

Introduced _____
Public hearing _____
Council action _____
Executive action _____
Effective date _____

County Council of Howard County, Maryland

2012 Legislative Session

Legislative day # 1

BILL NO. 2 – 2012 (ZRA – 137)

**Introduced by:
Courtney Watson, Councilperson**

AN ACT amending the Howard County Zoning Regulations to permit Community Swimming Pools to send density under the Neighborhood Preservation Program in the R-ED, R-20, and R-12 zoning districts, under certain conditions; establish a reduced rear setback of 15 feet on R-ED zoned lots that adjoin an open space lot; and generally related to Community Swimming Pools and rear setbacks.

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

By order _____
Stephen LeGendre, Administrator to the County Council

Having been posted & notice of time & place of hearing and title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2012 and concluded on _____, 2012.

By order _____
Stephen LeGendre, Administrator to the County Council

This Bill was read the third time _____, 2012 and Passed____, Passed with amendments____, Failed____.

By order _____
Stephen LeGendre, Administrator to the County Council

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 to the County Council

Approved/vetoed by the County Executive on _____, 2012.

Ken Ulman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law.
~~Strikeout~~ 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 Zoning Regulations are hereby amended to read as follows:

3
4 *By amending:*

5 *Section 103 “Definitions”*

6 *Subsection A.*

7 *Number 151. “Preservation Parcel, Neighborhood”*

8
9 *Section 107 “R-ED (Residential: Environmental Development) District*

10 *Subsection D. “Bulk Regulations”*

11 *Number 4. “Minimum setback requirements”*

12 *Letter d*

13 *Subsection G. “Density Exchange for Preservation Parcels”*

14
15 *Section 108 “R-20 (Residential: Single) District*

16 *Subsection F. “Density Exchange for Preservation Parcels”*

17
18 *Section 109 “R-12 (Residential: Single) District*

19 *Subsection F. “Density Exchange for Preservation Parcels”*

20
21 *Section 128 “Supplementary Zoning District Regulations” District*

22 *Subsection A. “Supplementary Bulk Regulations”*

23 *Number 1. “Exceptions to Setback Requirements”*

24 *Subsection L. “Density Exchange For Neighborhood Preservation Parcels”*

25
26
27 **Howard County Zoning Regulations**

28
29 **SECTION 103: Definitions**

30
31 **A.** Except as provided for in Section 101 herein, terms used in these regulations shall have the
32 definition provided in any standard dictionary, unless specifically defined below or in any other
33 provision of these regulations:

34 151. Preservation Parcel, Neighborhood: A residential infill parcel in the R-20, R-12, or R-
35 ED zoning districts that existed on September 9, 2008 and is designated as a sending
36 parcel on a revision plat or a final plat or easement. A Neighborhood Preservation
37 Parcel shall be encumbered by a Neighborhood Preservation Parcel Easement, and is

1 either improved with A SWIMMING POOL, COMMUNITY AS DEFINED IN SECTION 103,
2 OR an existing dwelling unit, or if unimproved, must be owned and maintained by a
3 Homeowners Association or dedicated to the Howard County Department of
4 Recreation and[[p]]Parks. Any new structures placed on [[the]] AN IMPROVED site
5 shall not be larger than 50 percent of the building footprint of the [[dwelling unit]]
6 PRINCIPAL STRUCTURE existing at the time the Neighborhood Preservation Easement is
7 recorded, except as provided in Section 128.L.2.b.
8
9

10 **SECTION 107: R-ED (Residential: Environmental Development) District**
11

12 **D. Bulk Regulations**
13

14 4. Minimum setback requirements
15

16 d. From lot lines - structures and uses in all development projects except single-family
17 attached:
18

19 (1) Principal structures

20 (a) Front20 feet

21 (b) Side.....7.5 feet

22 Except zero lot line dwellings0 feet

23 A minimum of 15 feet must be provided between structures

24 (c) Rear25 feet

25 EXCEPT LOTS RECORDED AFTER [EFFECTIVE DATE OF ZRA 137] WHICH ONLY

26 ADJOIN OPEN SPACE ALONG A MAJORITY OF THE REAR LOT LINE

2715 feet
28

29 (2) Detached accessory garages or sheds
30

31 (a) Front20 feet

32 (b) Side.....0 feet

33 (c) Rear0 feet
34
35

- 1 (3) Other accessory structures
- 2
- 3 (a) Front20 feet
- 4 (b) Side.....7.5 feet
- 5 (c) Rear5 feet
- 6
- 7 (4) Uses (other than structures) in all development projects except
- 8 single-family detached or attached.....20 feet
- 9
- 10

11 **G. Density Exchange For Neighborhood Preservation Parcels**

- 12
- 13 1. A parcel qualifying with the criteria for residential infill development as
- 14 defined in Section 16.108 (b) of the Subdivision and Land Development
- 15 Regulations OR PARCELS PRINCIPALLY USED FOR A SWIMMING POOL,
- 16 COMMUNITY, AS DEFINED IN SECTION 103 OF THE ZONING REGULATIONS may be
- 17 [[a]] sending parcels for neighborhood preservation in accordance with the
- 18 requirements of Section 128.L of the zoning regulations.
- 19
- 20

21 **SECTION 108: R-20 (Residential: Single) District**

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23 **F. Density Exchange For Neighborhood Preservation Parcels**

- 24
- 25 1. A parcel qualifying with the criteria for residential infill development as
- 26 defined in Section 16.108 (b) of the Subdivision and Land Development
- 27 Regulations OR PARCELS PRINCIPALLY USED FOR A SWIMMING POOL,
- 28 COMMUNITY, AS DEFINED IN SECTION 103 OF THE ZONING REGULATIONS may be
- 29 [[a]] sending parcels for neighborhood preservation in accordance with the
- 30 requirements of Section 128.L of the zoning regulations.
- 31
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1 **SECTION 109: R-12 (Residential: Single) District**

2
3 **F. Density Exchange For Neighborhood Preservation Parcels**

- 4
5 1. A parcel qualifying with the criteria for residential infill development as
6 defined in Section 16.108 (b) of the Subdivision and Land Development
7 Regulations OR PARCELS PRINCIPALLY USED FOR A SWIMMING POOL,
8 COMMUNITY, AS DEFINED IN SECTION 103 OF THE ZONING REGULATIONS may be
9 [[a]] sending parcels for neighborhood preservation in accordance with the
10 requirements of Section 128.L of the zoning regulations.
11
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13 **SECTION 128: Supplementary Zoning District Regulations**

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15 **A. Supplementary Bulk Regulations**

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17 The following supplementary regulations shall apply in addition to the requirements of
18 the applicable zoning district.
19

- 20 1. Exceptions to Setback Requirements
21
22

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	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, EXCEPT THAT FOR R-ED LOTS RECORDED AFTER [THE

		<p>EFFECTIVE DATE OF ZRA 137] WITH 15 FOOT REAR SETBACKS IN ACCORDANCE WITH SECTION 107.D.4.D(1)(C), OPEN AND ENCLOSED PORCHES AND DECKS SHALL NOT ENCROACH INTO A REAR SETBACK.</p>
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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.

1 2. Neighborhood Preservation Parcel Easement Requirements

2
3 a. The easement shall cover the entire sending parcel or lot that complies
4 with the definition of a Neighborhood Preservation Parcel in Section
5 103.

6
7 b. A Neighborhood Preservation Parcel Easement improved with an
8 existing dwelling unit OR A SWIMMING POOL, COMMUNITY shall not have
9 any new structures placed on the site that are larger than 50 percent of
10 the building footprint of the [[dwelling unit]] STRUCTURE existing at the
11 time the neighborhood preservation easement is recorded. However, if
12 the average footprint size of the nearest six dwellings is greater than the
13 footprint of [[the]] AN existing building, the Director may approve a
14 footprint that does not exceed this average.

15
16 c. The easement shall be approved by the Department of Planning and
17 Zoning and shall be recorded at the time of recordation of the final plat
18 for the Neighborhood Preservation Parcel.

19
20 d. The easement shall run with the land, shall be in full force and effect in
21 perpetuity, and shall describe and identify the following:

22
23 (1) The location and size of all existing improvements on the parcel
24 covered by the easement.

25
26 (2) A prohibition on future subdivision of the Neighborhood
27 Preservation Parcel.

28
29 (3) A prohibition on future use or development of the parcel for
30 uses incompatible with the neighborhood preservation parcel
31 easement. Only principal or accessory residential uses, OR

1 PRINCIPAL OR ACCESSORY SWIMMING POOL, COMMUNITY USES
2 are permitted in accordance with the zoning regulations.

3
4 (4) The provisions for maintenance of the neighborhood
5 preservation parcel.

6
7 (5) The responsibility for enforcement of the deed of Neighborhood
8 Preservation Parcel Easement.

9
10 (6) The provisions for succession in the event that one of the parties
11 to the deed of neighborhood preservation parcel easement
12 ceases to exist.

13
14 e. One of the following entities shall be a party to the deed of
15 Neighborhood Preservation Parcel Easement in addition to the property
16 owner:

17
18 (1) Howard County Government; or

19
20 (2) Maryland Environmental Trust or Maryland Historical Trust; or

21
22 (3) A land conservation organization approved by the County
23 Council.

24
25 3. Receiving Development Requirements

26
27 a. Residential development rights derived from neighborhood
28 preservation sending parcels may be received as bonus density for
29 developments on parcels in the RSA-8, R-A-15 and CAC Districts.

30
31 b. Residential development rights derived from neighborhood
32 preservation sending parcels may be received as bonus density for

1 developments on parcels at least 11 acres in size in the R-20 and R-12
2 Districts.

3
4 c. Development rights shall be received in accordance with the following
5 ratios:
6

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

7
8 d. Any parcel with the main stem of either the Patapsco River, the
9 Patuxent River, the Little Patuxent River, the Middle Patuxent River, or
10 the Deep Run running through the property shall be excluded for
11 consideration as a receiving parcel for development of single-family
12 attached or multi-family housing.
13

14 4. Additional Requirements

15
16 a. Sending Parcels

17
18 (1) ON IMPROVED PARCELS, [[One]] ONE development right [[must]]
19 SHALL be retained on the sending parcel to allow for the
20 continued existence of the existing dwelling unit.

21
22 (2) ON PARCELS IMPROVED WITH SWIMMING POOLS, COMMUNITY,
23 ONE DEVELOPMENT RIGHT MAY BE RETAINED ON THE SENDING
24 PARCEL TO ALLOW FOR A POTENTIAL FUTURE DWELLING UNIT.
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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.

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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.

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(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.

Section 2. Be it further enacted by the County Council of Howard County, Maryland, that the Director of the Department of Planning and Zoning is authorized to publish this Act, to correct obvious errors in section references, numbers and references to existing law, capitalization, spelling, grammar, headings and similar matters.

Section 3. And be it further enacted by the County Council of Howard County, Maryland, that the provisions of this act shall become effective 61 days after enactment.