	R-ED lots AND R-20 LOTS BEING DEVELOPED UNDER R-ED REGULATIONS WHICH ARE recorded after May 13, 2012.	10 feet into a rear setback, along not more than 60 percent of the rear face of a dwelling on a lot which adjoins open space along a majority of the rear lot line.
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15 **L. [[Density Exchange For Neighborhood Preservation Parcels]] NEIGHBORHOOD**  
16 **PRESERVATION DENSITY EXCHANGE OPTION.**

18 1. In the R-ED, R-20, and R-12 ZONING districts, a parcel that qualifies under the criteria  
19 for neighborhood infill development as defined in Section 16.108.(b) of the Subdivision  
20 and Land Development Regulations OR A PARCEL PRINCIPALLY USED FOR A SWIMMING  
21 POOL, COMMUNITY, AS DEFINED IN SECTION 103 OF THE ZONING REGULATIONS and is  
22 eligible to be developed for additional residential lots, may be a sending parcel for  
23 [[neighborhood preservation]] THE NEIGHBORHOOD PRESERVATION DENSITY EXCHANGE  
24 OPTION within the same planning district. HOWEVER, SENDING PARCELS THAT CONTAIN A  
25 HISTORIC STRUCTURE, AS PROVIDED IN SECTION L.1.B. BELOW, MAY EXCHANGE DENSITY  
26 WITH A RECEIVING PARCEL IN ANY PLANNING DISTRICT.



1           A.     With this [[neighborhood preservation density exchange option]]  
2                 NEIGHBORHOOD PRESERVATION DENSITY EXCHANGE OPTION, in the R-ED  
3                 and R-20 ZONING districts density may be exchanged from a  
4                 Neighborhood Preservation [[Parcel]] sending parcel to an eligible  
5                 receiving parcel based on a rate of 2 development rights per net acre[[, up  
6                 to a maximum of 3 development rights per parcel]]. EXCEPT AS PROVIDED  
7                 BELOW, UP TO A MAXIMUM OF 3 DEVELOPMENT RIGHTS MAY BE EXCHANGED  
8                 FROM A SENDING PARCEL LOCATED IN EITHER THE R-ED OR R-20 ZONING  
9                 DISTRICT. In the R-12 ZONING district density may be exchanged from a  
10                Neighborhood Preservation [[Parcel]] sending parcel to an eligible  
11                receiving parcel based on a rate of 3 development rights per net acre[[, up  
12                to a maximum of 3 development rights per parcel]]. EXCEPT AS PROVIDED  
13                BELOW, UP TO A MAXIMUM OF 3 DEVELOPMENT RIGHTS MAY BE EXCHANGED  
14                FROM A SENDING PARCEL LOCATED IN THE R-12 ZONING DISTRICT.

15  
16           B.     A PARCEL THAT IS EITHER COUNTY-OWNED OR ENCUMBERED WITH A  
17                 MARYLAND HISTORIC TRUST EASEMENT LOCATED IN THE R-ED, R-20 OR  
18                 R-12 ZONING DISTRICT THAT QUALIFIES AS A NEIGHBORHOOD  
19                 PRESERVATION SENDING PARCEL AND THAT CONTAINS A HISTORIC  
20                 STRUCTURE WHICH IS OPEN AND ACCESSIBLE TO THE PUBLIC MAY SEND  
21                 DENSITY WITHOUT LIMITATION ON THE MAXIMUM NUMBER OF  
22                 DEVELOPMENT RIGHTS EXCHANGED, PROVIDED THAT A SINGLE  
23                 DEVELOPMENT RIGHT IS RETAINED IN ACCORDANCE WITH SECTION 4.A  
24                 BELOW.

25  
26     2. Neighborhood Preservation Parcel Easement Requirements

- 27           a.     The easement shall cover the entire sending parcel or lot that complies  
28                 with the definition of a Neighborhood Preservation Parcel in Section 103.  
29           b.     A Neighborhood Preservation Parcel Easement improved with an existing  
30                 dwelling unit or a swimming pool, community shall not have any new  
31                 structures placed on the site that are larger than 50 percent of the building

1 footprint of the ~~dwelling unit~~ structure existing at the time the  
2 neighborhood preservation easement is recorded. However, if the average  
3 footprint size of the nearest six dwellings is greater than the footprint of  
4 ~~the~~ an existing building, the Director may approve a footprint that does not  
5 exceed this average.

6 c. The easement shall be approved by the Department of Planning and  
7 Zoning and shall be recorded at the time of recordation of the final plat for  
8 the Neighborhood Preservation Parcel.

9 d. The easement shall run with the land, shall be in full force and effect in  
10 perpetuity, and shall describe and identify the following:

11 (1) The location and size of all existing improvements on the parcel  
12 covered by the easement.

13 (2) A prohibition on future subdivision of the Neighborhood  
14 Preservation Parcel.

15 (3) A prohibition on future use or development of the parcel for uses  
16 incompatible with the [[neighborhood preservation parcel  
17 easement]] NEIGHBORHOOD PRESERVATION PARCEL EASEMENT.

18 Only principal or accessory residential uses or principal or  
19 accessory Swimming Pool, Community uses are permitted in  
20 accordance with the zoning regulations.

21 (4) The provisions for maintenance of the [[neighborhood preservation  
22 parcel]] NEIGHBORHOOD PRESERVATION PARCEL.

23 (5) The responsibility for enforcement of the deed of Neighborhood  
24 Preservation Parcel Easement.

25 (6) The provisions for succession in the event that one of the parties to  
26 the deed of [[neighborhood preservation parcel easement]]

27 NEIGHBORHOOD PRESERVATION PARCEL EASEMENT ceases to exist.

28 e. One of the following entities shall be a party to the deed of Neighborhood  
29 Preservation Parcel Easement in addition to the property owner:

30 (1) Howard County Government; or

31 (2) Maryland Environmental Trust or Maryland Historical Trust; or

1 (3) A land conservation organization approved by the County Council.

2 3. Receiving Development Requirements

3 a. Residential development rights derived from [[neighborhood  
4 preservation]] NEIGHBORHOOD PRESERVATION sending parcels may be  
5 received as bonus density for developments on parcels in the RSA-8, R-A-  
6 15 and CAC ZONING Districts.

7 b. Residential development rights derived from [[neighborhood  
8 preservation]] NEIGHBORHOOD PRESERVATION sending parcels may be  
9 received as bonus density [[for developments]] on parcels IN THE R-ED, R-  
10 20 AND R-12 ZONING DISTRICTS FOR WHICH THE TOTAL DEVELOPMENT  
11 PROJECT SIZE IS at least 11 acres [[in size in the R-20 and R-12 Districts]].

12 c. Development rights shall be received in accordance with the following  
13 ratios:

14

Type of Dwelling unit to be constructed	Number of Development Rights needed per Dwelling Unit
Single Family Dwelling	1
Townhouse Dwelling	.5
Apartment	.33

15  
16 d. Any parcel with the main stem of [[either]] the Patapsco River, the  
17 Patuxent River, the Little Patuxent River, the Middle Patuxent River, or  
18 the Deep Run running through the property shall be excluded for  
19 consideration as a receiving parcel for development of single-family  
20 attached or multi-family housing.

21  
22 4. Additional Requirements

23 a. Sending Parcels

24 (1) On improved RESIDENTIAL parcels, one development right shall be  
25 retained on the sending parcel to allow for the continued existence  
26 of the existing dwelling unit. AN UNIMPROVED NEIGHBORHOOD  
27 PRESERVATION PARCEL MUST BE OWNED AND MAINTAINED BY A  
28 HOMEOWNERS ASSOCIATION OR DEDICATED TO HOWARD COUNTY.

(2) On parcels improved with Swimming Pools, Community, one development right may be retained on the sending parcel to allow for a potential future dwelling unit.

b. Density Exchange

The exchange of density shall take place as a private exchange between property owners, subject to the approval of the sending and receiving parcels by the Department of Planning and Zoning in accordance with the procedures set forth below.

c. Approval of Sending Parcel

An application for approval of the sending parcel shall be made at any time before the initial plan for the receiving development is technically complete and tentative housing unit allocations have been granted by the Department of Planning and Zoning, and shall include the following:

- (1) A final plat of the sending parcel.
- (2) Documentation that the sending parcel complies with the criteria in Section 128.L.1.
- (3) A calculation of the maximum number of development rights which may be removed from the sending parcel.

d. Application for Receiving Development

An application for the use of the bonus density on a receiving parcel shall be made to the Department of Planning and Zoning and shall include a calculation of the proposed density and the number of development rights to be obtained from one or more sending parcels.

e. Approval of Receiving Development

The Department of Planning and Zoning shall tentatively approve the transfer of receiving bonus density to the receiving development when the initial plan submission for the development is technically complete and before tentative housing unit allocations are granted.

f. Phasing of Receiving Developments

Density for receiving developments may be recorded in sections. A Final Subdivision Plan or Site Development Plan shall not be approved for the

1 receiving development until one or more sending parcels are approved  
2 which provide the necessary number of additional development rights for  
3 the lots shown on the Final Subdivision Plan, or the dwelling units  
4 indicated on the Site Development Plan.

5 g. Recordation of Sending Parcels and Receiving Developments.

6 Following the approval of the initial plan for the receiving development,  
7 the following documents shall be recorded together in the land records of  
8 Howard County.

9 (1) A revision plat or a final plat of easement for each sending parcel,  
10 designating the property as a [[neighborhood preservation]]  
11 NEIGHBORHOOD PRESERVATION sending parcel and indicating the  
12 number of development rights that have been removed from the  
13 parcel, the location of the receiving development, and that one  
14 development right has been retained for the existing or a potential  
15 future dwelling unit on the [[neighborhood preservation]]  
16 NEIGHBORHOOD PRESERVATION sending parcel.

17 (2) A deed of Neighborhood Preservation Parcel Easement for each  
18 [[neighborhood preservation]] NEIGHBORHOOD PRESERVATION  
19 sending parcel that complies with Section 128.L.2.

20 (3) A final plat for the receiving development parcel which may be a  
21 final subdivision plat dividing the receiving development parcel  
22 into lots, or may be a density-receiving plat that records the  
23 number of development rights received from sending parcels but  
24 does not subdivide the receiving development parcel. Density  
25 recorded on the final plat for the receiving development parcel  
26 shall only be used on that receiving development parcel.

27  
28 ***Section 2. And Be It Further Enacted by the County Council of Howard County,***  
29 *Maryland that the Director of the Department of Planning and Zoning is authorized to*  
30 *publish this Act, to correct obvious errors in section references, numbers and references*  
31 *to existing law, capitalization, spelling, grammar, headings and similar matters.*

1

2 *Section 3. And Be It Further Enacted by the County Council of Howard County,*  
3 *Maryland, that this Act 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 November 9, 2012.

Stephen M. LeGendre  
Stephen M. LeGendre, 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 \_\_\_\_\_, 2012.

\_\_\_\_\_  
Stephen M. LeGendre, 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 \_\_\_\_\_, 2012.

\_\_\_\_\_  
Stephen M. LeGendre, 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 \_\_\_\_\_, 2012.

\_\_\_\_\_  
Stephen M. LeGendre, 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 \_\_\_\_\_, 2012.

\_\_\_\_\_  
Stephen M. LeGendre, 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 \_\_\_\_\_, 2012.

\_\_\_\_\_  
Stephen M. LeGendre, Administrator to the County Council





AMENDED Amendment 1 to Council Bill No. 33 -2012

BY: Chairperson at the request  
of the County Executive

Legislative Day No. 14  
Date: November 5, 2012

Amended Amendment No. 1

*(This amendment incorporates the requirements of a previously enacted Zoning Regulation Amendment (ZRA 137).)*

- 1 On page 3, in line 13, after "Regulations", insert "OR A PARCEL PRINCIPALLY USED FOR A
- 2 SWIMMING POOL, COMMUNITY, AS DEFINED IN SECTION 103 OF THE ZONING REGULATIONS.".
- 3 On page 2, in line 19, strike the second "a".
- 4
- 5 On page 2, in line 20, strike "parcel" and substitute "parcels".
- 6
- 7 On page 4, in line 19, after "unit" insert "or a swimming pool, community".
- 8
- 9 On page 4, in line 20, strike "dwelling unit" and substitute "structure".
- 10
- 11 On page 4, in line 23, strike the second "the" and substitute "an".
- 12
- 13 On page 8, in line 3, after "existing", insert "or a potential future"

ADOPTED November 5, 2012  
FAILED \_\_\_\_\_  
BY: Stephen M. Gier



Amendment \_\_1\_\_ Amendment 1 to Council Bill No. 33 -2012

BY: Chairperson at the request  
of the County Executive

Legislative Day No. 14\_\_\_\_  
Date: November 5, 2012

Amendment No. \_\_1\_\_

*(This amendment incorporates provisions from previously enacted Zoning Regulation Amendment (ZRA 137) that were inadvertently omitted from the Bill as prefiled.)*

- 1 On page 1, after line 2, insert:
- 2 "On page 2, in line 19, strike the second "a".
- 3
- 4 On page 2, in line 20, strike "parcel" and substitute "parcels".
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- 6 On page 4, in line 19, after "unit" insert "or a swimming pool, community".
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ADOPTED November 5, 2012  
FAILED \_\_\_\_\_  
SIGNATURE Stephen W. Borden



Amendment to Council Bill 33-2012

BY: Jennifer Terrasa  
Mary Kay Sigaty

Legislative Day No: 14  
Date: November 5, 2012

Amendment No. 2

(This amendment:

1. Inserts a "whereas clause" which clarifies that the preservation of historic structures that are open and accessible to the public benefits the entire County
2. Specifies that a proposed parcel be either County-owned or encumbered with a MHT easement and requires historic structures to be accessible to the public before they can exchange density with receiving parcels in any planning district).

On page 1, immediately before line 1, insert the following:

"WHEREAS, the preserving of parcels with historic structures and keeping them open and accessible to the public not only benefits the area surrounding the historic structure, but also benefits the entire County.

NOW, THEREFORE,".

On page 4, in line 8, after "PARCEL", insert "THAT IS EITHER COUNTY-OWNED OR ENCUMBERED WITH A MARYLAND HISTORIC TRUST EASEMENT LOCATED". On the same page, in line 10, after "STRUCTURE", insert "WHICH IS OPEN AND ACCESSIBLE TO THE PUBLIC".

ADOPTED November 5, 2012  
FAILED \_\_\_\_\_  
SIGNATURE Stephanie Gander



Amendment 1 to Council Bill No. 33 -2012

BY: Chairperson at the request  
of the County Executive

Legislative Day No. 14  
Date: November 5, 2012

Amendment No. 1

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

## County Council Of Howard County, Maryland

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By order \_\_\_\_\_  
Stephen LeGendre, Administrator

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By order \_\_\_\_\_  
Stephen LeGendre, Administrator

This Bill was read the third time on \_\_\_\_\_, 2012 and Passed \_\_\_\_, Passed with amendments \_\_\_\_, Failed \_\_\_\_.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_\_ day of \_\_\_\_\_, 2012 at \_\_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive \_\_\_\_\_, 2012

\_\_\_\_\_  
Ken Ulman, 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.

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3 CAN BE DEVELOPED AT A GREATER DENSITY THAN WOULD OTHERWISE BE ALLOWED IN THE  
4 UNDERLYING ZONING DISTRICT.

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24 2. RECEIVING PARCEL FOR THE NEIGHBORHOOD PRESERVATION DENSITY EXCHANGE  
25 OPTION:

26 A PARCEL MAY BE DEVELOPED AS A RECEIVING PARCEL UNDER THE NEIGHBORHOOD  
27 PRESERVATION DENSITY EXCHANGE OPTION AT A BONUS OF UP TO 10% MORE DWELLING  
28 UNITS THAN WOULD BE ACHIEVABLE BASED ON NET DENSITY IN THE R-ED ZONING  
29 DISTRICT, IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 128.L OF THE ZONING  
30 REGULATIONS.

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32 **Section 128. Supplementary Zoning District Regulations.**

1  
2 A. Supplementary Bulk Regulations

3 The following supplementary regulations shall apply in addition to the requirements of  
4 the applicable zoning district.

5  
6 1. Exceptions to Setback Requirements

j. Sunrooms and Room Extensions	R-ED lots AND R-20 LOTS BEING DEVELOPED UNDER R-ED REGULATIONS WHICH ARE recorded after May 13, 2012.	10 feet into a rear setback, along not more than 60 percent of the rear face of a dwelling on a lot which adjoins open space along a majority of the rear lot line.
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7  
8 L. **[[Density Exchange For Neighborhood Preservation Parcels]] NEIGHBORHOOD**  
9 **PRESERVATION DENSITY EXCHANGE OPTION.**

10  
11 1. In the R-ED, R-20, and R-12 ZONING districts, a parcel that qualifies under the criteria  
12 for neighborhood infill development as defined in Section 16.108.(b) of the Subdivision  
13 and Land Development Regulations and is eligible to be developed for additional  
14 residential lots, may be a sending parcel for **[[neighborhood preservation]]** THE  
15 NEIGHBORHOOD PRESERVATION DENSITY EXCHANGE OPTION within the same planning  
16 district. HOWEVER, SENDING PARCELS THAT CONTAIN A HISTORIC STRUCTURE, AS  
17 PROVIDED IN SECTION L.1.B. BELOW, MAY EXCHANGE DENSITY WITH A RECEIVING PARCEL  
18 IN ANY PLANNING DISTRICT.

- 19  
20 A. With this **[[neighborhood preservation density exchange option]]**  
21 NEIGHBORHOOD PRESERVATION DENSITY EXCHANGE OPTION, in the R-ED  
22 and R-20 ZONING districts density may be exchanged from a  
23 Neighborhood Preservation **[[Parcel]]** sending parcel to an eligible  
24 receiving parcel based on a rate of 2 development rights per net acre~~[[, up~~  
25 to a maximum of 3 development rights per parcel]]. EXCEPT AS PROVIDED  
26 BELOW, UP TO A MAXIMUM OF 3 DEVELOPMENT RIGHTS MAY BE EXCHANGED  
27 FROM A SENDING PARCEL LOCATED IN EITHER THE R-ED OR R-20 ZONING



DISTRICT. In the R-12 ZONING district density may be exchanged from a Neighborhood Preservation [[Parcel]] sending parcel to an eligible receiving parcel based on a rate of 3 development rights per net acre[[, up to a maximum of 3 development rights per parcel]]. EXCEPT AS PROVIDED BELOW, UP TO A MAXIMUM OF 3 DEVELOPMENT RIGHTS MAY BE EXCHANGED FROM A SENDING PARCEL LOCATED IN THE R-12 ZONING DISTRICT.

- B. A PARCEL IN THE R-ED, R-20 OR R-12 ZONING DISTRICT THAT QUALIFIES AS A NEIGHBORHOOD PRESERVATION SENDING PARCEL AND THAT CONTAINS A HISTORIC STRUCTURE MAY SEND DENSITY WITHOUT LIMITATION ON THE MAXIMUM NUMBER OF DEVELOPMENT RIGHTS EXCHANGED, PROVIDED THAT A SINGLE DEVELOPMENT RIGHT IS RETAINED IN ACCORDANCE WITH SECTION 4.A BELOW.

## 2. Neighborhood Preservation Parcel Easement Requirements

- a. The easement shall cover the entire sending parcel or lot that complies with the definition of a Neighborhood Preservation Parcel in Section 103.
- b. A Neighborhood Preservation Parcel Easement improved with an existing dwelling unit shall not have any new structures placed on the site that are larger than 50 percent of the building footprint of the dwelling unit existing at the time the neighborhood preservation easement is recorded. However, if the average footprint size of the nearest six dwellings is greater than the footprint of the existing building, the Director may approve a footprint that does not exceed this average.
- c. The easement shall be approved by the Department of Planning and Zoning and shall be recorded at the time of recordation of the final plat for the Neighborhood Preservation Parcel.
- d. 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 all existing improvements on the parcel covered by the easement.

- 1 (2) A prohibition on future subdivision of the Neighborhood  
2 Preservation Parcel.
- 3 (3) A prohibition on future use or development of the parcel for uses  
4 incompatible with the [[neighborhood preservation parcel  
5 easement]] NEIGHBORHOOD PRESERVATION PARCEL EASEMENT.  
6 Only principal or accessory residential uses or principal or  
7 accessory Swimming Pool, Community uses are permitted in  
8 accordance with the zoning regulations.
- 9 (4) The provisions for maintenance of the [[neighborhood preservation  
10 parcel]] NEIGHBORHOOD PRESERVATION PARCEL.
- 11 (5) The responsibility for enforcement of the deed of Neighborhood  
12 Preservation Parcel Easement.
- 13 (6) The provisions for succession in the event that one of the parties to  
14 the deed of [[neighborhood preservation parcel easement]]  
15 NEIGHBORHOOD PRESERVATION PARCEL EASEMENT ceases to exist.

16 e. One of the following entities shall be a party to the deed of Neighborhood  
17 Preservation Parcel Easement in addition to the property owner:

- 18 (1) Howard County Government; or  
19 (2) Maryland Environmental Trust or Maryland Historical Trust; or  
20 (3) A land conservation organization approved by the County Council.

21 3. Receiving Development Requirements

- 22 a. Residential development rights derived from [[neighborhood  
23 preservation]] NEIGHBORHOOD PRESERVATION sending parcels may be  
24 received as bonus density for developments on parcels in the RSA-8, R-A-  
25 15 and CAC ZONING Districts.
- 26 b. Residential development rights derived from [[neighborhood  
27 preservation]] NEIGHBORHOOD PRESERVATION sending parcels may be  
28 received as bonus density [[for developments]] on parcels IN THE R-ED, R-  
29 20 AND R-12 ZONING DISTRICTS FOR WHICH THE TOTAL DEVELOPMENT  
30 PROJECT SIZE IS at least 11 acres [[in size in the R-20 and R-12 Districts]].

- 1 c. Development rights shall be received in accordance with the following  
2 ratios:  
3

Type of Dwelling unit to be constructed	Number of Development Rights needed per Dwelling Unit
Single Family Dwelling	1
Townhouse Dwelling	.5
Apartment	.33

- 4  
5 d. Any parcel with the main stem of [[either]] the Patapsco River, the  
6 Patuxent River, the Little Patuxent River, the Middle Patuxent River, or  
7 the Deep Run running through the property shall be excluded for  
8 consideration as a receiving parcel for development of single-family  
9 attached or multi-family housing.  
10

11 4. Additional Requirements

12 a. Sending Parcels

- 13 (1) On improved RESIDENTIAL parcels, one development right shall be  
14 retained on the sending parcel to allow for the continued existence  
15 of the existing dwelling unit. AN UNIMPROVED NEIGHBORHOOD  
16 PRESERVATION PARCEL MUST BE OWNED AND MAINTAINED BY A  
17 HOMEOWNERS ASSOCIATION OR DEDICATED TO HOWARD COUNTY.  
18 (2) On parcels improved with Swimming Pools, Community, one  
19 development right may be retained on the sending parcel to allow  
20 for a potential future dwelling unit.

21 b. Density Exchange

22 The exchange of density shall take place as a private exchange between  
23 property owners, subject to the approval of the sending and receiving  
24 parcels by the Department of Planning and Zoning in accordance with the  
25 procedures set forth below.

26 c. Approval of Sending Parcel

27 An application for approval of the sending parcel shall be made at any  
28 time before the initial plan for the receiving development is technically



complete and tentative housing unit allocations have been granted by the Department of Planning and Zoning, and shall include the following:

- (1) A final plat of the sending parcel.
- (2) Documentation that the sending parcel complies with the criteria in Section 128.L.1.
- (3) A calculation of the maximum number of development rights which may be removed from the sending parcel.

d. Application for Receiving Development

An application for the use of the bonus density on a receiving parcel shall be made to the Department of Planning and Zoning and shall include a calculation of the proposed density and the number of development rights to be obtained from one or more sending parcels.

e. Approval of Receiving Development

The Department of Planning and Zoning shall tentatively approve the transfer of receiving bonus density to the receiving development when the initial plan submission for the development is technically complete and before tentative housing unit allocations are granted.

f. Phasing of Receiving Developments

Density for receiving developments may be recorded in sections. A Final Subdivision Plan or Site Development Plan shall not be approved for the receiving development until one or more sending parcels are approved which provide the necessary number of additional development rights for the lots shown on the Final Subdivision Plan, or the dwelling units indicated on the Site Development Plan.

g. Recordation of Sending Parcels and Receiving Developments.

Following the approval of the initial plan for the receiving development, the following documents shall be recorded together in the land records of Howard County.

- (1) A revision plat or a final plat of easement for each sending parcel, designating the property as a [[neighborhood preservation]] NEIGHBORHOOD PRESERVATION sending parcel and indicating the



1 number of development rights that have been removed from the  
2 parcel, the location of the receiving development, and that one  
3 development right has been retained for the existing dwelling unit  
4 on the [[neighborhood preservation]] NEIGHBORHOOD  
5 PRESERVATION sending parcel.

6 (2) A deed of Neighborhood Preservation Parcel Easement for each  
7 [[neighborhood preservation]] NEIGHBORHOOD PRESERVATION  
8 sending parcel that complies with Section 128.L.2.

9 (3) A final plat for the receiving development parcel which may be a  
10 final subdivision plat dividing the receiving development parcel  
11 into lots, or may be a density-receiving plat that records the  
12 number of development rights received from sending parcels but  
13 does not subdivide the receiving development parcel. Density  
14 recorded on the final plat for the receiving development parcel  
15 shall only be used on that receiving development parcel.  
16

17 **Section 2. And Be It Further Enacted** by the County Council of Howard County,  
18 Maryland that the Director of the Department of Planning and Zoning is authorized to  
19 publish this Act, to correct obvious errors in section references, numbers and references  
20 to existing law, capitalization, spelling, grammar, headings and similar matters.  
21

22 **Section 3. And Be It Further Enacted** by the County Council of Howard County,  
23 Maryland, that this Act shall become effective 61 days after its enactment.

