



December 1, 2016

## TECHNICAL STAFF REPORT

*Planning Board Meeting on December 15, 2016*

**Case No./Petitioner: ZRA-172 – Stephen Ferrandi, Maryland Land Advisors**

**Request:** Amend Section 128.0.K., Neighborhood Preservation Density Exchange Option, to allow the Historic Building Uses Conditional Use category on Neighborhood Preservation Parcels.

### I. BACKGROUND

In 2008, ZRA-95 established a new section of the Howard County Zoning Regulations (HCZR) to allow the transfer of density in the eastern area of the County. Section 128.L. entitled “Density Exchange for Neighborhood Preservation Parcels,” established criteria for Neighborhood Preservation Parcels and a process to transfer residential density to certain receiving districts.

In 2012, ZRA-137 amended the definition of “Preservation Parcel, Neighborhood”, various subsections in the R-ED, R-20, and R-12 Districts and Section 128.L to allow community swimming pools to send density and become Neighborhood Preservation Parcels.

In 2013, ZRA-141 allowed historic properties, under certain circumstances to be sending parcels. Additionally, amendments were made to definitions for “Land Conservation Organization”, “Neighborhood Preservation Density Exchange Option”, “Neighborhood Preservation Parcel Easement”, “Neighborhood Preservation Receiving Parcel”, and “Neighborhood Preservation Sending Parcel”. Furthermore, amendments were made to Section 128.L to improve the Neighborhood Preservation Parcel density exchange process.

The 2013 Comprehensive Zoning Plan changed Section 128.L to 128.0.K, entitled “Neighborhood Preservation Density Exchange Option” and made minor, non-substantive revisions.

### II. DESCRIPTION AND EVALUATION OF PROPOSAL

ZRA-172 proposes to amend four subsections of HCZR Section 128.0.K- Neighborhood Preservation Density Exchange Option. The proposed amendments would allow for additional historic building uses on Neighborhood Preservation sending parcels. Currently, only residential uses are permitted. The proposed ZRA expands allowable uses to those permitted under the Historic Building Use Conditional Use category (Section 131.0.N.27).

The Petitioner asserts that the passage of ZRA-141 created an inconsistency regarding the reuse of historic buildings subject to a Neighborhood Preservation Density Exchange Easement. ZRA-141 made properties that contain historic buildings eligible for the Neighborhood Preservation Density Exchange

Option, but did not amend Sec. 128.0.K.2.d.(3) to allow for the nonresidential use of historic buildings as provided for in Sec. 131.0.N.27-Historic Building Uses. DPZ concurs with the Petitioners assertion and recommends approval to correct this inconsistency and encourage the re-use of historic buildings.

The following section contains DPZ's technical evaluation of ZRA-172. The Petitioner's proposed amendment text is attached to this Technical Staff Report as Exhibit A, Petitioner's Proposed Text. Revisions and additional amendments recommended by staff are attached as Exhibit B, DPZ's Recommended Text.

## **SECTION 128.0.K: Neighborhood Preservation Density Exchange Option**

### **Section 128.0.K.1.b. - Proposal to allow Historic Building Uses Conditional Use**

Staff recommends inclusion of the amendment in Sec. 128.0.K.2.d.(3).

This subsection allows certain properties to qualify as a Neighborhood Preservation sending parcel, namely those that are owned by the County or are encumbered by a Maryland Historic Trust Easement; contain a historic building that is open to the public; and are located within the R-ED, R-20, R-12, or R-SC Districts.

The Petitioner proposes to allow properties that meet these requirements to be eligible for the Historic Building Uses Conditional Use category.

DPZ does not recommend inclusion of this language in Sec. 128.0.k.1.b, since this section establishes the criteria for sending parcel eligibility. The Petitioner's proposed amendment to 128.0.K.2.d.(3) below accomplishes the same objective in the appropriate section.

### **Section 128.0.K.2.b. – Add Historic Building Uses Conditional Use to building footprint limit**

Staff recommends approval of the amendment with revisions.

This subsection limits the maximum footprint of new structures on Neighborhood Preservation sending parcels and is only applicable to properties that contain a dwelling or community swimming pool.

The Petitioner proposes to add properties that are approved under the Historic Building Uses Conditional Use category.

DPZ recommends approval of the application of this section to Historic Buildings Uses Conditional Uses in order to maintain consistency with the other allowed uses and to control the expansion of existing buildings subject the easement. DPZ proposes minor revisions to reflect standard HCZR verbiage.

**Section 128.0.K.2.d.(3) – Add Historic Building Uses Conditional Use as a permitted use**

Staff recommends approval of the amendment.

This subsection limits the future use or development of Neighborhood Preservation Parcels to principal or accessory residential uses and principal or accessory community swimming pools.

The Petitioner proposes to allow Historic Building Uses through the Conditional Use process. Such uses include offices, personal services, restaurants, retail, and similar uses, as specified in Section 131.0.N.27.

**New Section 128.0.K.4.a.(3) - Add a requirement to Retain development right for Historic Building Uses Conditional Use**

Staff recommends approval of the amendment with minor revisions.

This subsection currently specifies that Neighborhood Preservation sending parcels improved with a dwelling or improved with a community swimming pool must always retain one development right to allow for the continued use of the existing dwelling unit or for the construction of a new one.

The Petitioner proposes to add the same requirement for parcels that are improved with structures used for Historic Building Uses Conditional Uses.

DPZ recommends approval of this amendment, since Sec. 131.0.C prohibits the approval of a Conditional Use on land in the R-ED and R-SC districts that was included in the density calculation for a residential development and has no remaining residential development potential. Additionally, the amendment is consistent with the requirement for residential uses and community swimming pools.

**III. ADDITIONAL RECOMMENDED AMENDMENTS**

Section 128.0.K.1. and the definition of Neighborhood Preservation Parcel in Section 103.0 should include the term historic structures. DPZ recommends amendments to these sections, which are included in Exhibit B.

**IV. GENERAL PLAN**

The Petitioner asserts that ZRA-172 is in harmony with Policy 4.10 of the PlanHoward 2030 General Plan.

**Policy 4.10**

“Expand on existing programs to enhance historic preservation and create an historic preservation plan”

**Implementing Action b. Programs and Laws**

“Strengthen historic preservation programs and laws both to prevent demolition and incentivize restoration and adaptive reuse.”

The existing Zoning Regulations limit the reuse of historic structures on Neighborhood Preservation Easements to residential uses. ZRA-172 proposes to allow the reuse of historic structures for commercial uses such as offices, personal service, restaurants, etc. through the Historic Building Uses Conditional Use process. The nonresidential reuse of historic buildings has been proven to be a viable option to prevent demolition and incentivize restoration, since it provides additional revenue that can be invested into the building/property. Therefore, DPZ concurs that ZRA-172 is in harmony with Policy 4.10 and Implementing Action b.

#### V. AGENCY COMMENTS

Bureau of Environmental Health, the Department of Inspections, Licenses and Permits, the Department of Recreation and Parks, and the Department of Fire and Rescue Services responded that they have no comments on ZRA-172.

#### VI. RECOMMENDATION

#### APPROVAL WITH REVISIONS

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-172 be **APPROVED** with the revisions noted in Exhibit B.

Approved by:

  
Valdis Lazdins, Director

12/1/16  
Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

## Exhibit A – Petitioner’s Proposed Text

Section 128.0.K.1.b.:

### **K. Neighborhood Preservation Density Exchange Option**

1. In the R-ED, R-20, R-12 and R-SC 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 or a parcel principally used for a Swimming Pool, Community, as defined in the Zoning Regulations and is eligible to be developed for additional residential lots, may be a sending parcel for the Neighborhood Preservation Density Exchange Option within the same planning district or within a two-mile radius regardless of the planning district. However, sending parcels that contain a historic structure, as provided in Subsection 1.b below, may exchange density with a receiving parcel in any planning district.
  - a. With this Neighborhood Preservation Density Exchange Option, in the R-ED and R-20 zoning districts density may be exchanged from a Neighborhood Preservation sending parcel to an eligible receiving parcel based on a rate of 2 development rights per net acre, or fraction thereof. 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, R-20, and R-SC district. In the R-12 District density may be exchanged from a Neighborhood Preservation sending parcel to an eligible receiving parcel based on a rate of 3 development rights per net acre, or fraction thereof. Except as provided below, up to a maximum of 3 development rights may be exchanged from a sending parcel located in the R-12 District.
  - b. A parcel that is either County-owned or encumbered with a Maryland Historic Trust Easement located in the R-ED, R-20, R-12, and R-SC District that qualifies as a Neighborhood Preservation sending parcel and that contains a historic structure which is open and accessible to the public may send density without limitation on the maximum number of development rights exchanged, provided that a single development right is retained in accordance with Subsection 4.a below. A PARCEL THAT QUALIFIES AS A NEIGHBORHOOD PRESERVATION SENDING PARCEL UNDER THIS SECTION MAY BE ELIGIBLE FOR A CONDITIONAL USE FOR HISTORIC BUILDING USES.

Section 128.0.K.2.b.:

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 the Zoning Regulations.
  - b. A Neighborhood Preservation Parcel Easement improved with an existing dwelling unit, A STRUCTURE UTILIZED FOR A HISTORIC BUILDING CONDITIONAL USE, or a Swimming Pool, Community shall not have any new structures placed on the site that are larger than 50% of the building footprint of the 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 an existing building, the Director may approve a footprint that does not exceed this average.

Section 128.0.K.2.d.(3):

- 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 Basement. Only principal or accessory residential uses, PRINCIPAL OR ACCESSORY HISTORIC BUILDING USES, or principal or accessory Swimming Pool, Community uses are permitted in accordance with 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.

New Section 128.0.K.4.a.(3):

- a. Sending Parcels
  - (1) On improved residential parcels, one development right shall be retained on the sending parcel to allow for the continued existence of the existing dwelling unit. An unimproved Neighborhood Preservation Parcel must be owned and maintained by a homeowner's 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.
  - (3) ON PARCELS IMPROVED WITH A STRUCTURE UTILIZED FOR A HISTORIC BUILDING CONDITIONAL USE, ONE DEVELOPMENT RIGHT SHALL BE RETAINED ON THE SENDING PARCEL TO ALLOW FOR THE OPERATION OF THE CONDITIONAL USE.

## Exhibit B – DPZ’s Recommended Text

### Section 103.0.A.:

Neighborhood Preservation Parcel: A residential infill parcel in the R-20, R-12, or R-ED 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 Swimming Pool, Community OR AN HISTORIC STRUCTURE as defined in Section 103.0 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 as provided in Section 128.0.K. Any new structures placed on an improved site shall not be larger than 50 percent of the building footprint of the principal structure existing at the time the Neighborhood Preservation Easement is recorded, except as provided in Section 128.0.K.

### Section 128.0.K.1.:

1. In the R-ED, R-20, R-12 and R-SC 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 or a parcel principally used for a Swimming Pool, Community OR AN HISTORIC STRUCTURE, as defined in the Zoning Regulations and is eligible to be developed for additional residential lots, may be a sending parcel for the Neighborhood Preservation Density Exchange Option within the same planning district or within a two-mile radius regardless of the planning district. However, sending parcels that contain a historic structure, as provided in Subsection 1.b below, may exchange density with a receiving parcel in any planning district.

### Section 128.0.K.2.b.:

- b. A Neighborhood Preservation Parcel Easement improved with an existing dwelling unit, A STRUCTURE ~~[[UTILIZED]]~~ USED FOR ~~[[A]]~~ AN HISTORIC BUILDING USES CONDITIONAL USE, or a Swimming Pool, Community shall not have any new structures placed on the site that are larger than 50% of the building footprint of the 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 an existing building, the Director may approve a footprint that does not exceed this average.

### Section 128.0.K.2.d.(3):

- (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, HISTORIC BUILDING USES CONDITIONAL USES, or principal or accessory Swimming Pool, Community uses are permitted in accordance with the Zoning Regulation. New Section 128.0.K.4.a.(3):

### Section 128.0.K.4.a.(3)

- (3) ON PARCELS IMPROVED WITH A STRUCTURE ~~[[UTILIZED]]~~ USED FOR ~~[[A]]~~ AN HISTORIC BUILDING USES CONDITIONAL USE, ONE DEVELOPMENT

**RIGHT SHALL BE RETAINED ON THE SENDING PARCEL TO ALLOW FOR THE  
OPERATION OF THE CONDITIONAL USE.**



