



PETITION TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY

DPZ Office Use Only: Case No. ZRA-137 Date Filed: 8/31/11

1. Zoning Regulation Amendment Request

I (we), the undersigned, hereby petition the County Council of Howard County to amend the Zoning Regulations of Howard County as follows: To amend Sections 103: Definitions, 107: R-ED (Residential: Environmental Development) District, 108: R-20 (Residential: Single) District, 109: R-12 (Residential: Single) District, and 128: Supplementary Zoning District Regulations of the Zoning Regulations to permit density from potential infill lots in the R-20, R-12, and R-ED zoning districts to be sent to the R-SA-8 and R-A-15 zoning districts, under certain circumstances.

Blank lines for additional details.

[You must provide a brief statement here. "See Attached Supplement" or similar statements are not acceptable. You may attach a separate document to respond to Section 1 in greater detail. If so, this document shall be titled "Response to Section 1"]

2. Petitioner's Name Courtney Watson, Councilperson Address 3430 Courthouse Drive, Ellicott City, MD 21043 Phone No. (W) 410-313-2001 (H) Email Address cwatson@howardcountymd.gov

3. Counsel for Petitioner Paul Johnson, Esq. Counsel's Address 3430 Courthouse Drive, Ellicott City, MD 21043 Counsel's Phone No. 410-313-2100 Email Address pjohnson@howardcountymd.gov

4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed The proposed changes to the Zoning Regulations would be an additional tool to assist non-profit swim clubs allay the ever-increasing pressure to develop their property creating additional unwanted infill development.

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County _____ This amendment would be in harmony with the following General Plan 2000 Policies:

- Policy 4.19 – Improve management and delivery of recreational services. This policy discusses building partnerships with commercial and nonprofit sectors to provide enhanced and complementary services.
- Policy 5.1- Promote focal areas that will strengthen existing communities and provide attractive landmarks or gathering places. This policy discusses the goal of enhancing commercial centers, open spaces, parks, etc that provide community gathering spaces.
- Policy 5.7 – Ensure infill development will be compatible with existing neighborhoods.
- Policy 6.8 – Secure better protection of environmental and landscape resources within new developments. This policy specifically address the expansion of the R-ED zoning district in the eastern portion of the County particularly on infill parcels, to enhance sensitive resource protection.

[You may attach a separate document to respond to Section 5. If so, this document shall be titled “Response to Section 5”]

6. The Legislative Intent of the Zoning Regulations in Section 100.A. expresses that the Zoning Regulations have the purpose of “...preserving and promoting the health, safety and welfare of the community.” Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with this purpose and the other issues in Section 100.A. _____ Both directly and indirectly, the protection of nonprofit swim clubs assists in promoting the welfare of the community by creating recreational opportunities and decreasing the opportunities for incompatible infill development.

[You may attach a separate document to respond to Section 6. If so, this document shall be titled “Response to Section 6.”]

7. Unless your response to Section 6 above already addresses this issue, please provide an explanation of the public benefits to be gained by the adoption of the proposed amendment(s) . _____

[You may attach a separate document to respond to Section 7. If so, this document shall be titled "Response to Section 7."]

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? Yes. _____

If yes, and the number of properties is less than or equal to 12, explain the impact on all properties affected by providing a detailed analysis of all the properties based upon the nature of the changes proposed in the amendment(s). If the number of properties is greater than 12, explain the impact in general terms.

This amendment could impact any of the nonprofit swim clubs located in the County which could meet the preservation parcel criteria.

[You may attach a separate document to respond to Section 8. If so, this document shall be titled "Response to Section 8."]

9. If there are any other factors you desire the Council to consider in its evaluation of this amendment request, please provide them at this time. Please understand that the Council may request a new or updated Technical Staff Report and/or a new Planning Board Recommendation if there is any new evidence submitted at the time of the public hearing that is not provided with this original petition. _____

[You may attach a separate document to respond to Section 9. If so, this document shall be titled "Response to Section 9."]

10. You must provide the full proposed text of the amendment(s) as a separate document entitled "Petitioner's Proposed Text" that is to be attached to this form. This document must use this standard format for Zoning Regulation Amendment proposals; any new proposed text must be in CAPITAL LETTERS, and any existing text to be deleted must be in **[[Double Bold Brackets]]**. In addition, you must provide an example of how the text would appear normally if adopted as you propose.

After this petition is accepted for scheduling by the Department of Planning and Zoning, you must provide an electronic file of the "Petitioner's Proposed Text" to the Division of Public Service and Zoning Administration. This file must be in Microsoft Word or a Microsoft Word compatible file format, and may be submitted by email or some other media if prior arrangements are made with the Division of Public Service and Zoning Administration.

11. The Petitioner agrees to furnish additional information as may be required by the Department of Planning and Zoning prior to the petition being accepted for scheduling, by the Planning Board prior to its adoption of a Recommendation, and/or by the County Council prior to its ruling on the case.
12. The undersigned hereby affirms that all of the statements and information contained in, or filed with this petition, are true and correct. The undersigned has read the instructions on this form, filing herewith all of the required accompanying information. If the Petitioner is an entity that is not an individual, information must be provided explaining the relationship of the person(s) signing to the entity.

 Petitioner's name (Printed or typed)

M. Country, Wilson
 Petitioner's Signature

8/31/11
 Date

 Petitioner's name (Printed or typed)

 Petitioner's Signature

 Date

 Petitioner's name (Printed or typed)

 Petitioner's Signature

 Date

Paul T. Johnson
 Counsel for Petitioner's Signature

[If additional signatures are necessary, please provide them on a separate document to be attached to this petition form.]

FEE

The Petitioner agrees to pay all fees as follows:

Filing fee\$695.00. If the request is granted, the Petitioner shall pay \$40.00 per 200 words of text or fraction thereof for each separate textually continuous amendment (\$40.00 minimum, \$85.00 maximum)

Each additional hearing night..... \$510.00*

The County Council may refund or waive all or part of the filing fee where the petitioner demonstrates to the satisfaction of the County Council that the payment of the fee would work an extraordinary hardship on the petitioner. The County Council may refund part of the filing fee for withdrawn petitions. The County Council shall waive all fees for petitions filed in the performance of governmental duties by an official, board or agency of the Howard County Government.

For DPZ office use only:

Hearing Fee \$ _____

Receipt No. _____

PLEASE CALL 410-313-2350 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

Revised:10/08

T:\Shared\Public Service and Zoning\Applications\County Council\ZRA Application

- As required by State Law, applicants are required to complete the AFFIDAVIT AS TO CONTRIBUTION that is attached, and if you have made a contribution as described in the Affidavit, please complete the DISCLOSURE OF CONTRIBUTION that is attached.
- If you are an applicant, Party of Record (i.e., supporter/protestant) or a family member and have made a contribution as described in the Affidavit, you must complete the DISCLOSURE OF CONTRIBUTION that is attached.
- Filed affidavits and disclosures will be available for review by the public in the office of the Administrative assistant to the Zoning Board during normal business hours.
- Additional forms may be obtained from the Administrative Assistant to the Zoning Board at (410-313-2395) or from the Department of Planning and Zoning.
- Completed form may be mailed to the Administrative Assistant to the Zoning Board at 3430 Courthouse Drive, Ellicott City, MD 21043.
- Pursuant to State Law, violations shall be reported to the Howard County Ethics Commission.

PETITIONER: _____

AFFIDAVIT AS TO CONTRIBUTION

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

I, Courtney Watson, the applicant in the above zoning matter
_____, HAVE X HAVE NOT

made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate or the treasurer of a political committee during the 48-month period before application in or during the pendency of the above referenced zoning matter.

I understand that any contribution made after the filing of this Affidavit and before final disposition of the application by the County Council shall be disclosed within five (5) business days of the contribution.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Name: Courtney Watson

Date: 8/30/11

PETITIONER: _____

DISCLOSURE OF CONTRIBUTION

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

This Disclosure shall be filed by an Applicant upon application or by a Party of Record within 2 weeks after entering a proceeding, if the Applicant or Party of Record or a family member, as defined in Section 15-849 of the State Government Article, has made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate of the treasurer of a political committee during the 48-month period before the application was file or during the pendency of the application.

Any person who knowingly and willfully violates Sections 15-848-15-850 of the State Government Article is subject to a fine of not more than \$5,000. If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty.

APPLICANT OR
PARTY OF RECORD: _____

RECIPIENTS OF CONTRIBUTIONS:

<u>Name</u>	<u>Date of Contribution</u>	<u>Amount</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

I understand that any contribution made after the filing of this Disclosure and before final disposition of the application by the County Council shall be disclosed with five (5) business days of the contribution.

Name: M. Cantre Wick
Date: 8/31/11

PETITIONER: _____

AFFIDAVIT AS TO ENGAGING IN BUSINESS WITH AN ELECTED OFFICIAL

**As required by the Annotated Code of Maryland
State Government Article, Sections 15-848-15-850**

I, _____, the applicant in the above zoning matter
_____, AM AM NOT

Currently engaging in business with an elected official as those terms are defined by Section 15-848 of the State Government Article of the Annotated Code of Maryland.

I understand that if I begin engaging in business with an elected official between the filing of the application and the disposition of the application, I am required to file an affidavit in this zoning matter at the time of engaging in business with elected official.

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.

Name: M. Courtney Watz
Date: 8/31/11

ATTACHMENT A

Section 103.A.152

Preservation Parcel, Neighborhood: A residential infill parcel in the R-20, R-12, or R-ED zoning districts that existed on September 9, 2008 and is designated as a sending parcel on a revision plat or a final plat or easement. A Neighborhood Preservation Parcel shall be encumbered by a Neighborhood Preservation Parcel Easement, and is either improved with A COMMUNITY SWIMMING POOL AS DEFINED IN SECTION 103, OR an existing dwelling unit, or if unimproved, must be owned and maintained by a Homeowners Association or dedicated to the Howard County Department of Recreation and Parks. Any new structures placed on AN IMPROVED site shall not be larger than 50 percent of the building footprint of the STRUCTURE existing at the time the Neighborhood Preservation Easement is recorded, except as provided in Section 128.L.2.b.

Section 107.D.4.d

d. From lot lines - structures and uses in all development projects except single-family attached:

(1) Principal structures

(a) Front20 feet

(b) Side.....7.5 feet

Except zero lot line dwellings0 feet

A minimum of 15 feet must be provided between structures

(c) Rear25 feet

EXCEPT LOTS ADJOINING OPEN SPACE15 feet

(2) Detached accessory garages or sheds

(a) Front20 feet

(b) Side.....0 feet

- (c) Rear0 feet
- (2) Other accessory structures
 - (a) Front20 feet
 - (b) Side.....7.5 feet
 - (c) Rear5 feet
- (4) Uses (other than structures) in all development projects except single-family detached or attached.....20 feet

G. Density Exchange For Neighborhood Preservation Parcels

[Council Bill 50-2008 (ZRA-95) Effective 9/9/08]

1. A parcel qualifying with the criteria for residential infill development as defined in Section 16.108 (b) of the Subdivision and Land Development Regulations AND COMMUNITY SWIMMING POOLS AS DEFINED IN SECTION 103 OF THE ZONING REGULATIONS may be ~~[[a]]~~ sending parcels for neighborhood preservation in accordance with the requirements of Section 128.L of the zoning regulations.

Section 108.F. Density Exchange For Neighborhood Preservation Parcels

[Council Bill 50-2008 (ZRA-95) Effective 9/9/08]

1. A parcel qualifying with the criteria for residential infill development as defined in Section 16.108 (b) of the Subdivision and Land Development Regulations AND COMMUNITY SWIMMING POOLS AS DEFINED IN SECTION 103 OF THE ZONING REGULATIONS may be ~~[[a]]~~ sending parcels for neighborhood preservation in accordance with the requirements of Section 128.L of the zoning regulations.

Section 109.F. Density Exchange For Neighborhood Preservation Parcels

[Council Bill 50-2008 (ZRA-95) Effective 9/9/08]

1. A parcel qualifying with the criteria for residential infill development as defined in Section 16.108 (b) of the Subdivision and Land Development Regulations AND COMMUNITY SWIMMING POOLS AS DEFINED IN SECTION 103 OF THE ZONING REGULATIONS may be ~~[[a]]~~ sending parcels for neighborhood preservation in accordance with the requirements of Section 128.L of the zoning regulations.

Section 128.

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

Exceptions To Setback Requirements

Type of Building Feature Structure, or Land Use	Zoning District	Maximum Encroachment Into Setback
d. Open and enclosed porches and decks	All residential districts except NT	EXCEPT FOR R-ED LOTS ADJOINING OPEN SPACE, 10 feet into a front or rear setback, a setback from a project boundary, a setback from a different zoning district, or a required distance between buildings

L. Density Exchange For Neighborhood Preservation Parcels

1. In the R-ED, R-20, and R-12 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 within the same planning district.

With this neighborhood preservation density exchange option, in the R-ED and R-20 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. In the R-12 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.

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 OR A COMMUNITY SWIMMING POOL shall not have any new structures placed on the site that are larger than 50 percent of the building footprint of the [[dwelling unit]] STRUCTURE 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]] AN 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.

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

(3) A prohibition on future use or development of the parcel for uses incompatible with the neighborhood preservation parcel easement. Only principal or accessory residential uses are permitted in accordance with the zoning regulations, EXCEPT THAT OTHER RECREATIONAL USES MAY BE PERMITTED ON PARCELS IMPROVED WITH COMMUNITY SWIMMING POOLS AS PERMITTED UNDER THE ZONING REGULATIONS.

(4) The provisions for maintenance of the neighborhood preservation parcel.

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

(6) The provisions for succession in the event that one of the parties to the deed of neighborhood preservation parcel easement ceases to exist.

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

(1) Howard County Government; or

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

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

3. Receiving Development Requirements

a. Residential development rights derived from neighborhood preservation sending parcels may be received as bonus density for developments on parcels in the RSA-8, R-A-15 and CAC Districts.

b. Residential development rights derived from neighborhood preservation sending

parcels may be received as bonus density for developments on parcels at least 11 acres in size in the R-20 and R-12 Districts.

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

Type of Dwelling Unit to be Constructed	Number of Development Rights needed per Dwelling Unit
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Single-Family Dwelling	1
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Townhouse Dwelling	.5
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Apartment	.33
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d. Any parcel with the main stem of either the Patapsco River, the Patuxent River, the Little Patuxent River, the Middle Patuxent River, or the Deep Run running through the property shall be excluded for consideration as a receiving parcel for development of single-family attached or multi-family housing.

4. Additional Requirements

a. Sending Parcels

(1) ON IMPROVED PARCELS, [[One]] ONE development right [[must]] SHALL be retained on the sending parcel to allow for the continued existence of the existing dwelling unit.

(2) ON PARCELS IMPROVED WITH COMMUNITY SWIMMING POOLS, 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 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 sending parcel and indicating the number of development rights that have been removed from the parcel, the location of the receiving development, and that one development right has been retained for the existing OR A POTENTIAL FUTURE dwelling unit on the neighborhood preservation sending parcel.

(2) A deed of Neighborhood Preservation Parcel Easement for each neighborhood preservation sending parcel that complies with Section 128.L.2.

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