



# HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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Voice/Relay

Valdis Lazdins, Director

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## TECHNICAL STAFF REPORT

February 4, 2016

Planning Board Meeting of February 18, 2016  
County Council Hearing to be scheduled

**Case No./Petitioner:** Valdis Lazdins, Director, Department of Planning and Zoning

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**Request:** Request of the Planning Board to hold a public hearing for input and recommendation to the County Council on an amendment to the County's general plan, *PlanHoward 2030*.

**Department of Planning and Zoning recommendation:** Approval

### I. BACKGROUND

In 2012 the Maryland General Assembly enacted Senate Bill 236, *The Sustainable Growth and Agricultural Preservation Act of 2012*, which required local jurisdictions to adopt Growth Tiers by December 31, 2012. Growth Tiers designate certain areas for different types of development depending on characteristics, such as sewerage service, agricultural use, forest and green space, and locally designated growth areas.

SB 236 required local jurisdictions to classify land into one of the following four Growth Tiers, as defined in the legislation.

- Tier I: designated growth area served by public sewer
- Tier II: designated for future extension of public sewer services
- Tier III: not planned for sewer service, not dominated by agricultural or forest, and planned for large lot development
- Tier IV: not planned for sewer service, dominated by agricultural and forest land planned for resource protection

The intent of the legislation is to protect the Chesapeake Bay and its associated rivers and streams by limiting development served by septic systems. Accordingly, major subdivisions in Tier IV areas (five or more lots in Howard County) are prohibited. While SB 236 established Tier definitions, the final land designations were left

up to local jurisdictions, as well as the development of a local Growth Tiers map. To meet SB 236 requirements the Howard County Council reviewed a number of bills between December 2012 and February 2013 and ultimately amended *PlanHoward* 2030 to include Growth Tiers in April 2013. A chronological summary of those bills follows:

- December 2012- County Council passed Council Bill No. 37-2012 which sought to adopt Growth Tiers designations.
- December 2012- former County Executive vetoed Council Bill No. 37-2012.
- January 2013- County Council considered Council Bill No. 1-2013, which again sought to adopt Growth Tiers designations.
- February 2013- County Council considered amendments to Council Bill No. 1-2013 and approved the amended Bill.
- April 10, 2013- Council Bill No. 1-2013 went into effect and PlanHoward 2030 was officially amended to include the Growth Tiers.

## II. DESCRIPTION

The Tier designations adopted through Council Bill No. 1-2013 restricted development rights for areas designated Tier IV. To ease these restrictions, the proposed General Plan amendment seeks to revise the Growth Tier designations and return development rights previously eliminated. As such, properties in the RC and RR Zoning Districts with development or re-development potential, including those in the Maryland Agricultural Land Preservation Foundation (MALPF) Program, would be designated Tier III.

Tier IV designated properties would consist of permanently preserved land in the RC and RR Zoning Districts, which are dominated by agriculture, forested land, and other natural areas. Permanently preserved properties are those encumbered in perpetuity, including: Agricultural Land Preservation Program Easements acquired by the County, Rural Legacy Easements, Agricultural and Environmental Preservation Parcels, Maryland Environmental Trust Easements, Conservation Easements, Maryland Historical Trust Easements, and Park and Open Space Land. Tier I properties would remain unchanged and Tier II does not apply to Howard County.

The proposed general plan amendment is similar to Council Bill 37-2012, which was initially adopted by the County Council (by a vote of 4 to 1) in 2012. The amended language deletes text and adds new text on pages 71, 73, and 75. A new Map 6-3, Sustainable Growth and Agricultural Preservation Act Growth Tiers, would be inserted on page 72 to replace Map 6-3.

## III. EVALUATION AND CONCLUSIONS

The following chart summarizes the additional development potential that could result from the proposed revisions:

**Impact Data Chart- Growth Tier Revisions**

Property Type	Acres	Number of parcels over 21.25 acres	If All Remains as Tier IV	If Tier IV Lifted	
			Existing/Potential Units	Potential Units	Potential Added Capacity
Properties with Major Subdivision Potential	2,330	53	204	498	294

The Impact Data Chart analyzes properties that would regain major subdivision rights (five or more units), which are those over 21.25 acres. Additional details of this analysis at the property level can be found in Exhibit B. If implemented, the proposed Growth Tier revisions could add up to 294 additional residential units. This represents a net increase, above the 4-unit minor subdivision allowance, given the current allowable densities under the Howard County Zoning Code.

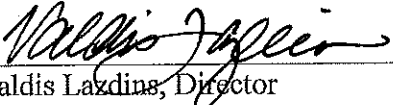
MALPF properties are not included in this analysis since State easements would have to be terminated to obtain development rights. For an easement to be terminated, both the State and the County would need to approve the request and determine, among a number of findings, that profitable farming is no longer feasible on the property. Consequently, it is difficult to know how many MALPF properties could potentially be developed.

Even if all 294 additional units were constructed, the pace of development would be limited and spread over time given the controls associated with the RC and RR zones, as well as the Adequate Public Facility Ordinance (APFO). APFO has governed the pace of development in Howard County, ensuring that it occurs with the necessary infrastructure in place. The County's unique housing unit allocations have also provided an orderly and predictable planning environment, especially in the rural west.

Given the limited potential for additional development (approximately 294 residential units) and given the local zoning controls in place, the Department of Planning and Zoning does not believe this General Plan Amendment considerably impacts the goals of SB 236. *PlanHoward 2030's* preservation and conservation policies continue to be effectuated through the RC as well as other Zoning Districts; this General Plan amendment would not affect those efforts. Furthermore, the proposed amendment implements SB 236, while maintaining local authority over zoning and growth management.

#### IV. RECOMMENDATION

The Department of Planning and Zoning recommends approval and adoption of a General Plan Amendment to *PlanHoward 2030* to revise the Growth Tier designations as described herein.

  
Valdis Lazdins, Director

2-4-16  
Date

#### Attachment

- Exhibit A for GPA 2016-01 to *PlanHoward 2030*
- Exhibit B – Detailed Impact Analysis Chart

## GENERAL PLAN AMENDMENT 2016-01 EXHIBIT A

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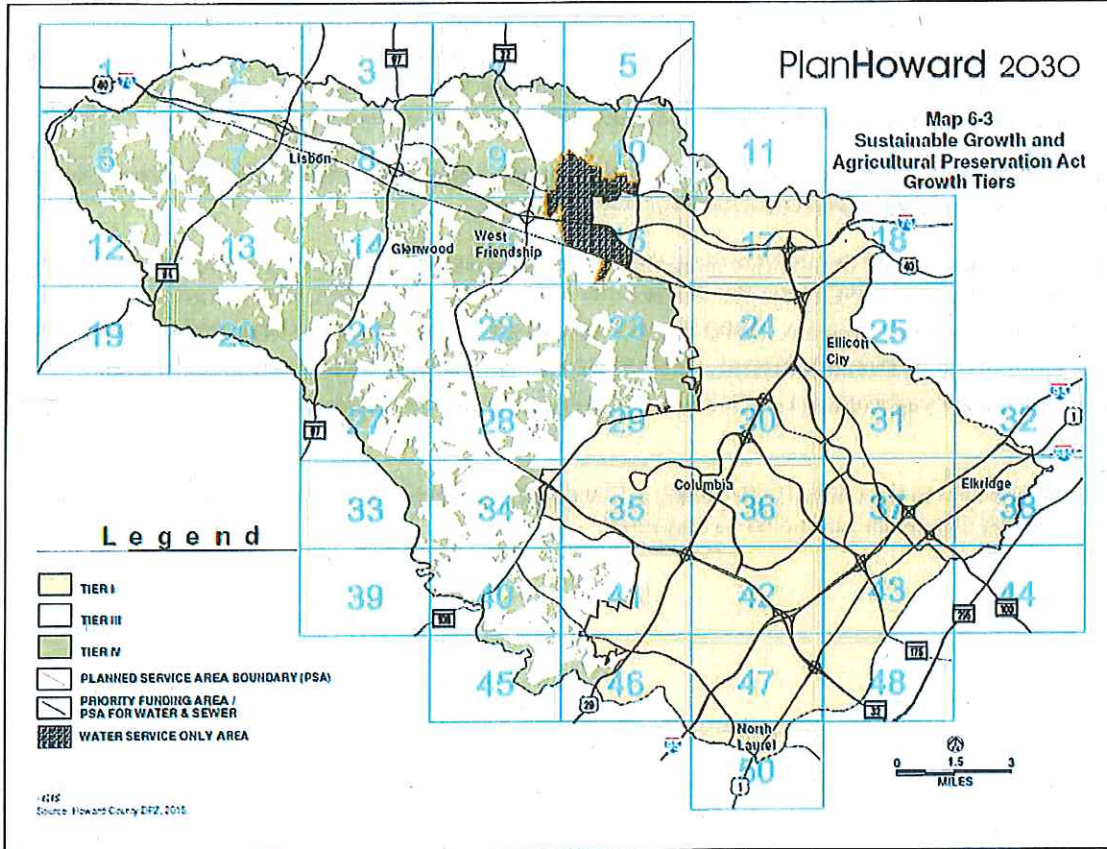
### Sustainable Growth and Agricultural Preservation Act of 2012

New restrictions on the development of major subdivisions using septic systems in rural areas were adopted by the Maryland General Assembly in April 2012 through the Sustainable Growth and Agricultural Preservation Act (Senate Bill 236). This Act requires local jurisdictions to classify land into one of four "Growth Tiers" based on the following:

- **Tier I** - designated growth area served by public sewer;
- **Tier II** - designated for future extension of public sewer service;
- **Tier III** –not planned for sewer service, not dominated by agricultural or forest, and planned for large lot development with septic systems;
- **Tier IV** –not planned for sewer service, dominated by agricultural and forest land planned for resource protection.

The intent of this legislation is to [[prohibit major subdivisions of five or more lots in Tier IV areas. Local jurisdictions must adopt tier designation by December 31, 2012, or all areas not planned for public sewer will be restricted to minor subdivisions of four or fewer lots.]] **PROMOTE RESOURCE PRESERVATION AS WELL AS PROHIBIT MAJOR SUBDIVISIONS OF FIVE OR MORE LOTS IN TIER IV AREAS. WHILE LIMITING DEVELOPMENT ON SEPTIC IS IMPORTANT, PRESERVING AGRICULTURAL LANDS AND THEIR PRODUCTIVITY AS WELL AS OTHER SENSITIVE AREAS FOR FUTURE GENERATIONS IS EQUALLY SIGNIFICANT.** Map 6-3 shows the Growth Tiers for Howard County.

NEW SUSTAINABLE GROWTH AND AGRICULTURAL PRESERVATION ACT GROWTH TIERS (Map 6-3)



Tier I is our Priority Funding Area, which is the Planned Public Water and Sewer Service Area. No areas are designated for Tier II, since there are no plans for further extension of the Public Water and Sewer Service Area in the future. **WEST OF THE PLANNED SERVICE AREA (PSA)**, Tier III equates to [[the RR (Rural Residential) zoning district with the exception of already preserved parcels that are designated as Tier IV,]] **ALL LAND IN RC AND RR ZONING DISTRICTS THAT IS NOT PERMANENTLY PRESERVED**, and Tier IV IS **ALL PERMANENTLY PRESERVED LAND IN RC AND RR ZONING DISTRICTS**. [[is the RC (Rural Conservation) zoning district with the exception of 13 parcels that have initiated "grandfathering" under Senate Bill 236 by applying for septic "perc" testing prior to July 1, 2012. In addition, other parcels, for which the development process was initiated prior to the adoption of Senate Bill 236, will be able to continue the development process in accordance with the grandfathering provisions of Senate Bill 236.]]

[[The purpose statements in the RR and RC zoning districts clearly reflect the planning objectives for these two growth tiers, and the exceptions relate to specific exemptions and inclusions envisioned by Senate Bill 236.]]

While Tier IV properties will no longer be allowed to subdivide more than four lots, remaining development rights may continue to be transferred under DEO (Density Exchange Option) to the Tier III district, or they may be sold to the County if a property enters into the County's Agricultural Land Preservation Program. **ADDITIONALLY, STATE LAW PROTECTS SUBDIVISION RIGHTS THAT WERE SPECIFICALLY RETAINED IN AN AGRICULTURAL, ENVIRONMENTAL, OR HISTORIC PRESERVATION EASEMENT FOR A PARTICULAR PROPERTY**. The regulations for the County's agricultural Land Preservation Program should be reviewed and amended as needed to facilitate open enrollment.

As part of the initial review to be provided to the Council under Policy 2.1, Action C., the successes and impacts of the Growth Tiers and related policies as required Under Senate Bill 236 should be addressed.

Policies and Implementing Actions

POLICY 6.1 – Maintain adequate facilities and services to accommodate growth.

Implementing Actions

- a. Limited Planned Service Area Expansion. Zoning requirements for approved PSA expansions should include a development proposal that is consistent with the General Plan and establishes a transition that is compatible with and enhances surrounding communities and provides an environmental benefit.
- b. Place Types and Tiers. Obtain State concurrence on PlanHoward 2030 place designations and tiers in accordance with PlanMaryland’s final criteria and procedures and the Sustainable Growth and Agricultural Preservation Act on or before December 31, 2012.
- c. Revise APF Regulations. Amend the current Adequate Public Facilities regulations to reduce allocation categories and reflect designated places.
- d. APF Housing Allocations. Incorporate the PlanHoward 2030 housing forecasts into the Adequate Public Facilities Housing Allocation Chart.
- e. Zoning. Reduce competition for land resources by promoting more compact development in appropriate targeted growth and revitalization areas.
- f. Density Exchange Option. Review and, as appropriate, amend the density exchange provisions of the DEO zoning district during the Comprehensive Zoning process [[to help mitigate rural subdivision restrictions due to Growth Tiers]].
- g. Targeted Funding. Optimize the use of State and County infrastructure funding and program resources targeted to County-designated place types.
- h. Schools. Make efficient use of existing school capacity avoiding unnecessary capital outlays.

EXHIBIT B

**Non-Grandfathered Tier IV Properties 21.25 Acres or More  
As of July 1, 2015**

If All Remains as Tier IV				If Tier IV Lifted	
	Number Of parcels	Potential Units	Acres	Potential Units	Added Unit Capacity
Undeveloped	53	204	2329.78	498	294

Stat Area	Tax Map	Block	Lot	Parcel	Zoning	Use	Acres	Units		
								Current	Tier IV Lifted	Added Cap
4-03	4,9	19,20,1,2		93	RC-DEO	10	130.78	4	30	26
4-05	7,8	12,7		345	RC-DEO	10	125.72	4	29	25
4-09	27	3		213	RC-DEO	10	111.68	4	26	22
4-02	2	22		75	RC-DEO	10	110.85	4	26	22
3-04	15	16,17,22,23		90	RC-DEO	10	96.93	4	22	18
4-04	6	5,6,12		119	RC-DEO	10	85.87	4	20	16
4-02	8	7,8		165	RC-DEO	10	70.29	4	16	12
4-04	1,6	23,5,6		253	RC-DEO	10	67.63	4	15	11
5-01	27	9,10		131	RC-DEO	10	67.39	4	15	11
2-08B	23	11,17	D	71	RC-DEO	10	61.52	0	0	0
4-05	7	14		118	RC-DEO	10	61.50	4	14	10
4-03	8,9	12,7		164	RC-DEO	10	60.15	4	14	10
4-02	8	1		2	RC-DEO	10	58.00	4	13	9
3-02A	10	8		113	RC-DEO	10	52.96	4	12	8
2-08B	23	11,12,17,18	E	71	RC-DEO	10	50.09	0	0	0
4-04	6	2		106	RC-DEO	10	47.27	4	11	7
4-07	13	14	9	303	RC-DEO	10	44.37	4	10	6
4-03	3	23		13	RC-DEO	10	43.49	4	10	6
3-01	9	16		352	RC-DEO	10	42.13	4	9	5
4-02	8	11,17	2	93	RC-DEO	10	39.96	4	9	5
4-07	13	15,21		109	RC-DEO	10	39.45	4	9	5
4-09	27	3,9		45	RC-DEO	10	38.60	4	9	5
3-01	9	17,23		21	RC-DEO	10	37.23	4	8	4
5-02A	34,35	6,1	2	185	RC-DEO	10	36.95	4	8	4
4-05	7	15,21		262	RC-DEO	10	32.68	4	7	3
4-04	12	17,18		45	RC-DEO	10	32.10	4	7	3
4-04	12	23,24		61	RC-DEO	10	30.24	4	7	3
4-04	12	17,18		44	RC-DEO	10	30.02	4	7	3
4-08	20	11		81	RC-DEO	10	30.00	4	7	3
4-03	9	1,7		78	RC-DEO	10	29.90	4	7	3
4-02	8	4,5,10,11		180	RC-DEO	10	29.72	4	6	2
3-02A	10	20,21		24	RC-DEO	10	27.56	4	6	2
4-02	3,8	22,23,4,5		123	RC-DEO	10	27.00	4	6	2
3-04	15	17		18	RC-DEO	10	26.70	4	6	2
4-02	3,8	20,1,2		1	RC-DEO	10	26.58	4	6	2
4-02	2	23	4	219	RC-DEO	10	26.40	4	6	2
4-08	13	24	4	61	RC-DEO	10	25.47	4	5	1
4-08	21	8,14		132	RC-DEO	10	25.00	4	5	1
4-07	13	12,8		192	RC-DEO	10	24.93	4	5	1
4-08	20	4		56	RC-DEO	10	24.85	4	5	1
3-01	9	2,8	4	174	RC-DEO	10	24.69	4	5	1
4-04	6	4,10	1	23	RC-DEO	10	24.49	4	5	1
3-02A	10	4		228	RC-DEO	10	24.47	4	5	1
4-06	14	6,12		43	RC-DEO	10	24.08	4	5	1
4-06	8	24		109	RC-DEO	10	23.97	4	5	1
4-04	12	18,24		62	RC-DEO	10	23.46	4	5	1
4-02	3	19	3	39	RC-DEO	10	22.70	4	5	1
4-02	2	16		26	RC-DEO	10	22.50	4	5	1
4-08	20	3,4		65	RC-DEO	10	22.35	4	5	1
3-06A	16	14,20		41	RC-DEO	10	22.17	4	5	1
4-02	3	13,14	1	6	RC-DEO	10	21.90	4	5	1
4-07	20	3		39	RC-DEO	10	21.63	4	5	1
4-04	6	6	27	485	RC-DEO	10	21.41	4	5	1
<b>TOTAL</b>	<b>Number of Parcels - 53</b>			<b>Acres - 2,329.78</b>			<b>204</b>	<b>498</b>	<b>294</b>	