



**PETITION TO AMEND THE
ZONING REGULATIONS OF
HOWARD COUNTY**

DPZ Office Use Only:
Case No. ZRA- 195
Date Filed: 8-3-20

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: _____

Applicant proposes to amend Section 128.K of the zoning regulations to
1.) extend the eligibility of qualified sending parcels to all parcels which might
contain an historic structure as inventoried in the Maryland Historic Trust Sites
Inventory and to parcels located in a local historic district and 2.) extend increased
sending density rates for these properties and 3.) allow sending density to be
received as bonus density across zoning districts.

[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 Kimberly Kepnes

Address 3585 Church Road, Ellicott City MD 21043

Phone No. (W) 443-250-4241 (H) _____

Email Address kimberly.kepnes@monumentsothebysrealty.com

3. Counsel for Petitioner _____

Counsel's Address _____

Counsel's Phone No. _____

Email Address _____

- 4.** Please provide a brief statement concerning the reason(s) the requested amendment(s) to the Zoning Regulations is (are) being proposed Extending the Neighborhood Preservationl
Density Exchange Option to parcels containing historic structures, as defined, and
parcels in local historic districts recognizes the importance of these historic structures
and environmentally sensitive areas and creates an opportunity for these parcels to be
preserved and the land protected through an exchange of the development rights which
can more effectively complete with the alternative economic advantage of 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 _____

See attached "Response to Section 5"

[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 100.0.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 100.0.A. The application proposal supports the legislative intent of the Zoning Regulations by protecting and conserving the value of land and structures throughout all parts of the county (100.0.A.2,) helping to promote the preservation of historic, architectural and land resources (100.0.A.6,) and ensuring all development protects or enhances historic or other landscape resources (100.0.A.7.)

[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) . The application

proposal benefits the public by providing property owners with viable development alternatives which serve to promote community and County preservation priorities as well as reduced development initiatives throughout Howard County and in targeted environmentally sensitive districts.

[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.

See attached "Response to Section 8"

[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. The current

Neighborhood Preservation Density Exchange Option falls short to 1.) provide an equal opportunity for historic properties across zoning districts in Howard County, 2.) effectively define what may qualify as an historic structure, and 3.) provide for the protection of all structures within the boundaries of present and yet to be established historic districts.

[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.

Kimberly Kepnes

Petitioner’s name (Printed or typed)

Petitioner’s Signature

Date

7/30/2020

Petitioner’s name (Printed or typed)

Petitioner’s Signature

Date

Petitioner’s name (Printed or typed)

Petitioner’s Signature

Date

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.**

APPLICATIONS: One (1) original plus twenty (24) copies along with attachments.

For DPZ office use only:

Hearing Fee \$ _____

Receipt No. _____

PLEASE CALL 410-313-2395 FOR AN APPOINTMENT TO SUBMIT YOUR APPLICATION

County Website: www.howardcountymd.gov

Revised: 07/12

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

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.

PETITIONER: Kimberly Kepnes

AFFIDAVIT AS TO CONTRIBUTION

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

I, Kimberly Kepnes, the applicant in the above zoning matter

X _____, HAVE _____ 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.

Printed Name: Kimberly Kepnes

Signature: _____

Date: 07/30/2020

PETITIONER: Kimberly Kepnes

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

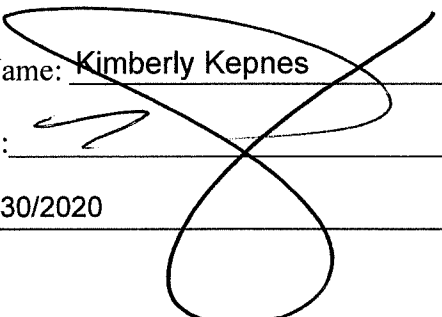
PARTY OF RECORD: Kimberly Kepnes

RECIPIENTS OF CONTRIBUTIONS:

<u>Name</u>	<u>Date of Contribution</u>	<u>Amount</u>
<u>Liz Walsh (via Act Blue)</u>	<u>4/4/2018-1/14/2019</u>	<u>\$750</u>
<u>Liz Walsh</u>	<u>7/10/2018</u>	<u>350</u>
<u>Liz Walsh</u>	<u>10/20/2018</u>	<u>100</u>
<u>Liz Walsh</u>	<u>5/2018</u>	<u>250</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.

Printed Name: Kimberly Kepnes

Signature: 

Date: 07/30/2020

PETITIONER: Kimberly Kepnes

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**

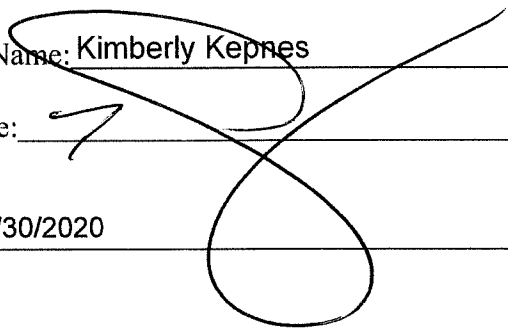
I, Kimberly Kepnes, the applicant in the above zoning matter
_____, AM X AM NOT

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.

Printed Name: Kimberly Kepnes

Signature: 

Date: 07/30/2020

ZRA Application to Amend Section 128.K: Neighborhood Preservation Density Exchange Option

Petitioner: Kimberly Kepnes

Response to Section 5:

5. Provide a detailed justification statement demonstrating how the proposed amendment will be in harmony with the General Plan.

Plan Howard 2030: Historic Preservation focuses to expand on the preservation priorities outlined in the General Plan 2000 and seeks legislation to create protections for historic structures. Plan 2000 priorities to inventory historic structures throughout the county is underway and Plan Howard 2030 continues to focus to strengthen its Preservation Plan. Extending the Neighborhood Preservation Density Exchange Option to parcels containing historic structures across zoning districts and to parcels in local historic districts recognizes and affirms the importance of efforts to preserve threatened social, economic and environmental districts and historic structures and a move to extend maximum density exchange right options, as outlined in this application, legitimizes established legislative agenda for preservation, curbs the development of these dwindling properties and protects at-risk historic districts and will, additionally, serve to reduce overall County development with each exchanged right.

ZRA Application to Amend Section 128.K: Neighborhood Preservation Density Exchange Option

Petitioner: Kimberly Kepnes

Response to Section 8

8. 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.

According to Plan Howard 2030, Historic Preservation, Howard County's efforts to inventory historic structures throughout the County is nearly complete. According to the Plan, there are presently 1,000 properties inventoried, thirty-six of which are in the National Register of Historic Places. There are also three National and two local historic districts with potential for additional. Continued inventory efforts and designation of additional historic districts serves to recognize more historic structures and communities for preservation focus. Historic properties and structures are throughout Howard County and across zoning districts. Extending the Neighborhood Preservation Density Exchange Option to properties containing historic structures and structures in local historic districts recognizes ongoing efforts will continue to reveal properties and historic structures threatened by development and the need for preservation-focused opportunities and alternatives for current and yet to be establish historic districts.

PETITIONER PROPOSED TEXT (IN CAPS AND BOLD FACE TYPE)

SECTION 128.0: - Supplementary Zoning District Regulations

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 or an historic structure, as defined in the Zoning Regulations and is eligible to be developed for additional residential lots **ACROSS ZONING DISTRICTS**, 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 **OR ARE LOCATED IN A LOCAL HISTORIC DISTRICT** ~~[, as provided in Subsection 1.b below,]~~ **AS PROVIDED IN SUBSECTION 1.C 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.

C. A PARCEL CONTAINING A HISTORIC STRUCTURE WHICH APPEARS ON THE MARYLAND HISTORIC TRUST SITES INVENTORY OR A PARCEL IN A LOCAL HISTORIC DISTRICT SHALL BE ALLOWED TO SEND DENSITY AT A RATE OF 3 DEVELOPMENT RIGHTS PER NET ACRE OR WITHOUT LIMITATION ON THE MAXIMUM NUMBER OF ELIGIBLE DEVELOPMENT RIGHTS AVAILABLE, WHICHEVER IS GREATER. SENDING PARCELS UNDER THIS PROVISION WHICH HAVE NOT OR DO NOT SEND AT MAXIMUM DEVELOPMENT RIGHT AT ANY ONE TIME SHALL HAVE SUCH RIGHTS RETAINED UNTIL A SINGLE DEVELOPMENT RIGHT REMAINS.

2. Neighborhood Preservation Parcel Easement Requirements

a. **EXCEPT FOR A PARCEL DEVELOPING UNDER THE PROVISIONS OF SECTION K I. C ABOVE**, 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. **EXCEPT FOR A PARCEL DEVELOPING UNDER THE PROVISIONS OF SECTION K I. C ABOVE**, a Neighborhood Preservation Parcel Easement improved with an existing dwelling unit, a structure used for 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.

[c.] D. 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.] E. 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, Historic Building Uses Conditional Uses, or principal or accessory Swimming Pool, Community uses are permitted in accordance with the Zoning Regulation.
- (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.] F. 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.
- (4) FOR A PARCEL DEVELOPING UNDER THE PROVISIONS OF SECTION K I. C., A COMMUNITY HOMEOWNERS ASSOCIATION OR, IF NO COMMUNITY ASSOCIATION EXISTS, THE HISTORIC PRESERVATION COMMISSION**

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 R-SA-8, R-A-15, R-APT and CAC Districts.

b. Residential development rights derived from Neighborhood Preservation sending parcels may be received as bonus density on parcels in the R-ED, R-20 and R-12 Districts for which the total development project size is at least 5 acres, **HOWEVER, SENDING PARCELS UNDER 1.K.C. MAY BE RECEIVED AS BONUS DENSITY ON PARCELS OF ANY SIZE, ACROSS ZONING DISTRICTS, INCLUDING SPECIAL ZONING DISTRICTS.**

D. 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
Single-Family Dwelling	1
Townhouse Dwelling	.5
Apartment	.33

E. Any parcel with the main stem of 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 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 used for 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.

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 128.0.K.
- (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 128.0.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.