

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

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 _____, 2012. Ordered posted and hearing scheduled.

By order _____
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 _____, 2012.

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.

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

- 3 (1) Section 103 “Definitions” is amended;
4 (2) Subsection G of Section 107 “R:ED (Residential: Environmental Development)
5 District is amended; and
6 (3) Subsection L of Section 128 “Supplementary Zoning District Regulations” is
7 amended.

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9

Howard County Zoning Regulations.

Section 103. Definitions.

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11

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

17

18 137. Multi-Family: see Dwelling, Multi-Family.

19

20 138. NEIGHBORHOOD PRESERVATION DENSITY EXCHANGE OPTION: AN OPTION FOR
21 TRANSFERRING DENSITY FROM A QUALIFYING SENDING PARCEL IN THE R-ED, R-20, OR R-
22 12 ZONING DISTRICT TO A QUALIFYING RECEIVING PARCEL IN THE R-ED, R-20, R-12, RSA-
23 8, R-A-15 OR CAC ZONING DISTRICT.

24

25 139. NEIGHBORHOOD PRESERVATION PARCEL EASEMENT: A PERMANENT EASEMENT THAT
26 PROHIBITS A PRESERVATION PARCEL FROM SUBDIVISION AND MOST TYPES OF
27 DEVELOPMENT, AS SPECIFIED IN THE REQUIREMENTS FOR THE NEIGHBORHOOD
28 PRESERVATION DENSITY EXCHANGE OPTION.

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30 140. NEIGHBORHOOD PRESERVATION RECEIVING PARCEL: A PARCEL IN THE R-ED, R-20,
31 R-12, RSA-8, R-A-15 OR CAC ZONING DISTRICT WHICH RECEIVES DEVELOPMENT RIGHTS

1 FROM A SENDING PARCEL, IN ACCORDANCE WITH THE REQUIREMENTS OF THE
2 NEIGHBORHOOD PRESERVATION DENSITY EXCHANGE OPTION, AND WHICH, AS A RESULT,
3 CAN BE DEVELOPED AT A GREATER DENSITY THAN WOULD OTHERWISE BE ALLOWED IN THE
4 UNDERLYING ZONING DISTRICT.

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6 141. NEIGHBORHOOD PRESERVATION SENDING PARCEL: A PARCEL SUBJECT TO A
7 RESTRICTIVE PRESERVATION PARCEL EASEMENT IN THE R-ED, R-20, OR R-12 ZONING
8 DISTRICT AND FROM WHICH DEVELOPMENT RIGHTS ARE REMOVED AND TRANSFERRED TO A
9 RECEIVING PARCEL IN ACCORDANCE WITH THE REQUIREMENTS OF THE NEIGHBORHOOD
10 PRESERVATION DENSITY EXCHANGE OPTION.

11
12 **Section 107. R:ED (Residential: Environmental Development) District.**

13
14 **G. Density Exchange For Neighborhood Preservation Parcels**

15 1. SENDING PARCEL FOR THE NEIGHBORHOOD PRESERVATION DENSITY EXCHANGE
16 OPTION:

17 A parcel qualifying with the criteria for residential infill development as defined in Section
18 16.108 (b) of the Subdivision and Land Development Regulations or parcels principally used for
19 a Swimming Pool, Community as defined in Section 103 of the Zoning Regulations may be a
20 sending parcel for THE [[neighborhood preservation]] NEIGHBORHOOD PRESERVATION DENSITY
21 EXCHANGE OPTION in accordance with the requirements of Section 128.L of the zoning
22 regulations.

23
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.**

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A. Supplementary Bulk Regulations

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

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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L. ~~[[Density Exchange For Neighborhood Preservation Parcels]]~~ NEIGHBORHOOD PRESERVATION DENSITY EXCHANGE OPTION.

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

A. With this ~~[[neighborhood preservation density exchange option]]~~ NEIGHBORHOOD PRESERVATION DENSITY EXCHANGE OPTION, in the R-ED and R-20 ZONING districts density may be exchanged from a Neighborhood Preservation ~~[[Parcel]]~~ sending parcel to an eligible receiving parcel based on a rate of 2 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 EITHER THE R-ED OR R-20 ZONING

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

- 7
- 8 B. A PARCEL IN THE R-ED, R-20 OR R-12 ZONING DISTRICT THAT QUALIFIES
9 AS A NEIGHBORHOOD PRESERVATION SENDING PARCEL AND THAT
10 CONTAINS A HISTORIC STRUCTURE MAY SEND DENSITY WITHOUT
11 LIMITATION ON THE MAXIMUM NUMBER OF DEVELOPMENT RIGHTS
12 EXCHANGED, PROVIDED THAT A SINGLE DEVELOPMENT RIGHT IS RETAINED
13 IN ACCORDANCE WITH SECTION 4.A BELOW.

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15 2. Neighborhood Preservation Parcel Easement Requirements

- 16 a. The easement shall cover the entire sending parcel or lot that complies
17 with the definition of a Neighborhood Preservation Parcel in Section 103.
- 18 b. A Neighborhood Preservation Parcel Easement improved with an existing
19 dwelling unit shall not have any new structures placed on the site that are
20 larger than 50 percent of the building footprint of the dwelling unit
21 existing at the time the neighborhood preservation easement is recorded.
22 However, if the average footprint size of the nearest six dwellings is
23 greater than the footprint of the existing building, the Director may
24 approve a footprint that does not exceed this average.
- 25 c. The easement shall be approved by the Department of Planning and
26 Zoning and shall be recorded at the time of recordation of the final plat for
27 the Neighborhood Preservation Parcel.
- 28 d. The easement shall run with the land, shall be in full force and effect in
29 perpetuity, and shall describe and identify the following:
- 30 (1) The location and size of all existing improvements on the parcel
31 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:

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

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

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

8 d. Application for Receiving Development

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

13 e. Approval of Receiving Development

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

18 f. Phasing of Receiving Developments

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

25 g. Recordation of Sending Parcels and Receiving Developments.

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

- 29 (1) A revision plat or a final plat of easement for each sending parcel,
30 designating the property as a [[neighborhood preservation]]
31 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.***