



# HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Court House Drive

Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

Amy Gowan, Director

FAX 410-313-3467

May 7, 2020

## TECHNICAL STAFF REPORT

*Planning Board Meeting of May 21, 2020*

**Case No./Petitioner: ZRA-191 - Amy Gowan, Director, Department of Planning and Zoning**

**Request:** To amend the following sections of the Howard County Zoning Regulations:

Section 103.0 to revise the definition of Housing Commission Housing Development to include the Howard County Government; and

Section 128.0.J.2.c. to allow the Planning Board to approve up to a maximum of 12 acres of housing developments owned by the Housing Commission or housing developments in which the Housing Commission is the general partner or managing member, and 12 acres of housing developments owned by the Howard County Government, on non-residentially zoned land in a three-calendar year period.

### I. BACKGROUND AND HISTORY OF EXISTING ZONING REGULATIONS

In 2007, Council Bill 72-2007/ZRA-90 established the Housing Commission Housing Development land use category to expand development opportunities that could increase the supply of affordable, senior and special needs housing. As shown in Attachment A, a definition was created in Sec. 103.0 and use criteria were established in Sec. 128.0.K, currently 128.0.J. The Planning Board was authorized to approve up to 12 acres of housing developments in a three year period in the following non-residential zoning districts.

- Institutional Overlay (I)
- Planned Office Research (POR),
- Planned Employment Center (PEC), and
- Shopping Center (SC)

### II. DESCRIPTION AND EVALUATION OF PROPOSAL

This section contains the Department of Planning and Zoning (DPZ) technical evaluation of ZRA-191. The Petitioner's proposed amendment text is attached as Exhibit A, Petitioner's Proposed Text.

Up until 2017, the Housing Commission (established through CB51-1990) and the Department of Housing and Community Development (established through CB59-2001) functioned as one agency and shared a director and one staff. The Housing Commission led project development, therefore, it was not necessary to include the Department of Housing and Community Development (DHCD) in the definition of the Housing Commission Housing Development land use category when it was established through CB-72-2007/ZRA-90 in 2007.

In 2017, separate directors were named for each agency and staff was divided; however, the Zoning Regulations were not updated to grant the DHCD the same development permissions as the Housing Commission. Consequently, the DHCD is not allowed to develop housing in non-residential zoning districts under the Housing Commission Housing Development land use category.

This ZRA proposes regulatory changes that recognize the importance of the DHCD's role in creating affordable housing opportunities and restores opportunities intended for both the DHCD and the Housing Commission under Council Bill 72-2007.

### **Sec. 103.0**

The proposed amendment will revise the definition of Housing Commission Housing Development to include the Howard County Government which encompasses the Department of Housing and Community Development. Therefore, the revised definition will allow DHCD to construct housing developments under the same provisions as the Housing Commission.

### **Sec. 128.0.J.2.c**

The proposed amendment will allow the Planning Board to approve up to a maximum of 12 acres of housing developments owned by the Howard County government on non-residentially zoned land in a three-calendar year period. However, since the filing of this ZRA, DHCD has indicated that they would also need the general partner/managing member provision to apply, as it applies to the Housing Commission. DPZ has recommended alternative text in Exhibit B that allows DHCD to be the general partner or the owner.

The Planning Board will continue to be allowed to approve up to a maximum of 12 acres of housing developments owned by the Housing Commission or housing developments in which the Housing Commission is the general partner or managing member.

If passed, this amendment will increase the total amount of acres that can be developed for housing developments in non-residential districts by the Housing Commission and the DHCD to 24 acres in a three-calendar year period. Since the average acreage of a DHCD project is five acres, this could allow for approximately two projects in a three year period. While this would greatly facilitate affordable housing goals, it would have limited impacts on overall use of land in non-residential districts.

All proposed amendments are in harmony with the legislative intent of the Howard County Zoning Regulations. Specifically, Section 100.0.A.5. of the Howard County Zoning Regulations which states that the intent of these Regulations is "*to provide for adequate housing choices in a suitable living environment within the economic reach of all citizens*". Therefore, DPZ is recommending the proposed amendments.

## **III. GENERAL PLAN**

ZRA-191 is also in harmony with the PlanHoward 2030 General Plan policies that promote expanding full spectrum housing and combating homelessness through innovative and sustainable

practices:

PlanHoward 2030 discusses how the DHCD is a lead agency in helping to provide senior housing, housing for residents with disabilities, and combat homelessness in Howard County. PlanHoward 2030 also recognizes that “. . . a focus on diverse and affordable housing will become increasingly more important. Special consideration must also be given to expanding housing choice for the growing senior citizen population and residents living with disabilities.”

Policy 9.2 seeks to “Expand full spectrum housing for residents at diverse income levels and life stages, and for individuals with disabilities, by encouraging high quality, mixed income, multigenerational, well designed, and sustainable communities.” The proposed amendments are consistent and attempt to implement this policy by “Continu(ing) to expand current options for full spectrum, affordable housing through affordable housing requirements in additional zoning districts.”

Policy 9.5 seeks to “Support the efforts of County agencies, nonprofits, and other organizations to prevent temporary and chronic homelessness.” The proposed amendments are consistent and attempt to implement this policy by “Partner(ing) with DHCD, DCS, and others to address the transitional housing needs of homeless individuals and families challenged by chronic disabilities, health, mental health, and substance abuse.”


Policy 9.6 seeks to “Promote design innovation for all housing types, utilizing cost-effective sustainability principles, to meet the housing and transportation needs of the County’s diverse households.” The proposed amendments are consistent and attempt to implement this policy by adopting “policies that promote affordable, safe, and healthy housing for residents.”

The proposed ZRA is in harmony with the General Plan and will allow for additional housing for residents at varying income levels and life stages and with disabilities.

**IV. RECOMMENDATION**

For the reasons noted above, the Department of Planning and Zoning recommends that the Planning Board provide a recommendation of **APPROVAL** to the County Council of ZRA-191, to include the DPZ amendments drafted in Exhibit B.

Approved by:

DocuSigned by:  
  
 5B4D5DD9470C4D4...  
 Amy Gowan, Director

5/7/2020  
 Date

Case No.ZRA-191

Petitioner: Amy Gowan, Director, Department of Planning and Zoning

**ZRA 191 – Exhibit A**  
**Petitioner’s Proposed Text**  
**Howard County Zoning Regulations.**

(CAPITALS indicate text to be added; text in [[brackets]] indicates text to be deleted.)

Section 103.0 – Definitions

Housing Commission Housing Development : A housing development, as defined in Section 13.1303 of the Howard County Code, that is either (I) wholly owned by the Howard County Housing Commission or (II) owned by a limited partnership or limited liability company formed solely for the purpose of obtaining the benefit of federal low income housing tax credits under Section 42 of the Internal Revenue Code and in which the commission is the general partner or managing member OR (III) OWNED BY THE HOWARD COUNTY GOVERNMENT.

Section 128.0.J.2.c.

The Planning Board may approve up to a maximum of 12 acres of [[Housing Commission Housing Developments]] HOUSING DEVELOPMENTS OWNED BY THE HOUSING COMMISSION OR HOUSING DEVELOPMENTS IN WHICH THE HOUSING COMMISSION IS THE GENERAL PARTNER OR MANAGING MEMBER, AND 12 ACRES OF HOUSING DEVELOPMENTS OWNED BY THE HOWARD COUNTY GOVERNMENT, on non-residentially zoned land in a three-calendar year period.

**ZRA 191 – Exhibit B**  
**DPZ’s Proposed Text**  
**Howard County Zoning Regulations.**

(CAPITALS indicate text to be added; text in [[brackets]] indicates text to be deleted.)

Section 103.0 – Definitions

Housing Commission Housing Development: A housing development, as defined in Section 13.1303 of the Howard County Code, that is either (I) wholly owned by the Howard County Housing Commission or (II) owned by a limited partnership or limited liability company formed solely for the purpose of obtaining the benefit of federal low income housing tax credits under Section 42 of the Internal Revenue Code and in which the commission is the general partner or managing member OR (III) OWNED BY THE HOWARD COUNTY GOVERNMENT.

Section 128.0.J.2.c.

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## Attachment A

**Housing Commission Housing Development:** A housing development, as defined in Section 13.1303 of the Howard County Code, that is either (I) wholly owned by the Howard County Housing Commission or (II) owned by a limited partnership or limited liability company formed solely for the purpose of obtaining the benefit of federal low income housing tax credits under Section 42 of the Internal Revenue Code and in which the commission is the general partner or managing member.

### **J. Housing Commission Housing Developments**

Housing Commission Housing Developments located in a non-residential zone shall adhere to the regulations which are most restrictive, either the bulk regulations found in its zoning district or the supplementary bulk regulations below.

1. A Housing Commission Housing Development located in a non-residential zone shall meet the following requirements:

a. Maximum Height Limitations:

- (1) Structure with minimum setback ..... 50 feet
- (2) Structure with an additional 1 foot in height for every 2 feet of setback above the minimum ..... 80 feet
- (3) Structure adjacent to a residentially zoned district ..... 50 feet

b. Minimum Development size, not to prohibit the sale or lease of lots therein ..... 3 acres

c. Minimum Structure or use setbacks:

- (1) From residential districts or uses ..... 75 feet  
Except from R-SA-8 or R-A-15 ..... 50 feet
- (2) From any other zoning district ..... 25 feet
- (3) From adjoining open space ..... 35 feet
- (4) From public street right-of-way ..... 30 feet
- (5) If a residential district is separated by a public street right-of-way from a district where a housing development is permitted use, only the setback from the public street right-of-way shall apply.

d. Minimum distances between buildings for attached and apartment units:

- (1) Face to face ..... 30 feet

- (2) Face to side/rear to side ..... 20 feet
  - (3) Side to side ..... 15 feet
  - (4) Rear to rear ..... 50 feet
  - (5) Rear to face ..... 75 feet
- e. Shall comply with universal design requirements of Section 115.0.E.1 of the Zoning Regulations.
  - f. Shall provide perimeter buffering along adjacent residential zoning district through the retention or planting or forest or providing a Type C landscape buffer.
  - g. Shall provide a minimum of 25% of the gross acreage for passive, recreational and/or amenity open space in proximity to the residential units.
2. Approval of the Site Development Plan by the Planning Board.
- a. For Housing Commission Housing Developments located in non-residential zones, the Site Development Plan must be approved by the Planning Board. The Planning Board, before acting upon the Site Development Plan, shall receive comments from the Department of Planning and Zoning and the Subdivision Review Committee and shall hold a public hearing.
  - b. A Site Development Plan submitted for review shall include all the information required by the Subdivision and Land Development Regulations of the Howard County Code.
  - c. The Planning Board may approve up to a maximum of 12 acres of Housing Commission Housing Developments on non-residentially zoned land in a three calendar year period.
  - d. In acting upon the Site Development Plan, the Planning Board shall consider the following factors:
    - (1) Whether the plan is consistent with the Howard County General Plan;
    - (2) Whether the plan results in a logical arrangement of land uses within the development;
    - (3) Whether there is convenient pedestrian access between uses and pedestrian connection to the surrounding community;
    - (4) Whether the relationship between the location of proposed dwelling units, required open space, landscape design requirements, setback requirements and existing dwelling units on adjoining properties is such that the existing dwelling units will be buffered from the proposed development;
    - (5) Whether the roads serving the development will be adequate, as determined by the capacity and mitigation standards of the adequate public facilities ordinance (Title 16, Subtitle 11 of the Howard County Code); Whether necessary water and sewer facilities are available to serve the proposed development; and
    - (6) Any other factors which affect the orderly growth of the county.

e. After carefully considering agency comments, public hearing testimony, petitioner's testimony, and the above factors, the Planning Board shall approve, approve with modifications and/or conditions, or disapprove the Site Development Plan, stating the reasons for its action.

f. Minor additions and modifications to site developments plans approved by the Planning Board and meeting the criteria below shall not require Planning Board approval. Also, minor new projects which have been granted a waiver of the Site Development Plan requirement by the Director of Planning and Zoning do not require Planning Board approval. However, all changes of use which require exterior site alterations require Planning Board approval.

Minor projects not requiring Planning Board Approval:

(1) Minor additions to structures, with a floor area no larger than 10% of the existing floor area of the structure, not to exceed 1,000 square feet.

(2) Minor new accessory structures if the location does not interfere with existing site layout (e.g. circulation, parking, loading, storm water management facilities, open space, landscaping or buffering.)

(3) Clearing or grading that does not exceed 2,000 square feet in area.

(4) House-type revisions to approved Site Development Plans for single-family detached developments and for no more than 25% of the total number of dwelling units on the Site Development Plans for single-family attached or apartment developments. Similar minor modifications as determined by the Department of Planning and Zoning.





# PETITION TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY

DPZ Office Use Only:
Case No. ZRA-191
Date Filed: 4/24/20

RECEIVED  
APR 24 2020  
By \_\_\_\_\_

**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:

- 1. Section 103.0 to revise the definition of Housing Commission Housing Development to include the Howard County Government;
- 2. Section 128.0.J.2.c. to allow the Planning Board to approve up to a maximum of 12 acres of housing developments owned by the Housing Commission or housing developments in which the Housing Commission is the general partner or managing member, and 12 acres of housing developments owned by the Howard County Government, on non-residentially zoned land in a three-calendar year period.

**2. Petitioner's Name** Amy Gowan, Director, Howard County Department of Planning and Zoning

Address 3430 Courthouse Drive, Ellicott City, MD 21043

Phone No. (W) 410-313-2350 (H) N/A

Email Address agowan@howardcountymd.gov

**3. Counsel for Petitioner** David Moore, Principal Attorney, Howard County Office of Law

Counsel's Address 3430 Courthouse Drive, Ellicott City, MD 21043

Counsel's Phone No. 410-313-2100

Email Address dmoore@howardcountymd.gov

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 HOWARD COUNTY COUNCIL  
 RECEIVED

**4. Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed.**

Currently, the Housing Commission is permitted (with approval from the Planning Board) to develop up to 12 acres of housing developments on non-residentially zoned land in a three-year calendar period. However, the current Zoning Regulations do not permit the Howard County Department of Housing and Community Development (DHCD) the same development opportunities. The Housing Commission became the County's public housing authority in 1990 (CB51-1990). The Office of Housing became the Department of Housing on 3/17/02 (CB59-2001), formerly under the County Administration. The two agencies shared one staff and one director. In 2007, Zoning Regulation Amendment 90 (Council Bill 72-2007, signed on November 5, 2007) defined "Housing Commission Housing Development" and outlined the criteria for Housing Commission Housing

Developments. In 2007, the county's Housing Department and the Housing Commission functioned as one agency. On July 1, 2017, separate directors were named for each agency and staff was divided, however the Zoning Regulations were never updated to reflect this change. Because of that oversight, the DHCD is no longer afforded the same development opportunities that they had prior to 2017. The current proposal would amend the definition of Housing Commission Housing Development to include the Howard County Government (which has control over the DHCD).

This ZRA proposes regulatory changes that recognize the importance of the DHCD to the County and restores opportunities intended for the DHCD under Council Bill 72-2007 (opportunities still afforded to the Housing Commission by that same bill).

5. Please provide a detailed justification statement demonstrating how the proposed amendment(s) will be in harmony with current General Plan for Howard County.

PlanHoward 2030 discusses how the DHCD is a lead agency in helping to provide senior housing, housing for residents with disabilities, and combat homelessness in Howard County. PlanHoward 2030 also recognizes that ". . . a focus on diverse and affordable housing will become increasingly more important. Special consideration must also be given to expanding housing choice for the growing senior citizen population and residents living with disabilities."

Policy 9.2 seeks to "Expand full spectrum housing for residents at diverse income levels and life stages, and for individuals with disabilities, by encouraging high quality, mixed income, multigenerational, well designed, and sustainable communities." The proposed amendments are consistent and attempt to implement this policy by "Continu(ing) to expand current options for full spectrum, affordable housing through affordable housing requirements in additional zoning districts."

Policy 9.5 seeks to "Support the efforts of County agencies, nonprofits, and other organizations to prevent temporary and chronic homelessness." The proposed amendments are consistent and attempt to implement this policy by "Partner(ing) with DHCD, DCS, and others to address the transitional housing needs of homeless individuals and families challenged by chronic disabilities, health, mental health, and substance abuse."

Policy 9.6 seeks to “Promote design innovation for all housing types, utilizing cost-effective sustainability principles, to meet the housing and transportation needs of the County’s diverse households.” The proposed amendments are consistent and attempt to implement this policy by adopting “policies that promote affordable, safe, and healthy housing for residents.”

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.

All proposed amendments are in harmony with the legislative intent of the Howard County Zoning Regulations. Specifically, Section 100.0.A.2. of the Howard County Zoning Regulations indicates that it is the intent of these Regulations “To protect the character, the social and economic stability of all parts of the County; to guide the orderly growth and development of the County, and to protect and conserve the value of land and structures appropriate to the various land use classes established by the General Plan for Howard County, and by these comprehensive Zoning Regulations”.

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).

Promote the orderly growth of the County while balancing the housing needs of residents at diverse income levels and life stages, and for individuals with disabilities.

8. Does the amendment, or do the amendments, have the potential of affecting the development of more than one property, yes or no? Yes. The proposed amendments would allow the Planning Board to approve up to a maximum of 12 acres of housing developments owned by the Howard County Government (specifically, the DHCD) on non-residentially zoned land in a three-calendar year period. Those 12 acres of land do not necessarily have to be limited to a single property. The average parcel size for a housing development is approximately 5 acres.

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.

The proposed amendments would allow the Planning Board to approve up to a maximum of 12 acres of housing developments owned by the Howard County Government (specifically, the DHCD) on non-residentially zoned land in a three-calendar year period. Those 12 acres of land do not necessarily

have to be limited to a single property. The average parcel size for a housing development is approximately 5 acres. Therefore, the proposal has the potential to impact more than 12 properties, since 12 acres of housing developments can be approved every three years.

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.

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.

Amy Gowan, Director of Planning and Zoning  
Petitioner's name (Printed or typed)

DocuSigned by:  
Amy Gowan 4/22/2020  
Petitioner's Signature Date

\_\_\_\_\_  
Petitioner's name (Printed or typed)

\_\_\_\_\_  
Petitioner's Signature Date

\_\_\_\_\_  
Counsel for Petitioner's Signature

DocuSigned by:  
[Signature]  
4CB7A491BEF9447...

[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 \$ NA

Receipt No. \_\_\_\_\_

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

**County Website: [www.howardcountymd.gov](http://www.howardcountymd.gov)**

Revised:5/08  
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[Additional signatures are necessary, please provide them on a separate document to be attached to this petition form.]

### **INSTRUCTIONS TO THE APPLICANT/PARTY OF RECORD**

- 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.

**ZRA XXX – Exhibit A**  
**Petitioner’s Proposed Text**  
**Howard County Zoning Regulations.**

(CAPITALS indicate text to be added; text in [[brackets]] indicates text to be deleted.)

Section 103.0 – Definitions

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Section 128.0.J.2.c.

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