

013 - Jansen, R.J., Keller



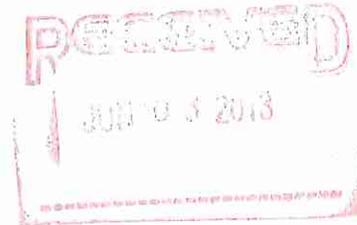
HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
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Marsha S. McLaughlin, Director

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May 29, 2013

Mr. Richard E. Hall, Secretary
Maryland Department of Planning
301 West Preston Street, Suite 1101
Baltimore, Maryland 21201



Re: MDP Review of Adopted Tier Map

Dear Secretary Hall,

I am pleased to forward for review Howard County's adopted Growth Tiers Map to implement the Sustainable Growth and Agricultural Preservation Act of 2012 (SB 236). Howard County's Tier Map is included in the County's adopted general plan, *PlanHoward 2030*, via CB 1-2013 (Attachment A).

As you are aware, we have worked tirelessly in Howard County to develop a Growth Tiers Map that meets the important objectives of SB 236. It has always been our goal, as well as yours, to enact prudent limits on development by placing as much land as practicable in the Tier IV designation to protect the Chesapeake Bay and preserve Howard County's rural and agricultural heritage.

Our administration's initial Growth Tiers legislation closely followed the County's two-decade-old rural growth policy and zoning designations. However, the Howard County Council adopted an amended version of CB 37-2012 last December that significantly reduced the amount of land designated as Tier IV. County Executive Ken Ulman found that unacceptable.

Because this effort is so important to Mr. Ulman and his administration, he chose to issue his first-ever veto to reject the Council's alterations to our map. As said in his veto message, the Council's first decision "does not fulfill the spirit of the Sustainable Growth and Agricultural Preservation Act of 2012 and undermines decades of successful County land-use planning."

Fortunately, and as hoped, we started a process that has now resulted in a much improved product, more land in Tier IV, and better protection for the Bay.

Let me explain the key features of the Map we are submitting to you today, and the differences between it and the plan previously reviewed by the Maryland Department of Planning:

- As before, the final map adopted via CB 1-2013 adheres to the County's longstanding rural growth policy by placing nearly all land zoned Rural Conservation in Tier IV, and most land zoned Rural Residential in Tier III. However, there are some important exceptions.
- The adopted map includes some of the recommendations made by MDP for additional areas for Tier IV designation within the Rural Residential zone.
- The adopted map removes 13 properties (797 acres) from Tier IV designation in the Rural Conservation zone. These properties applied for percolation testing to "grandfather" their

development rights under SB 236. If subdivision were to be completed under the SB236 grandfathering, then this could create as many as 325 grandfathered lots. In many cases, the owners do not wish to develop. By designating these properties as Tier III, we are removing the pressure to proceed with percolation testing and other subdivision steps to meet the mandatory timeline to retain the grandfathering. The final adopted Tier bill removed the 13 grandfathered properties from Tier IV to provide time for property owners to consider two other options: sale of development rights to the County's Agricultural Land Preservation Program and/or density exchange to Tier III properties as permitted under current zoning. The properties that take advantage of those programs can be designated Tier IV in the future. While our original Tier designation bill included these 13 parcels so the Rural Conservation / Tier IV acreage was higher, the net effect in restricting subdivision of Rural Conservation / Tier IV land is the same. CB 1-2013 also includes additional, preserved Rural Residential zoned land in Tier IV as MDP requested.

- As a result, the final Tier IV designation is 66,740 acres compared to my original proposal of 66,280 acres and the Council's adopted CB 37-2012 designation of 41,909 acres.

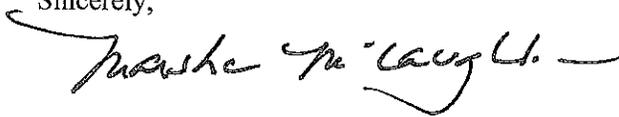
Please note that the map was adopted as part of a broader package to make even more progress toward land preservation and Bay protection, and we believe it is important that you evaluate our map as part of this extensive program.

- To support preservation options in both Tier II and Tier IV, we are dedicating additional funding to our Agricultural Land Preservation Program, and have had legislation adopted to refine our pricing formula to include green infrastructure points and to accept easements on smaller parcels. So far, 22 property owners (1416 acres) have requested scoring of their properties to determine a price that would be offered in comparison to other options. If accepted into the program, additional acreage will be preserved in perpetuity in response to SB 236.
- Additionally, in support of SB 236's goal to reduce the amount of residential development on septic systems, we have initiated planning and a capital project to encourage older properties on septic within Tier I to connect to the County's public sewer system. Under this capital project, the potential number of septic systems that could be connected to the waste water treatment system is 1,740. While unrelated to rural growth, this program will help protect water quality in Howard County and the Chesapeake Bay. In short, Howard County is likely going further than any other county in Maryland to reduce the use of septic systems, and thus prevent nitrogen and other nutrients from entering the Bay from this source.
- Finally, as part of this package, we stood firm and would not countenance the expansion of the minor subdivision option in Howard County. Unlike other Counties, Howard County has maintained its Bay-friendly cap on all minor subdivisions at its original four lots only.

In sum, the adopted map and our broader preservation program serve to implement The Act very well. Compared to our initial map, (Attachment B) there is a larger Tier IV area, (460 more acres despite removal of the grandfathered properties), a plan to place more properties in Agricultural Preservation and become Tier IV in the future, and a program to reduce septic use throughout the County. This is a map and a program we can all be proud of, and was the result of hard work and cooperation – which included you and your department.

Thank you for your kind comments at the awards ceremony. It's good when we all collaborate.

Sincerely,

A handwritten signature in cursive script that reads "Marsha McLaughlin". The signature is written in black ink and includes a horizontal line at the end.

Marsha McLaughlin
Director

MM/lh (T:\Shared\Director's Office\marsha\Secretary Hall Adopted Tier Map 05-29-2013.doc)

Attachments

cc: Ken Ulman, Howard County Executive
Jennifer Terrasa, Howard County Council Chairperson
Sheila Tolliver, Howard County Council Administrator
Jessica Feldmark, Chief of Staff

Introduced January 7, 2013
Public Hearing January 22, 2013
Council Action February 4, 2013
Executive Action February 8, 2013
Effective Date April 10, 2013

County Council Of Howard County, Maryland

2013 Legislative Session

Legislative Day No. 1

Bill No. 1 -2013

Introduced by:
Greg Fox, Councilmember

AN ACT amending *PlanHoward 2030*, the general plan for Howard County, by defining Growth Tiers, as required by the Maryland Sustainable Growth and Agricultural Preservation Act of 2012; specifying additional designated place types to correspond with the Growth Tiers; revising certain maps to reflect the additional designated place types; adding new text to describe Growth Tiers and adding new maps; and generally relating to planning, zoning and land use in Howard County.

Introduced and read first time January 7, 2013. Ordered posted and hearing scheduled.

By order Stephen M LeGendre
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 January 22, 2013.

By order Stephen M LeGendre
Stephen LeGendre, Administrator

This Bill was read the third time on February, 2013 and Passed , Passed with amendments , Failed .

By order Stephen M LeGendre
Stephen LeGendre, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 5th day of February, 2013 at 3 a.m./p.m.

By order Stephen M LeGendre
Stephen LeGendre, Administrator

Approved/Vetoed by the County Executive February 8, 2013

Ken Olman
Ken Olman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment

1 **WHEREAS**, during the 2012 legislative session, the Maryland General Assembly
2 enacted Senate Bill 236, The Sustainable Growth and Agricultural Preservation Act of 2012, that
3 requires local jurisdictions to adopt Growth Tiers by December 31, 2012; and
4

5 **WHEREAS**, the goal of Senate Bill 236 is to limit the disproportionate impacts of large
6 subdivisions and septic systems on our farm and forest land, streams, rivers and Chesapeake and
7 Coastal Bays; and
8

9 **WHEREAS**, for over 30 years Howard County has been a national leader in farmland
10 preservation and has been a model for many Maryland Counties by:

- 11 • Being one of the earliest Maryland Agricultural Land Preservation Foundation
12 participants;
- 13 • Being one of the first counties to establish its own local preservation program,
14 which creates perpetual easements on agricultural parcels;
- 15 • Being the first jurisdiction in the nation to implement innovative installment
16 purchase agreements as a means to acquire easements;
- 17 • Having over 40,000 acres preserved in the County (including parkland, open
18 space, Washington Suburban Sanitary Commission property, and obtaining
19 agricultural easements on over 20,000 acres of farmland);
- 20 • Appropriating approximately \$253 million in funding toward the County’s
21 preservation efforts; and
22

23 **WHEREAS**, for over twenty years Howard County’s pace of development has been
24 governed by its Adequate Public Facilities Ordinance, specifically, the Housing Unit Allocation
25 Chart, which has slowed the pace of development in the Rural West and reduced the General
26 Plan annual targets for residential completions by providing an orderly and predictable planning
27 environment; and
28

29 **WHEREAS**, Howard County’s Density Exchange Option, a model throughout the

1 nation, will meet the Transfer of Development Rights provision for Senate Bill 236; and

2
3 **WHEREAS**, Growth Tiers designate certain areas for different types of development
4 depending on certain characteristics such as sewerage service, agricultural use, forest and green
5 space, and locally designated growth areas,

6
7 **WHEREAS**, in July of 2012, by passage of Council Bill No. 26-2012, the Howard
8 County Council adopted *PlanHoward2030*, a new general plan for Howard County, but deferred
9 the inclusion of the Growth Tiers; and

10
11 **WHEREAS**, in December of 2012, the County Council passed an amended Council Bill
12 No. 37-2012, which sought to adopt new Growth Tiers designations which addressed much of
13 the public input that was given at the Legislative Public Hearing; and

14
15 **WHEREAS**, in December of 2012, the County Executive vetoed the amended Council
16 Bill No. 37-2012, leaving the County out of compliance with Senate Bill 236; and

17
18 **WHEREAS**, the County Council, in accordance with State law, now wishes to amend
19 *PlanHoward2030* in order to include Growth Tiers.

20
21 **NOW, THEREFORE,**

22
23 ***Section 1. Be It Enacted*** by the County Council of Howard County, Maryland, that
24 *PlanHoward2030* is hereby amended as follows and as more specifically shown in the attached
25 pages:

- 26 1. Text is amended or added on pages ii, 66, 76, 77, and 80;
- 27 2. A new Map 6-2, Designated Place Types, is inserted on page 74 to replace Map
28 6-2 as contained in the adopted *PlanHoward2030*; and
- 29 3. A new Map 6-2.1, Uncommitted Land and Preserved Land in Western Howard
30 County, is inserted on page 76; and

1 4. *A new Map 6-3, Sustainable Growth and Agricultural Preservation Act Growth*
2 *Tiers, is inserted on page 77 to replace Map 6-3 as contained in the adopted*
3 *PlanHoward2030.*

4
5 ***Section 2. And Be It Further Enacted*** *by the County Council of Howard County, Maryland that the*
6 *Director of the Department of Planning and Zoning may correct obvious errors, capitalization,*
7 *spelling, grammar, headings and similar matters and may publish this amendment to PlanHoward*
8 *2030 by adding or amending covers, title pages, a table of contents, and graphics to improve*
9 *readability.*

10
11 ***Section 3. And Be It Further Enacted*** *by the County Council of Howard County, Maryland,*
12 *that this amendment be attached to and made part of PlanHoward2030.*

13
14 ***Section 4. And Be It Further Enacted*** *by the County Council of Howard County, Maryland, that*
15 *this Act shall become effective 61 days after its enactment.*