



**Subject:** Amendment to the General Plan (*PlanHoward 2030*) to Amend the Growth Tiers

**To:** Howard County Planning Board

**From:** Allan H. Kittleman  
Howard County Executive

**Date:** January 13, 2016

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### **Purpose**

This memorandum serves to provide background and information regarding a proposal to amend *PlanHoward 2030*, which will be scheduled before the Planning Board in early 2016. The proposed amendment revises the Growth Tiers by designating all parcels outside the Planned Service Area that are not permanently preserved as Tier III, while retaining those properties that are permanently preserved as sensitive areas in Tier IV.

### **Background**

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

In July of 2012, by passage of Council Bill No. 26-2012, the Howard County Council adopted *PlanHoward 2030*, a new general plan for Howard County, but deferred the inclusion of the Growth Tiers. In order to meet the requirement of SB 236, the Howard County Council reviewed a number of bills between December, 2012 and February, 2013. A chronological summary of those bills is as 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.

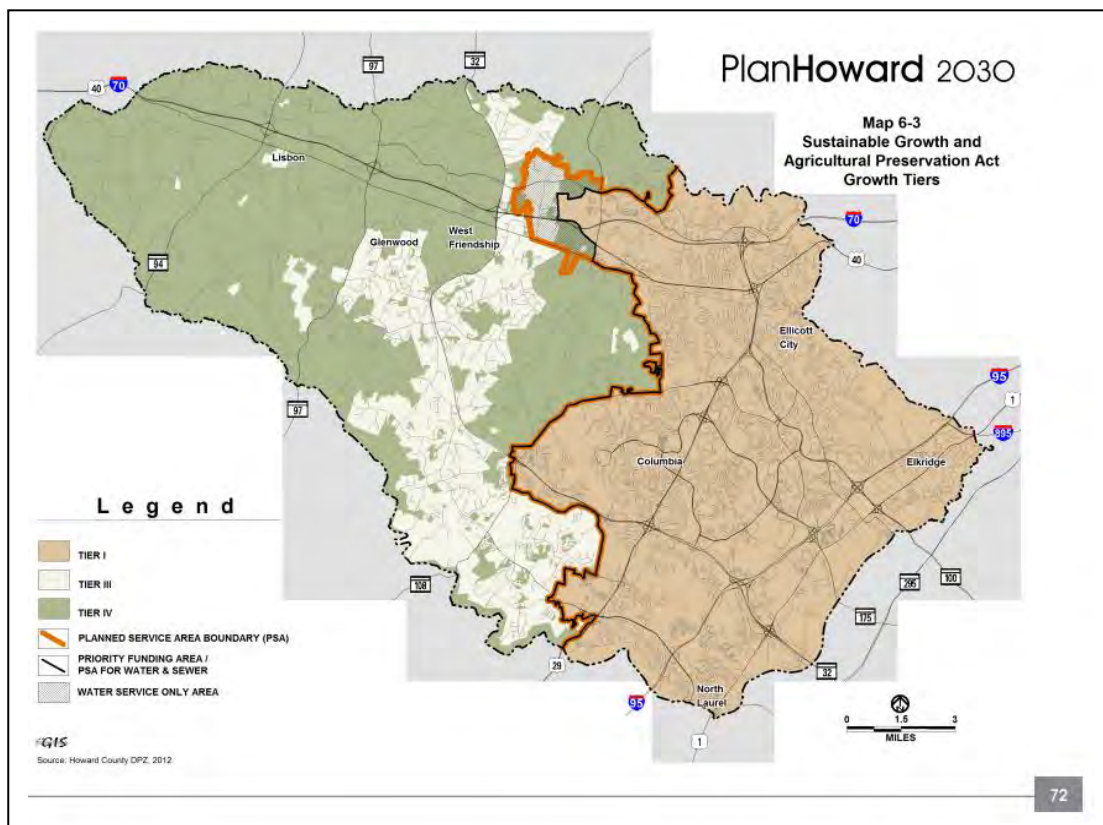
## General Plan Amendment Description

Council Bill No. 1-2013 severely restricted the development rights of landowners for areas designated as Tier IV (see approved Map 6-3 below) without any compensation. To restore these property rights, this proposal seeks to amend *PlanHoward 2030* to revise the Growth Tier designations and return the development rights previously eliminated. The proposed amendment will remove from Tier IV those properties that are not preserved through the County's Agricultural Land Preservation Program or otherwise permanently preserved as sensitive areas in the RC and RR Zoning districts and place them in Tier III. Tier IV designated properties will consist of permanently preserved land in the RC and RR Zoning Districts, which are dominated by agriculture, forested land, and other natural areas.

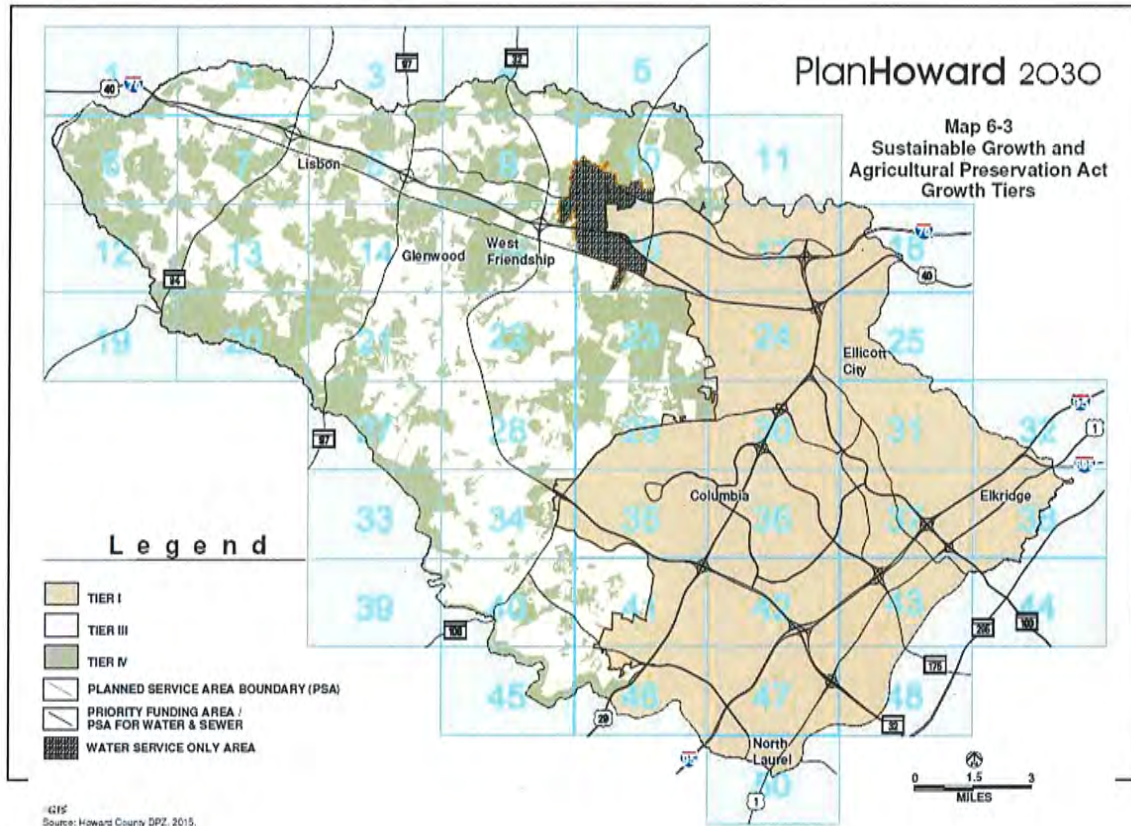
Growth opportunities in both Tier III and Tier IV areas will still be limited due to development controls associated with the RC and RR zones, as well as the Adequate Public Facility Ordinance (APFO). APFO has governed the pace of development in Howard County, ensuring that it occurs with the necessary infrastructure in place. The County's unique housing unit allocations have also provided an orderly and predictable planning environment, especially in the rural west.

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. This amendment will delete text and add new text on pages 71, 73, and 75. A new Map 6-3, Sustainable Growth and Agricultural Preservation Act Growth Tiers, will be inserted on page 72 to replace Map 6-3, as contained in the amended *PlanHoward 2030* (see 2013 map below and a proposed map on the next page).

Approved Growth Tiers Map, 2013



Proposed Growth Tiers Map, 2015



**Recommendation**

That *PlanHoward 2030* be amended to revise the Growth Tier designations to designate all parcels outside the Planned Service Area that are not permanently preserved as Tier III, while retaining those properties that are permanently preserved as sensitive areas in Tier IV.

  
Allan H. Kittleman, County Executive

Attachment:  
DRAFT Council Bill and associated *PlanHoward 2030* Text and Map Changes

Introduced ~~Public~~ \_\_\_\_\_  
Hearing Council \_\_\_\_\_  
Action Executive \_\_\_\_\_  
Action Effective \_\_\_\_\_  
Date \_\_\_\_\_

## County Council Of Howard County, Maryland

2016 Legislative Session

Legislative Day No. \_\_\_\_\_

**Bill No. \_\_\_\_\_-2016**

Introduced by the Chairperson at the request of the County Executive

AN ACT amending *PlanHoward 2030*, the general plan for Howard County, in order to amend Growth Tiers, as required by the Maryland Sustainable Growth and Agricultural Preservation Act of 2012; revising certain maps to reflect changes in Growth Tiers; amending text to describe Growth Tiers; and generally relating to planning, zoning and land use in Howard County.

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Introduced and read first time \_\_\_\_\_, 2016. Ordered posted and hearing scheduled.

By order \_\_\_\_\_  
Jessica Feldmark, 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 \_\_\_\_\_, 2016.

By order \_\_\_\_\_  
Jessica Feldmark, Administrator

This Bill was read the third time on \_\_\_\_\_, 2016 and Passed \_\_\_\_, Passed with amendments \_\_\_\_\_, Failed \_\_\_\_\_.

By order \_\_\_\_\_  
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this \_\_\_\_ day of \_\_\_\_\_, 2016 at \_\_\_\_ a.m./p.m.

By order \_\_\_\_\_  
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive \_\_\_\_\_, 2016

\_\_\_\_\_  
Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL 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 required local jurisdictions to adopt Growth Tiers by December 31, 2012; and  
4

5           **WHEREAS**, Growth Tiers designate certain areas for different types of development  
6 depending on certain characteristics such as sewerage service, agricultural use, forest and green  
7 space, and locally designated growth areas; and  
8

9           **WHEREAS**, Senate Bill 236 specifically left the final determination of where to  
10 establish the Growth Tiers to local jurisdictions; and  
11

12           **WHEREAS**, in July of 2012, by passage of Council Bill No. 26-2012, the Howard  
13 County Council adopted *PlanHoward2030*, a new general plan for Howard County, but deferred  
14 the inclusion of the Growth Tiers; and  
15

16           **WHEREAS**, in December of 2012, the County Council amended and passed Council Bill  
17 No. 37-2012, which sought to adopt Growth Tiers designations; and  
18

19           **WHEREAS**, in December of 2012, the former County Executive vetoed the amended  
20 Council Bill No. 37-2012; and  
21

22           **WHEREAS**, in January of 2013, the County Council considered Council Bill No. 1-2013  
23 which, again, sought to adopt Growth Tiers designations in order to comply with Senate Bill 236;  
24 and  
25

26           **WHEREAS**, in February of 2013, Council Bill No. 1-2013 was amended, revising the  
27 Growth Tiers Map and making other text amendments; and  
28

29           **WHEREAS**, Council Bill No. 1-2013, as amended, was passed by the County Council

1 and was effective on April 10, 2013; and

2  
3 **WHEREAS**, for areas designated as Tier IV, Council Bill No. 1-2013 severely restricted  
4 the development rights of landowners without compensation; and

5  
6 **WHEREAS**, the County Executive, in accordance with State law, now wishes to amend  
7 *PlanHoward2030* in order to amend the Growth Tier designations that were adopted by Council  
8 Bill No. 1-2013; and

9  
10 **WHEREAS**, this proposed amendment will remove the Tier IV designation that was  
11 placed on properties that are not preserved through the County’s Agricultural Land Preservation  
12 Program or otherwise preserved as sensitive areas in the RC and RR Zoning districts; and

13  
14 **WHEREAS**, these properties will obtain a Tier III status; and

15  
16 **WHEREAS**, Tier IV properties will consist of permanently preserved land in the RC and  
17 RR Zoning Districts; and

18  
19 **WHEREAS**, this proposed amendment to *PlanHoward2030* was considered by the  
20 Planning Board on \_\_\_\_\_.

21  
22 **NOW, THEREFORE,**

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

- 27 1. *On page 71, a portion of text is amended in the “Sustainable Growth and*  
28 *Agricultural Preservation Act of 2012” section;*  
29 2. *On page 72, Map 6-3, Sustainable Growth and Agricultural Preservation Act*

1                    *Growth Tiers, is removed and replaced with the revised Map 6-3 as attached to*  
2                    *this amendment;*

3                    3.    *On page 73, a portion of text is amended; and*

4                    4.    *On page 75, Policy 6.1 is amended.*

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

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

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

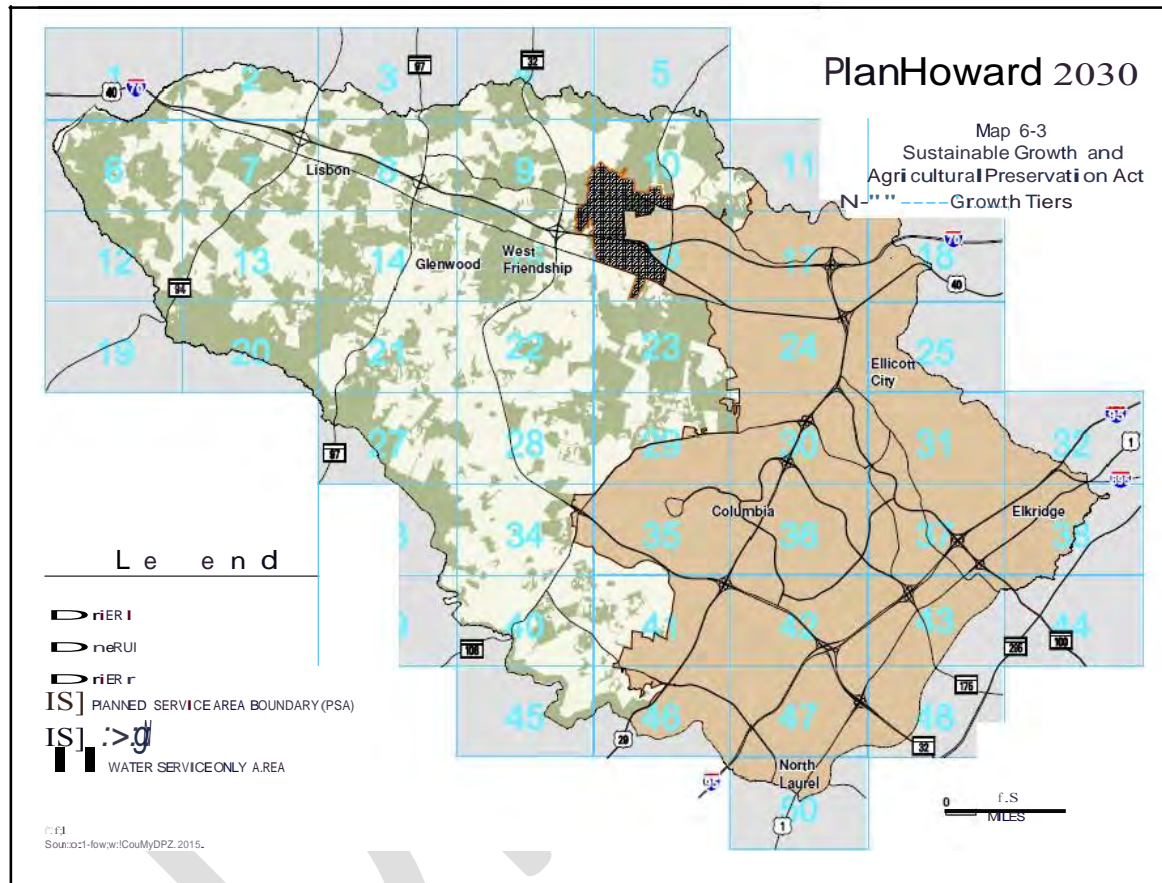
## Sustainable Growth and Agricultural Preservation Act of 2012

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.