

Introduced 03-06-2023
Public Hearing 03-20-2023
Council Action 05-01-2023
Executive Action 05-04-2023
Effective Date 07-04-2023

County Council of Howard County, Maryland

2023 Legislative Session

Legislative Day No. 3

Bill No. 10 -2023

Introduced by: Liz Walsh at the request of the Zoning Board

AN ACT to clarify the role of the hearing examiner to hear certain matters in the jurisdiction of the Zoning Board; specifying the powers and duties of, and the procedures used by, the hearing examiner, including in an evidentiary hearing; removing certain mediation procedures; specifying the rights and duties of parties and persons of record in matters heard by the hearing examiner; providing for the process of petition applications for piecemeal map amendments and development plans; allowing for certain conditional approvals; defining certain terms and rules of construction; and generally relating to Piecemeal map amendments and development plan approvals.

Introduced and read first time March 6, 2023. Ordered posted and hearing scheduled.

By order Michelle Harrod
Michelle Harrod, 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 March 20, 2023.

By order Michelle Harrod
Michelle Harrod, Administrator

This Bill was read the third time on April 3, 2023 and Passed ✓, Passed with amendments ✓, Failed _____.

May 1, 2023

By order Michelle Harrod
Michelle Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this 2 day of May, 2023 at 3:00 a.m./p.m.

By order Michelle Harrod
Michelle Harrod, Administrator

Approved/Vetoed by the County Executive May 4, 2023

Calvin Ball
Calvin Ball, 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.

Tabled 4-3-2023 Michelle Harrod

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the
2 Howard County Code is amended as follows:

3
4 *By amending:*

5 *Title 16 - Planning, zoning and Subdivisions and Land Development Regulations*

6 *Subtitle 1. Subdivision and Land Development Regulations*

7 *Article I. General*

8 *Section 16.108 - Rules of construction; definitions.*

9 *Subtitle 2. Zoning*

10 *Section 16.200 - Zoning authority; definitions; short title.*

11 *Section 16.202 - Purpose; establishment of zoning districts*
12 *and regulations.*

13 *Section 16.203A - Hearing examiner.*

14 *Section 16.204 - Piecemeal map amendments and*
15 *development plan approvals.*

16 *Section 16.205 - Procedure.*

17 *Section 16.206 - Conduct of hearings.*

18 *Section 16.207 - Judicial review.*

19 *Subtitle 10. Zoning Counsel*

20 *Section 16.1000 - Zoning Counsel.*

21 *Title 22. General Provisions*

22 *Subtitle 9. – Computation of Time.*

23 *Sec. 22.901 - Application.*

24
25 *By adding:*

26 *Title 16. Planning, Zoning and Subdivisions and Land Development Regulations*

27 *Subtitle 2. Zoning*

28 *Section 16.205A - Amendment Of Applications*

29 *Section 16.205B - Withdrawal*

30 *Section 16.205C - Reapplication*

31 *Section 16.205D - Joint Applications*

1 *Section 16.205E - Hearing Date*

2 *Section 16.205F - Map Amendment Application File*

3 *Section 16.205G - Technical Staff Report*

4 *Section 16.205H - Map Amendment Approval*

5
6 **HOWARD COUNTY CODE**

7 **Title 16 - Planning, Zoning, and Subdivisions and Land Development Regulations**

8 **Subtitle 1. - Subdivision and Land Development Regulations.**

9 **Article I. - General**

10
11 **Sec. 16.108. Rules of Construction; Definitions.**

12 (a) *Rules of Construction.* The following rules apply to the text of this subtitle:

13 (1) The particular AND SPECIFIC shall control the general.

14 (2) In case of any difference of meaning or implication between the text of this
15 subtitle and any caption, illustration, summary table, or illustrative table, the
16 text shall control.

17 (3) [[The word "shall" is always mandatory and not discretionary. The word "may"
18 is permissive.

19 (4)]] Words used in the present tense shall include the future; words used in the
20 singular number shall include the plural; words used in the plural number shall
21 include the singular.

22 [[(5) A building or structure includes any part thereof.]]

23 (4) WORDS USED IN THE SINGULAR INCLUDE THE PLURAL (AND VICE VERSA) AND
24 WORDS USED IN ONE GENDER INCLUDE ALL OTHER GENDERS, UNLESS THE
25 OBVIOUS CONSTRUCTION OF THE WORDING INDICATES THE CONTRARY.

26 (5) WORDS AND PHRASES NOT SPECIFICALLY DEFINED OR INTERPRETED IN THE
27 HOWARD COUNTY CODE OR THE HOWARD COUNTY ZONING REGULATIONS
28 SHALL BE CONSTRUED ACCORDING TO THE COMMON AND GENERALLY
29 RECOGNIZED USAGE OF THE LANGUAGE. TECHNICAL WORDS AND PHRASES, AND
30 OTHERS THAT HAVE ACQUIRED A PECULIAR AND APPROPRIATE MEANING IN THE
31 LAW, SHALL BE CONSTRUED ACCORDING TO THAT MEANING.

1 (6) COMPUTATION OF TIME:

2 (i) *BEGINNING OF THE PERIOD OF TIME.* IN COMPUTING ANY PERIOD OF TIME
3 SUBJECT TO THIS SUBTITLE, THE DAY OF THE ACT AFTER WHICH THE
4 DESIGNATED PERIOD OF TIME BEGINS TO RUN, IS NOT TO BE INCLUDED.

5 (ii) *DEADLINE.* THE DEADLINE IS TO BE COMPUTED AS FOLLOWS:

6 a. IF THE LAST DAY IS A SATURDAY, SUNDAY, OR HOLIDAY, THE DEADLINE
7 SHALL BE THE END OF THE NEXT BUSINESS DAY, OR;

8 b. IF THE COUNTY OFFICE IS NOT OPEN ON THE LAST DAY OF THE PERIOD,
9 OR IS CLOSED FOR A PART OF ~~A DAY~~ THE LAST DAY, THE DEADLINE
10 SHALL BE THE END OF THE NEXT BUSINESS DAY.

11 (iii) WHEN THE PERIOD OF TIME IS MORE THAN SEVEN DAYS, INTERMEDIATE
12 SATURDAYS, SUNDAYS, AND COUNTY LEGAL HOLIDAYS SHALL BE
13 CONSIDERED AS OTHER DAYS. IF THE PERIOD OF TIME IS SEVEN DAYS OR
14 LESS, INTERMEDIATE SATURDAYS, SUNDAYS, AND HOLIDAYS SHALL NOT BE
15 COUNTED.

16 (7) UNLESS OTHERWISE SPECIFIED, AN *AREA* OF LAND MEANS *CONTIGUOUS AREA*.

17 (8) THE WORD *APPROVE* INCLUDES *APPROVE WITH CONDITIONS, MODIFICATIONS, OR*
18 *AMENDMENTS*.

19 (9) A *BUILDING, STRUCTURE, LAND, OR PROPERTY* INCLUDES THE WORDS *OR PART*
20 *THEREOF*, UNLESS THE OBVIOUS CONSTRUCTION OF THE WORDING INDICATES THE
21 CONTRARY.

22 (10) THE WORD *BUY* ALSO INCLUDES THE WORDS *OFFER TO BUY*.

23 (11) THE WORDS *ERECTED* AND *CONSTRUCTED* ALSO INCLUDE *MODIFIED,*
24 *RECONSTRUCTED, BUILT, REBUILT, ALTERED, PLACED, RELOCATED, MOVED, AND*
25 *MAINTAINED*.

26 (12) THE TERMS *LAND USE* AND *USE OF LAND* ALSO INCLUDE *BUILDING USE* AND THE
27 *USE OF A BUILDING*.

28 (13) WHEN SOMETHING IS REFERRED TO AS BEING *REQUIRED*, IT MEANS REQUIRED AS
29 A PART OF THE REGULATIONS AND PROCEDURES SET FORTH IN LAW.

30 (14) THE WORD *SELL* ALSO INCLUDES *DISPENSE, OFFER FOR SALE, DISPLAY FOR SALE, OR*
31 *INTEND TO SELL*.

- 1 (15) THE WORDS *SHALL*, *MUST*, *MAY ONLY* OR *MAY NOT* ARE ALWAYS MANDATORY AND
2 NOT DISCRETIONARY. THE WORD *MAY* IS PERMISSIVE.
- 3 (16) THE WORD *INCLUDES* SHALL NOT LIMIT A TERM TO THE SPECIFIED EXAMPLES BUT
4 IS INTENDED TO EXTEND ITS MEANING TO ALL OTHER INSTANCES OR
5 CIRCUMSTANCES OF LIKE KIND OR CHARACTER.
- 6 (17) WHENEVER ONE TITLE, SUBTITLE, ARTICLE, SECTION, SUBSECTION, ETC.,
7 REFERENCES ANOTHER TITLE, SUBTITLE, ETC., BY REFERRING TO TITLE *ABOVE* OR
8 TITLE *BELOW*, IT IS INTENDED THAT THE TITLE *ABOVE* OR *BELOW* IS THE NEXT ONE
9 PRECEDING (ABOVE) OR FOLLOWING (BELOW).
- 10 (18) IT IS NOT INTENDED THAT SPECIFIC REQUIREMENTS BE INTERPRETED SEPARATELY
11 OR EXCLUSIVELY FROM ALL OTHER SPECIFIC REQUIREMENTS OR FROM THE
12 GENERAL REQUIREMENTS IN THIS TITLE. THE PROVISIONS OF THIS TITLE SHALL
13 BE READ AS A WHOLE.
- 14 (19) ADJECTIVES AND ADVERBS: ADJECTIVES OR ADVERBS APPEARING BEFORE A
15 SERIES OF NOUNS OR VERBS, RESPECTIVELY, APPLY TO THE ENTIRE SERIES UNLESS
16 SPECIFICALLY NOTED OR THE OBVIOUS SENSE OF THE PHRASE DICTATES
17 OTHERWISE.
- 18 (20) THE WORD *FOLLOWING* MEANS NEXT AFTER.
- 19 (21) THE WORD *PRECEDING* MEANS NEXT BEFORE.
- 20 (22) ANY DOCUMENT REQUIRED TO BE SUBMITTED IN WRITING PURSUANT TO THIS
21 SUBTITLE MAY BE SUBMITTED ELECTRONICALLY.
- 22 ([[6]]23) The phrase *used for* includes *arranged for*, *designed for*, *intended for*,
23 *maintained for*, or *occupied for*.
- 24 ([[7]]24) The word *person* includes an individual, a corporation, a partnership, an
25 incorporated association, or any other similar entity.
- 26 ([[8]]25) Unless the context clearly indicates the contrary, where a regulation
27 involves two or more items, conditions, provisions, or events connected by the
28 conjunction *and*, *or*, or *either/or*, the conjunction shall be interpreted as follows:
- 29 (i) *And* indicates that all the connected items, conditions, provisions, or
30 events shall apply;
- 31 (ii) *Or* indicates that the connected items, conditions, provisions, or events

1 may apply separately or in any combination; and

2 (iii) *Either/or* indicates that the connected items, conditions, provisions, or
3 events shall apply separately but not in combination.

4 [[9] The word *includes* shall not limit a term to the specified examples, but is
5 intended to extend its meaning to all other instances or circumstances of like
6 kind or character.]]

7 (26) SUCH AS: SEE *INCLUDES* (PARAGRAPH 16 ABOVE).

8 ([[10]]27) All terms defined in subtitles 11 and 12 of this title, in the County zoning
9 regulations and the Design Manual where occurring in this subtitle, shall have the
10 meanings specified in those regulations.

11 ([[11]]28) The word *County* means Howard County, Maryland. The word *State* means
12 the State of Maryland. The term *County boundary* means any exterior boundary
13 of the County.

14 ([[12]]29) The terms *County Council, County Executive, ZONING BOARD, Board of*
15 *Appeals, Director of Planning and Zoning, Planning Board, County Solicitor,*
16 *Director of Public Works, Director of Fire and Rescue Services, Director of*
17 *Recreation and Parks, Department of Education, and County Health Officer* mean
18 the respective council, boards and officers of the County.

19 ([[13]]30) Throughout these regulations, all words, other than the terms specifically
20 defined above and below, shall have the meaning implied by their context in these
21 regulations or their ordinarily accepted definitions.

22 (b) *Definitions.* As used in these regulations, the following terms shall be defined as
23 follows:

24 (1) *Active processing time* means the period of time after formal application for
25 approval of a sketch plan, preliminary equivalent sketch plan, preliminary plan,
26 final plan and plat, or site development plan during which the County is
27 required to determine whether or not the development or subdivision plan or
28 plat and attendant documents conform to County regulations. If a reviewing
29 agency makes a written request to the developer for additional data or
30 information, the time between issuance of the request and receipt of the reply is
31 not part of the active processing time.

- 1 (1.1) *Adjoining property* OR *ADJOINING* means land which is touching or would be
2 touching in the absence of an intervening utility or road right-of-way, other than
3 a principal arterial highway[[, shall be considered adjoining for purposes of this
4 subtitle]] OR A STREAM BED OR THE LIKE.
- 5 (2) *Agricultural preservation subdivisions* means subdivisions of land in the County
6 or State agricultural preservation programs, for which an agricultural
7 preservation easement has been acquired pursuant to title 15, subtitles 5 and 6 of
8 the Howard County Code and title 2, subtitle 5 of the Agricultural Article of the
9 Annotated Code of Maryland.
- 10 (3) *Application, formal* means an application is formal when the Department of
11 Planning and Zoning determines that the required number of plans and attendant
12 documents have been submitted in the form required by these regulations and the
13 appropriate fees have been paid.
- 14 (4) *Area, gross* means the entire area within a subdivision plan or plat or
15 development project.
- 16 (5) Reserved.
- 17 (6) *Building development* means the improvement of land by the addition of
18 structures.
- 19 (7) *Building envelope* means the area of a lot in which the principal buildings shall
20 be located. The envelope is formed by the building restriction lines.
- 21 (8) *Building restriction line* means lines established on lots to indicate the setbacks
22 required by the zoning regulations for the zoning district in which the lot is
23 located or the setbacks required by section 16.120 of this subtitle, if more
24 restrictive.
- 25 (8.1) *Bulk parcel* means bulk parcels may be recorded to permit a developer to stage
26 subdivision or when project phasing is necessary because tentative housing
27 allocations are not available. The bulk parcel must be resubdivided or developed
28 in accordance with the pre-established phasing plan and may initially be
29 buildable or non buildable depending on whether one housing unit allocation has
30 been granted for the parcel.

- 1 (9) *Capital budget* means the plan of the County, approved in the annual budget and
2 appropriation ordinance, to receive and expend funds for capital projects during
3 the first fiscal year included in the capital program.
- 4 (10) *Capital program* means an annual document approved by resolution of the
5 County Council indicating planned County capital projects authorized for the
6 current fiscal year and for the following five fiscal years.
- 7 (11) Reserved.
- 8 (12) *Dedication* means the offering for conveyance of land or public improvements
9 for any general and public uses, reserving to the owner no other rights than those
10 of the general public.
- 11 (12.1) *DEPARTMENT* MEANS THE DEPARTMENT OF PLANNING AND ZONING.
- 12 (13) *Design manual* means Howard County's technical standards, approved by
13 resolution of the County Council, for design, construction and inspection of
14 bridges, roads, storm drain structures, stormwater management systems,
15 sidewalks, walkways, pathways, trails, parking areas, traffic-control devices,
16 water and sewer facilities, and other improvements.
- 17 (14) *Developer* means an individual, partnership, public agency or corporation (or
18 their agent) that undertakes the responsibility for any or all of the activities
19 covered by this subtitle, particularly the designing of a subdivision or site
20 development plat or plan showing the layout of the land and the required public
21 improvements. The term *developer* is intended to include the term *subdivider*
22 even though the personnel involved in successive stages of the project may vary.
- 23 (15) *Develop* or *development* means the establishment of a principal use on a site; a
24 change in a principal use of a site; or the improvement or alteration of a site by
25 the construction, enlargement, or relocation of a structure; the provision of
26 stormwater management or roads; the grading of existing topography; the
27 clearing or grubbing of existing vegetation; or any other non-farming activity that
28 results in a change in existing site conditions.
- 29 (16) Reserved.

- 1 (17) *Developer's agreement* means an agreement between the County and the
2 developer, covering the developer's financial obligations for all required public
3 improvements relating to the subdivision.
- 4 (18) [[Reserved.]] *ZONING DISTRICT* OR *DISTRICT* (IN THE CONTEXT OF ZONING) MEANS
5 THE ZONE OR ZONES ASSIGNED TO A PROPERTY BY THE HOWARD COUNTY ZONING
6 MAP AND DEFINED IN THE HOWARD COUNTY ZONING REGULATIONS.
- 7 (18.1) *Driveway* means a privately owned and maintained road which provides direct
8 vehicular access from a public or private road to one or more lots or parcels.
- 9 (19) Reserved.
- 10 (20) *Final plat* means the official record of a division of land approved by the
11 Department of Planning and Zoning and recorded in the land records of Howard
12 County.
- 13 (21) *Final subdivision plan* means a final plat and supporting detailed plans and data
14 demonstrating that all technical requirements of the County's regulations have
15 been met.
- 16 (22) *Fire lane* means a lane within a road or a separate driveway to provide adequate
17 emergency vehicle access.
- 18 (23) *Floodplain* means that area which would be inundated by stormwater runoff
19 equivalent to that which would occur from a rainfall of 100-year frequency,
20 assuming total development of the watershed as shown in the general plan of the
21 County. Floodplain determination shall be in accordance with the Design
22 Manual.
- 23 (24) *Frontage* means that portion of a lot or parcel of land which adjoins a public road
24 that provides vehicular access to the property.
- 25 (25) *General plan* means a plan for the County, approved by ordinance of the County
26 Council, which includes, but is not limited to a plan for land use and land
27 conservation and multiyear plans for transportation, public facilities, water,
28 sewerage, parkland, housing, human services, historic preservation and
29 environmental protection.
- 30 (26) Reserved.

1 (27) *Government action* means the action or inaction of a governmental agency in
2 relation to a timely filed action by a developer. *Governmental agency* means an
3 agency of the Federal, State, or local government, including, but not limited to,
4 the U.S. Corps of Engineers, the Maryland Department of the Environment, the
5 County Council, the Zoning Board, and the Board of Appeals.

6 (28) *Health authority* means The Health Officer of Howard County or the officer's
7 duly authorized representative.

8 (28.1) *Initial plan submittal*. For required presubmission community meetings, the
9 initial plan submittal is the:

10 (i) Zoning petition, if it includes a site plan or a preliminary development
11 plan;

12 (ii) Conditional use petition, if required;

13 (iii) Sketch plan or preliminary equivalent sketch plan for a major
14 subdivision;

15 (iv) Final plan for a minor subdivision or resubdivision; or

16 (v) Site development plan for single-family units on deeded parcels, or for
17 condominium or rental units on a parcel which is not part of a recorded
18 subdivision that authorized an equal or greater number of residential
19 units than proposed on the site development plan.

20 (29) *Landscape edge* means the area around the perimeter of a development
21 designated for buffer or screen plantings in accordance with the Landscape
22 Manual.

23 (30) *Lot or parcel* means a piece of land described in a final plat or deed and
24 recorded in the land records of Howard County in accordance with the laws and
25 regulations in effect at the time of recordation.

26 (31) *Maryland Coordinate System* means a system of plan rectangular coordinates
27 established for defining and stating the position or location of points on the
28 surface of the earth within the State of Maryland.

29 (31.1) Major subdivision means the division of a residential or agricultural parcel
30 into five or more residential lots, including buildable preservation parcels, but
31 excluding open space and nonbuildable preservation parcels.

- 1 (32) *Minor subdivision* means the division of a residential or agricultural parcel that
2 has not been part of a previously recorded subdivision, into four or fewer
3 residential lots (including buildable preservation parcels but excluding open
4 space and nonbuildable preservation parcels), either all at one time or lot by lot.
5 However, a lot of 20 acres or less created by a division approved by Howard
6 County prior to January 1, 1984 in order to comply with a court-ordered partition
7 of real property, shall not be considered part of a previously recorded subdivision
8 within the meaning of this definition.
- 9 (32.1) *Net area* means the *gross area* minus all steep slopes existing at the time of
10 subdivision and the area within the 100-year floodplain.
- 11 (33) *Open space* means a separate lot or area which provides for protection of the
12 environment, for recreation or for public use, including: public facilities such as
13 schools, libraries, fire stations and parks as shown on the general plan or hiking,
14 biking, and equestrian trails.
- 15 (34) *Owner* means the person [[or other legal entity holding current legal]] IN WHOM
16 LEGAL OR EQUITABLE title RESTS. *OWNER* MEANS ANY PART OWNER, JOINT OWNER,
17 OWNER OF A COMMUNITY OR PARTNERSHIP INTEREST, LIFE TENANT, TENANT IN
18 COMMON, TENANT BY THE ENTIRETY, OR JOINT TENANT. WHERE THE SIGNATURE
19 OF AN *OWNER* IS REQUIRED, THE TERM *OWNER* INCLUDES ANYONE HAVING CLEAR
20 WRITTEN AUTHORITY TO ACT ON BEHALF OF THE ACTUAL *OWNER*. FOR
21 APPLICATIONS AND PETITIONS UNDER THIS SUBTITLE, A CONTRACT PURCHASER
22 SHALL BE AN OWNER. *OWNER OF RECORD* MEANS THE NAME OF THE PERSON LISTED
23 ON THE DEED FOR THE PROPERTY AS THE OWNER.
- 24 (35) *Parcel number* means a descriptive term used to identify portions of land
25 contained in the tax maps of Howard County.
- 26 (36) *Pathway* or *walkway* means as distinguished from a sidewalk and crosswalk
27 which are incorporated in a street right-of-way, a pathway or walkway is a paved
28 path within a ten-foot pedestrian right-of-way, usually extending from a street to
29 another street, or to a school site, open space, or other public or general use area.
- 30 (37) *Pavement* means that portion of a street or walkway surfaced for vehicular or
31 pedestrian traffic and constructed according to the Design Manual.

1 (37.1) ~~PERSON OF RECORD OR PARTY OF RECORD~~ PARTY MEANS:

2 (i) THE OWNER, APPLICANT, PETITIONER, APPELLANT, APPELLEE, AND
3 RESPONDENT; AND

4 (ii) ANY CIVIC ASSOCIATION, OWNER'S ASSOCIATION, OR OTHER PERSON
5 WHICH REQUESTS, BY WRITING OR TESTIMONY, TO BECOME A ~~PERSON OR~~
6 ~~PARTY OF RECORD~~ PARTY ON OR BEFORE THE DATE THE HEARING
7 AUTHORITY OR ZONING BOARD, AS APPLICABLE, CLOSES THE RECORD
8 AND TAKES THE CASE UNDER ADVISEMENT.

9 (38) *Phased subdivision* means a subdivision utilizing sequential development by
10 sections pursuant to a sketch plan for the entire subdivision which includes a
11 schedule for submission of plans for the various sections and a schedule for
12 completion of these sections.

13 (39) *Pipestem lot* means a residential lot that is shaped like a pipe or flag, and is
14 separated from the nearest road by another lot, except for an unbuildable strip of
15 land 50 feet or less in width.

16 (40) *Preliminary equivalent sketch plan* means a sketch plan which also provides the
17 information required with a preliminary plan.

18 (41) *Preliminary plan* means the preliminary engineered drawings and supplementary
19 material that indicate how the proposed layout of the subdivision will meet the
20 technical requirements of the County regulations.

21 (41.1) *Preservation parcel* means a parcel in the RC or RR zoning district that
22 encompasses all or a portion of the preserved area of a cluster subdivision or
23 receiving subdivision, or that is designated as a sending parcel on a final plat of
24 easement. A preservation parcel is encumbered by a preservation parcel
25 easement and may be buildable or nonbuildable depending on whether one of the
26 housing units permitted by zoning will be located on the parcel.

27 (41.2) *Preservation parcel easement* means a permanent easement that prohibits a
28 preservation parcel from subdivision and most types of development, as specified
29 in the requirements for the RC and RR zoning districts.

30 (42) *Public* means open to common use, whether or not public ownership is involved.

- 1 (43) *Public improvements* means public improvements include all the infrastructure
2 and improvements which this subtitle requires a developer to install in a
3 subdivision or land development.
- 4 (44) *Recorded subdivision* means a subdivision which has been recorded pursuant to:
5 (i) Approval by the Howard County Planning Commission prior to March
6 12, 1969;
7 (ii) Approval by the Department of Planning and Zoning on or after March
8 12, 1969; or
9 (iii) A plat recorded prior to the requirement for County approval, including,
10 but not limited to, North Laurel Park, Harwood Park, Lennox Park, The
11 Cedars, Villa Heights, High Ridge Park, and Nordau.
- 12 (45) *Reservation; reserve* means the identification and setting aside of an area of land,
13 building development or other development on a subdivision or site development
14 plan for future condemnation or acquisition for public use, which subjects the
15 land, building development or other development reserved to use limitations for
16 a specified period of time. Such land, building development or other development
17 may be designated on the general plan or in the County or State capital
18 improvement program or the State highway needs inventory.
- 19 (45.1) *Residential infill* means a residential development in the area planned for both
20 water and sewer service that creates one or more units on a property that adjoins
21 an existing residential unit.
- 22 (46) *Resubdivision* means a further division or modification of an existing subdivision
23 previously approved by the County and recorded in the Howard County Land
24 Records. However, a lot of 20 acres or less created by a division approved by
25 Howard County prior to January 1, 1984 in order to comply with a court-ordered
26 partition of real property, shall not be considered part of an existing subdivision
27 previously approved by the County within the meaning of this definition.
- 28 (47) *Review committee* means an advisory group to the Department of Planning and
29 Zoning, organized to coordinate the subdivision and site development plan
30 review process. The group shall include, but not be limited to, representatives of
31 the following agencies:

- 1 (i) Department of Public Works;
- 2 (ii) Health Department;
- 3 (iii) Department of Education;
- 4 (iv) Department of Recreation and Parks;
- 5 (v) Department of Fire and Rescue Services;
- 6 (vi) Department of Inspections, Licenses and Permits;
- 7 (vii) Soil conservation district;
- 8 (viii) Maryland State Highway Administration; and
- 9 (ix) Office of Transportation.

10 (48) *Scenic road* means a public road or road segment that is included in the scenic
11 roads inventory adopted by the County Council in accordance with section
12 16.1403 of this Code.

13 (49) *Right-of-way* means a strip or parcel of land designated for use as a street,
14 highway, driveway, alley, or walkway or for any drainage or public utility
15 purpose or other similar uses.

16 (50) *Sidewalk* means a paved walk primarily for pedestrian traffic, normally placed
17 parallel to a street or highway and within the street right-of-way.

18 (51) *Sight distance* means visual distance along a road or across an intersection, more
19 specifically described in the Design Manual.

20 (52) *Site development plan* means the plan indicating the location of existing and
21 proposed buildings, structures, paved areas, walkways, existing and proposed
22 grades, vegetative cover, landscaping, and screening within a lot or parcel
23 proposed for development.

24 (53) *Sketch plan* means a sketch indicating the developer's general objectives and lay-
25 out for development of the land. The basic role of the sketch plan is to allow the
26 County to provide the developer with important information that may affect the
27 project and to ensure that the plan complies with Zoning Regulations and
28 incorporates good planning and development principles.

29 (54) *Soil map* means a map showing soil map symbols and outlines of soil types
30 (U.S.D.A.—1968 and subsequent amendments).

- 1 (55) *Steep slope* means a slope that averages 25 percent or greater over ten vertical
2 feet.
- 3 (56) *Stormwater management*:
- 4 (i) *Quantity control* means a system of vegetative, structural, and other
5 measures that control the increased volume and rate of surface runoff
6 caused by development.
- 7 (ii) *Quality control* means a system of vegetative, structural and other
8 measures that reduce or eliminate pollutants that might otherwise be
9 carried by surface runoff from development.
- 10 (57) *Stormwater management plan* means a set of drawings or other documents,
11 submitted as a prerequisite to obtaining stormwater management approval, which
12 contain all of the information and specifications required by the Department of
13 Public Works.
- 14 (58) *Stream* means water, flowing in a definite direction in a channel with a bed and
15 banks, and having a substantial degree of permanence, although flow may vary
16 and in times of drought may cease to flow for a period of time. Includes perennial
17 or intermittent streams, but does not include ditches or gullies resulting entirely
18 from pipe outfalls or other man made features. Streams usually are shown on the
19 1 inch = 200 feet topographic maps of Howard County produced by Howard
20 County or the soil survey of Howard County, Maryland, but field verification is
21 necessary.
- 22 (59) *Street, highway, road* means a facility providing for vehicular traffic. The
23 Howard County General Plan designates highways which perform an arterial or
24 collector function.
- 25 (60) *Subdivision* means any division of a lot or parcel of land into lots or parcels for
26 the immediate or future transfer of ownership, sale, lease or building
27 development. The term includes lot mergers and resubdivision and, when
28 appropriate to the context, shall relate to the process of subdivision or to the land
29 subdivided.
- 30 (61) *Traffic-control devices* means signs, signals, markings, and other devices
31 prescribed to regulate, guide, or warn traffic.

1 (62) *Trails* means as distinguished from a walkway and pathway which are paved, a
2 natural path within a minimum ten-foot hiking/biking/equestrian right-of-way,
3 intended to be open for common use.

4 (63) *Wetland* means any land which has been determined by the Army Corps of
5 Engineers or the Maryland Department of the Environment to be a regulated or
6 jurisdictional wetland, as well as any land determined by the Soil Conservation
7 District to be regulated wetlands using Federal and State standards.

8
9 **Subtitle 2. - Zoning.**

10
11 **Sec. 16.200. - Zoning authority; definitions; short title.**

12 (a) *Zoning Authority*. This subtitle provides that the Zoning Authority of Howard
13 County for comprehensive zoning and for amendments to the text of the Howard
14 County regulations shall be the County Council of Howard County and the Zoning
15 Authority of Howard County for piecemeal zoning map amendments and decisions
16 on development plans shall be the Howard County Zoning Board. The Howard
17 County Council, acting as a legislative body, reserves unto itself the authority to
18 grant variances from the strict application of the zoning regulations with regard to
19 governmental uses of land. This authority shall be exercised by passage of a
20 resolution after a public hearing and a finding that the action is in the public
21 interest.

22 (b) *RULES OF CONSTRUCTION; Definitions*. For the purposes of this subtitle, the
23 [[following]]RULES AND definitions SET FORTH IN SECTION 16.108 SHALL apply:

24 (1) [[*Adjoining* means land which is touching or would be touching in the absence
25 of an intervening utility or road right-of-way, other than a principal arterial
26 highway.

27 (2)]]*Comprehensive zoning* means zoning:

28 (i) Involving both maps and regulations;

29 (ii) Which is legislative in nature;

30 (iii) Which concerns legislative facts;

- (iv) Which is adopted after extensive study;
- (v) Which covers a substantial area of the County; and
- (vi) Which has an impact on the general welfare of the County in that it is designed to control and direct the use of land and buildings according to present and planned future conditions so as to accomplish, as far as possible, the most appropriate uses of land consistent with the public interest and the safeguarding of the interests of individual property owners.

[(3) *Department* means the Department of Planning and Zoning.

(4)]] (2) *Development plan* means [[a]] ANY development plan, A PRELIMINARY DEVELOPMENT PLAN, A FINAL DEVELOPMENT PLAN, A COMPREHENSIVE SKETCH PLAN, A DEVELOPMENT CONCEPT PLAN, A MAJOR OR MINOR VILLAGE CENTER REDEVELOPMENT PLAN, OR ANY OTHER DEVELOPMENT PLAN, REGARDLESS OF ITS NAME, that, as provided in the zoning regulations, the Zoning Board approves or disapproves.

(3) *HEARING, PUBLIC HEARING, OR EVIDENTIARY HEARING, OR MEETING* MEANS A PROCEEDING BY AN ADMINISTRATIVE BOARD, BODY, OFFICER, OR HEARING AUTHORITY AT WHICH PERSONS ~~AND THE PUBLIC~~ MAY PROVIDE TESTIMONY AND INFORMATION.

(i) *EVIDENTIARY HEARING* MEANS A HEARING DURING WHICH PARTIES AND PERSONS OF RECORD SHALL HAVE AN OPPORTUNITY TO TESTIFY UNDER OATH AND AT WHICH EVIDENCE MAY BE PRESENTED.

~~(ii) MEETING MEANS A PROCEEDING BY AN ADMINISTRATIVE BOARD, OFFICER, OR BODY.~~

(4) ADMINISTRATIVE MEETING MEANS AN OPEN MEETING DURING WHICH THE ZONING BOARD DECIDES TO HEAR A CASE AS THE ZONING BOARD OR ASSIGN A CASE TO THE HEARING EXAMINER, AS SET FORTH IN SECTION 16.203A.

~~(5) 4)~~ *Piecemeal map amendment* means A ZONING CHANGE IN OR TO ANY EUCLIDEAN, FLOATING, OVERLAY ZONE, OR MIXED-USE DISTRICT, AND MEANS rezoning:

- (i) Involving only zoning maps;

- 1 (ii) Which is quasi-judicial in nature;
- 2 (iii) Which concerns individual applications to change the zoning of
- 3 particular pieces of property; and
- 4 (iv) Is based on findings as to administrative facts regarding specific criteria
- 5 for change in zoning.

6 (c) *Short Title.* This subtitle may be cited as the "Zoning Enabling Act of Howard
7 County."

8 **Sec. 16.202. Purpose; establishment of zoning districts and regulations.**

9 (a) *County Council Authority.* For the purpose of promoting the health, safety, morals
10 and general welfare of Howard County, the County Council is hereby empowered
11 to:

- 12 (1) Regulate and restrict the height, number of stories and size of buildings and other
- 13 structures; the location, construction, alteration and use of buildings and other
- 14 structures; the percentage of lot area that may be occupied by structures; the size
- 15 of yards, courts and other open spaces; the density of population; and the location
- 16 and use of land for trade, industry, government, residence or other purpose;
- 17 (2) Regulate the construction, alteration, reconstruction, moving and demolition of
- 18 structures of historic, architectural and archeological value through the
- 19 establishment of historic districts.

20 (b) (1) *Establishment of districts and regulations.* For many or all of the purposes of this
21 subtitle, the County Council may divide the County into zoning districts of a
22 number, shape and area as may be deemed best suited to carry out the purposes of
23 this subtitle. THE ZONING OR ZONE OF THE PROPERTY IS THE ZONING DISTRICT IN
24 WHICH IT IS LOCATED. In addition, for many of the purposes of this subtitle and all
25 the purposes of title 16, subtitle 6 of this Code relating to historic preservation and
26 protection of historic structures, the County may establish historic districts as may
27 be deemed best suited to carry out those purposes. The criteria for the County
28 Council's establishment of an historic district in the nature of comprehensive zoning,
29 multiple site historic districts, are as provided in the Howard County Zoning
30 Regulations, and these districts are established by the County Council. The criteria

1 for the Zoning Board's establishment of an historic district on a piecemeal basis,
2 single-site historic districts, are as provided in title 16, subtitle 6 of the Howard
3 County Code, and these districts are established by the Zoning Board.

4 (2) *Purpose of districts and regulations.* The zoning district boundaries and
5 regulations shall be made in accordance with a comprehensive zoning plan and
6 shall be designed to:

- 7 (i) Implement the policies and goals of the general plan;
- 8 (ii) Promote health, safety, and the general welfare;
- 9 (iii) Provide for the best use of land and the stewardship of our
10 environmental resources;
- 11 (iv) Lessen congestion in the streets;
- 12 (v) Secure safety from fire and other dangers;
- 13 (vi) Provide adequate light and air;
- 14 (vii) Avoid undue concentration of population; and
- 15 (viii) Facilitate the adequate provision of transportation, water, sewerage,
16 schools, parks and other public requirements.

17 (3) *Suitability and appropriateness.* The zoning district boundaries and zoning
18 regulations shall be made with reasonable consideration to, among other things,
19 the character of the zoning district and its suitability for particular uses and types
20 of development, and with a view to conserving property values and encouraging
21 the most appropriate use and enjoyment of land throughout the County based
22 upon the purposes, policies and goals of the general plan.

23 (4) *Uniformity.* The zoning regulations shall be uniform for each class or kind of
24 building or structure or use throughout each district, but the regulations in one
25 district may differ from those in other districts.

26 **Sec. 16.203A. Hearing examiner.**

27 (a) *In General.*

28 (1) ~~Except as set forth in section 16.203A(a)([3]4), a Hearing Examiner shall first~~
29 ~~hear the petitions that are authorized to be heard by the Zoning Board under~~
30 ~~section 16.204 of this subtitle.~~ FOR PETITIONS AUTHORIZED TO BE HEARD BY THE

1 ZONING BOARD UNDER SECTION 16.204 OF THIS SUBTITLE, THE ZONING BOARD BY
2 MAJORITY VOTE AT AN ADMINISTRATIVE MEETING MAY AUTHORIZE THE HEARING
3 EXAMINER TO FIRST HEAR PETITIONS.

4 (2) ~~[[A]]~~ AN EVIDENTIARY hearing under this section shall be held in the same
5 manner as a hearing that the Zoning Board holds under sections 16.204 and
6 16.206 of this subtitle and the hearing examiner shall not issue a decision but shall
7 issue a report. When the Hearing Examiner holds ~~[[a]]~~ AN EVIDENTIARY hearing
8 under this section, the hearing shall proceed as set forth in sections 16.204 and
9 16.206 of this subtitle as if the term "Zoning Board" or "Chairperson" includes
10 "Hearing Examiner."

11 (3) The Zoning Board shall adopt Rules of Procedure for the Hearing Examiner in
12 Zoning Board cases.

13 (4) The Zoning Board shall hear and decide a case if:

14 (i) The Hearing Examiner position is vacant;

15 (ii) The Zoning Board determines that the Hearing Examiner is unable to
16 hear the case because of a conflict of interest or other disqualification;

17 or

18 (iii) The Zoning Board by majority vote AT AN ADMINISTRATIVE MEETING
19 decides to hear the case.

20 (b) *Report.*

21 (1) (i) The Hearing Examiner shall issue a report on each petition heard by the Hearing
22 Examiner.

23 (ii) The Hearing Examiner shall issue the report within 60 days after the
24 conclusion of the EVIDENTIARY hearing unless the Zoning Board
25 specifies a different time.

26 (2) The report shall include findings of fact, summaries of arguments and respective
27 positions in the case or theory in support of it, and conclusions of law.

28 (3) The report is not an order or final action of the Zoning Board.

1 (4) The report shall be signed by the Hearing Examiner and sent to the Zoning Board
2 Administrator to be distributed to the members of the Zoning Board, each
3 ~~[[party]] PERSON OF RECORD~~ to the case, and posted on the Zoning Board's
4 website. The report shall be deemed issued on the date that the report is signed
5 by the Hearing Examiner.

6 (c) *Record.*

7 (1) The record shall include:

- 8 (i) All items listed in section 2.121(a) of the County Code;
- 9 (ii) Maps;
- 10 (iii) Recordings of the hearings held by the Hearing Examiner;
- 11 (iv) Presentation by the Department of Planning and Zoning; and
- 12 (v) All other materials provided to the Hearing Examiner by the petitioner,
13 the opposition, and government agencies.

14 (2) Following the close of the record, the Hearing Examiner shall send the record
15 to the Zoning Board Administrator to be distributed to the members of the
16 Zoning Board.

17 (d) *Exceptions.*

18 (1) After a Hearing Examiner issues a report, a ~~[[party]] PERSON OF RECORD~~ may
19 submit to the Zoning Board exceptions to the report.

20 (2) Exceptions shall be in writing and shall be filed with the Zoning Board within 20
21 business days after the Hearing Examiner's report is issued. The ~~[[party]] PERSON~~
22 ~~OF RECORD~~ filing exceptions shall send the exceptions to the Zoning Board
23 Administrator and all other ~~[[parties]] PERSONS OF RECORD~~ in the case by both
24 email and first-class mail, postage paid. The exceptions shall specify in detail
25 those items to which the ~~[[party]] PERSON OF RECORD~~ excepts and the reasons
26 why the ~~[[party]] PERSON OF RECORD~~ excepts. Any ~~[[party]] PERSON OF RECORD~~
27 may file a written response to any other ~~[[party's]] PERSON OF RECORD'S~~
28 exceptions within 20 business days of the filing of any exceptions.

1 (3) On the filing of exceptions, the Zoning Board shall schedule an oral argument on
2 the exceptions in a timely manner. The oral argument is limited to those matters
3 to which exceptions have been taken. ~~Each party shall be limited to 30 minutes~~
4 ~~total of oral argument for all exceptions filed by that party.~~ ~~THE TOTAL TIME~~
5 ~~ALLOWED FOR ORAL ARGUMENT ON ALL EXCEPTIONS SHALL BE ONE HOUR, WITH~~
6 ~~THE PETITIONER(S) AND PERSONS OF RECORD PARTIES IN SUPPORT CUMULATIVELY~~
7 ~~ALLOWED THIRTY MINUTES AND THE PROTESTANT(S) AND PERSONS OF RECORD~~
8 ~~PARTIES IN OPPOSITION CUMULATIVELY ALLOWED THIRTY MINUTES.~~ The Zoning
9 Board may choose to take evidence on an exception.

10 (e) *Presentation to the Zoning Board.* The report, along with the record, shall be
11 presented by the Hearing Examiner to the Zoning Board at a meeting of the Zoning
12 Board. The hearing of exceptions to the report shall follow the Hearing Examiner's
13 presentation.

14 (f) *Actions by the Zoning Board* Every decision and final order in a piecemeal map
15 amendment or development plan case shall be in writing, signed by a majority of the
16 entire Zoning Board, attested by the Zoning Board Administrator, and shall be
17 accompanied by findings of fact and conclusions of law and shall be made a part of
18 the record of proceedings. The final order of the Zoning Board denying or granting
19 the petition for a piecemeal map amendment, or approving or disapproving a
20 development plan, shall be filed with the Department of Planning and Zoning, which
21 shall maintain it as part of the official records of the County. The Zoning Board may
22 decide by majority vote to remand the petition to the Hearing Examiner for
23 additional testimony and hearing.

24 (g) SUBPOENAS. THE HEARING EXAMINER MAY ISSUE SUBPOENAS TO COMPEL THE
25 ATTENDANCE OF WITNESSES AND THE PRODUCTION OF DOCUMENTS AND TO
26 ADMINISTER OATHS TO WITNESSES.

27 **Sec. 16.204. Piecemeal map amendments and development plan approvals.**

28 (a) *Zoning Board.* The Zoning Board may exercise the Zoning Authority delegated to it
29 by this subtitle to make decisions on piecemeal map amendments and development

1 plans in pursuance of a petition filed in accordance with section 16.205 ET SEQ. of
2 this subtitle and shall establish procedures for doing so.

3 ~~[[b)]~~ *Mediation*. The Zoning Board may refer an applicant and other persons affected by a
4 pending application, other than piecemeal map amendment cases based on the
5 change/mistake rule as established by Maryland Case Law, to the Mediation and
6 Conflict Resolution Center, Inc., of Howard County or a conflict resolution or
7 mediation service which has been deemed acceptable by the Board. The purpose of
8 such referral shall be to resolve conflicts between these parties, but the results
9 thereof shall not bind the Board to any result. Any resolution that is agreed upon by
10 both parties shall be subject to findings of the Board required by law. Petition
11 approval may not be granted solely on the basis of mediation resolution.

12 A referral may be made either before or after a public hearing on a pending
13 petition decision, but only after an application is deemed complete. Any mediation
14 shall occur prior to the Zoning Board voting on a petition. The cost of the mediation
15 service shall be incurred by the petitioner.

16 If no agreement is reached between the parties within 45 days, or at anytime the
17 mediator deems any further meetings futile, the Board shall continue with its
18 proceedings or deliberations on the matter. If both parties agree, mediation may be
19 extended past 45 days to a period of time as agreed to by the parties.

20 Nothing in this section shall preclude the parties from meeting on their own at any
21 time, with or without a mediator, in an attempt to resolve their differences. It is the
22 policy of the County to encourage applicants and neighbors to have early
23 discussions on proposed projects so that differences may be resolved prior to the
24 submission of an application.

25 (c) *Public*]] (B) *EVIDENTIARY Hearing Required*. The Zoning Board shall hold ~~[[a)]~~ AN
26 EVIDENTIARY hearing, unless the Hearing Examiner has already held ~~[[a)]~~ AN
27 EVIDENTIARY hearing on piecemeal map amendments and development plan
28 petitions during which ~~[[parties]]~~ AND PERSONS OF RECORD to the case shall have an
29 opportunity to be heard. The Zoning Board shall be prohibited from holding
30 meetings which include an opportunity for public testimony on any day on which

1 Rosh Hashanah, Yom Kippur, Eid Ul Fitr or Eid Ul Adha is observed. The Zoning
2 Board shall not take final action on piecemeal map amendments or development
3 plan petitions until after:

- 4 (1) Any ~~[[public]] EVIDENTIARY hearing~~; and
- 5 (2) The procedures in this section and section 16.203A of this subtitle are complete.

6 (d) *Advertising.* At least 30 days prior to the initial ~~[[public]] EVIDENTIARY hearing~~
7 ADMINISTRATIVE MEETING on the piecemeal map amendment or development plan
8 petitions, the ~~[[petitioner]] APPLICANT~~, at its own expense, shall advertise the date,
9 time, place and subject matter of the petition in at least two newspapers of general
10 circulation in Howard County.

11 (e) *Posting and Mail Notice:*

- 12 (1) At least 30 days prior to the initial ~~[[public]] EVIDENTIARY hearing~~
13 ADMINISTRATIVE MEETING on the piecemeal map amendment or development
14 plan petitions, the ~~[[petitioner]] APPLICANT~~ shall:

- 15 (i) Post the property which is the subject of the hearing with the date, time,
16 place and subject matter of the ~~hearing~~ ADMINISTRATIVE MEETING. The
17 sign shall include the address of Department of Planning and Zoning's
18 website. The poster shall be double-sided and at least 30 inches by 36
19 inches in size. The poster shall include a three digit alphanumeric code,
20 which would be used to identify the case. The alphanumeric code shall
21 be posted by the Department of Planning and Zoning in at least five-
22 inch lettering in the top left corner of the poster. The Department of
23 Planning and Zoning shall determine the number of posters required
24 and their location and the petitioner shall bear the expense of posting.
25 The Department of Planning and Zoning shall supply the posters. The
26 petitioner shall properly erect and maintain the posters. The petitioner
27 shall remove all posters from the subject property in accordance with
28 section 16.1613 of this title; and

- 29 (ii) Send a certified letter to all persons whose property is adjoining to the

1 property which is the subject of the petition, according to the most
2 recent State taxation and assessment records, notifying those persons of
3 the date, time, place and subject matter of the ~~hearing~~ ADMINISTRATIVE
4 MEETING in accordance with subsection 16.203(c)(7) and of this
5 subtitle.

6 (2) Noncompliance with the mailing requirements of paragraph (1) of this
7 subsection does not constitute a basis for appeal or the setting aside of
8 piecemeal zoning or development plan decisions.

9 (f) *Report of the Planning Board.* Petitions for piecemeal map amendments or
10 development plan approvals shall be submitted to the Planning Board, WHICH SHALL
11 HOLD A PUBLIC MEETING, AT WHICH PARTIES OR PERSONS OF RECORD AND THE PUBLIC
12 MAY PROVIDE TESTIMONY AND INFORMATION RELATING TO THE PETITION. At least 30
13 days prior to a Planning Board meeting on any piecemeal map amendment or
14 development plan, the ~~[[petitioner]]~~ ~~APPLICANT~~ shall send notice of such meeting to
15 the relevant subscribers on the list maintained by the Department of Planning and
16 Zoning in accordance with subsection 16.145(b)(3). THE PLANNING BOARD SHALL
17 ISSUE A REPORT THAT INCLUDES A RECOMMENDATION BY THE PLANNING BOARD ON
18 THE PETITION. The Zoning Board shall consider the report of the Planning Board on
19 such petitions before the Zoning Board takes final action on them.

20 (g) *Department of Planning and Zoning's Findings and Analysis.* The Department of
21 Planning and Zoning shall transmit its findings and analysis concerning a petition
22 for piecemeal map amendments or development plans in a technical staff report to
23 the Planning Board at least two weeks prior to the Planning Board meeting on a
24 petition.

25 (h) *Questioning Departmental Findings.* At any time any ~~[[individual]]~~ PERSON may
26 submit a question to the staff of the Department of Planning and Zoning or related
27 agencies concerning the findings and analysis of the Department or related agencies.
28 If a written response is requested, the question should be submitted in writing to the
29 Department or agency. If the written request is submitted at least 30 days prior to the
30 Zoning Board hearing, the Department or agency shall respond to such requests in

1 writing and send a copy of the response to the Zoning Board at least two weeks prior
2 to the Zoning Board hearing. A response from a related agency to a question
3 concerning its findings and analysis may be considered by the Zoning Board only if
4 the response is in writing, unless a representative of the agency is present at the
5 hearing to answer questions.

6 (i) *Presentation of Departmental Findings and Analysis.* At least 30 days prior to a
7 Zoning Board Hearing, the Board Administrator shall send a written notice to the
8 Director of the Department of Planning and Zoning as to the date, time, and place of
9 the hearing. The Director of the Department of Planning and Zoning, or the
10 Director's Designee, shall attend a Zoning Board public hearing concerning a
11 petition for piecemeal map amendment or development plan and, under oath and
12 subject to cross-examination, summarize the Department's findings, explain the
13 development process, and answer any related questions.

14 (j) *Findings.* Before the Zoning Board makes a decision on any piecemeal map
15 amendment or development plan petition it shall make those findings of fact and
16 conclusions of law required by law.

17 (k) *Documentation REGARDING PROPOSED DEVELOPMENT AND USE OF PROPERTY.*

18 (1) A petition for a piecemeal amendment of the zoning map may include
19 documentation describing the proposed development and use of the property
20 under petition. The zoning regulations and Zoning Board's rules of procedure
21 shall govern the nature of the documentation and its review.

22 (2) A piecemeal map amendment shall be based on findings required by law. A
23 piecemeal map amendment petition may not be granted solely on the basis of
24 documentation relating to proposed development and use of the property.

25 (3) If the petition for a piecemeal map amendment includes documentation
26 describing the proposed development and use of the property under petition and
27 the petition is granted:

28 (i) The property may be developed and used only in accordance with the
29 documentation, notwithstanding any provision requiring uniformity of

1 zoning requirements; and

- 2 (ii) Unless the comprehensive zoning plan changes the zoning district of
3 the property, subsequent adoption of a comprehensive zoning plan shall
4 not affect the requirement that the property be used in accordance with
5 the documentation.

6 **Sec. 16.205. Procedure.**

7 (a) ~~[[Any person owning an interest in the property affected]]~~ GENERAL.

8 (1) AN OWNER may petition the Zoning Board for approval of a development plan,
9 and ~~[[a person owning an interest in the property affected]]~~ AN OWNER, the
10 Director of the Department of Planning and Zoning or members of the Zoning
11 Board may petition the Zoning Board for piecemeal map amendment. The form
12 and number of copies of the petition shall be as prescribed by law or by the
13 Zoning Board's rules of procedure.

14 ~~(2) IF TWO OR MORE PARCELS ARE INCLUDED IN ONE APPLICATION, THEY MUST BE~~
15 ~~ADJOINING. SEPARATE APPLICATIONS ARE REQUIRED FOR EACH PROPERTY IF~~
16 ~~THEY ARE NOT ADJOINING.~~

17 ~~[[b]]32~~ *Presubmission Community Meeting.* Prior to the initial submittal of a
18 petition, the ~~[[petitioner]]~~ APPLICANT shall hold a presubmission community
19 meeting that provides information to the community regarding the petition and
20 allows community residents to ask questions and discuss any issues. The
21 meeting must be held in accordance with the procedures in section 16.128.

22 ~~[[c]]43~~ The petition shall be ON THE FORM PUBLISHED BY THE DEPARTMENT OF
23 PLANNING AND ZONING AND SHALL BE filed with the Department of Planning
24 and Zoning, which shall check the same for form, check that notice has been
25 provided, as required by law or by the Zoning Board's rules of procedure,
26 collect the proper fees, and refer the petition to the Planning Board for its
27 report.

1 ([[d]]54) Citizens may request a meeting with a staff member of the Department of
2 Planning and Zoning to review the development proposal after the petition has
3 been formally submitted to the Department.

4 ([[e]]65) No later than two days following the release of the report of the Planning
5 Board on the petition, the Department of Planning and Zoning shall submit the
6 petition with all of its supporting documents to the administrative assistant to
7 the Zoning Board, who shall set a ~~hearing date~~ THE ADMINISTRATIVE MEETING
8 DATE. The Zoning Board shall be prohibited from holding meetings which
9 include an opportunity for public testimony on any County holiday, Rosh
10 Hashanah, Yom Kippur, Eid UI Fitr, Eid UI Adha, and Chinese New Year is
11 observed.

12 ([[f]]76) Notice of the place, time and date of the beginning of the ~~hearing~~
13 ADMINISTRATIVE MEETING shall be published as required by law or the Zoning
14 Board's rules of procedure.

15 (b) CONTENTS OF PETITION.

16 (1) THE PETITION SHALL INCLUDE:

- 17 (i) THE NAME, ADDRESS, AND TELEPHONE NUMBER, AND SIGNATURE OF THE
18 PETITIONER, AND AN INDICATION OF THE PETITIONER'S STATUS AS
19 OWNER (CONTRACT PURCHASER, AGENT, OR OTHERWISE);
- 20 (ii) THE EXISTING AND REQUESTED ZONING DISTRICTS OF THE PROPERTY;
- 21 (iii) THE STREET ADDRESS OF THE PROPERTY;
- 22 (iv) THE NAME AND NUMBER OF THE ELECTION DISTRICT THE PROPERTY IS
23 IN;
- 24 (v) THE TOTAL AREA OF THE PROPERTY (EITHER IN ACRES OR SQUARE FEET);
- 25 (vi) THE PROPERTY'S LOT AND BLOCK NUMBERS, SUBDIVISION NAME, AND
26 PLAT BOOK AND PAGE NUMBER, IF ANY; OR A DESCRIPTION OF ITS
27 ACREAGE, WITH REFERENCE TO LIBER AND FOLIO NUMBERS;
- 28 (vii) THE NAME, ADDRESS, AND SIGNATURE OF EACH OWNER OF RECORD OF
29 THE PROPERTY. APPLICATIONS FOR PROPERTY OWNED BY A
30 CORPORATION OR OTHER REGISTERED ENTITY SHALL BE SIGNED BY AN

1 OFFICER OR DULY AUTHORIZED PERSON EMPOWERED TO ACT FOR THE
2 ENTITY; AND

3 (viii) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE CONTACT
4 PERSON IF DIFFERENT FROM THE OWNER.

5 (c) OTHER SUBMISSION REQUIREMENTS.

6 (1) ALONG WITH THE PETITION, THE ~~APPLICANT~~ PETITIONER SHALL SUBMIT THE
7 FOLLOWING:

8 (i) FOUR COPIES OF AN ACCURATE PLAT, PREPARED, SIGNED, AND SEALED BY A
9 REGISTERED ENGINEER OR LAND SURVEYOR THAT SHOWS:

10 a. THE PRESENT CONFIGURATION OF THE PROPERTY, INCLUDING BEARINGS
11 AND DISTANCES (IN FEET);

12 b. THE NAMES OF OWNERS OF RECORD, OR SUBDIVISION LOT AND BLOCK
13 NUMBERS, OF ADJOINING PROPERTIES;

14 c. THE NAME, LOCATION, DISTANCE TO THE CENTER LINE, AND RIGHT-OF-WAY
15 WIDTH OF ALL ABUTTING STREETS. IF THE PROPERTY IS NOT LOCATED AT
16 THE INTERSECTION OF TWO STREETS, THE DISTANCE TO, AND THE NAME OF,
17 THE NEAREST INTERSECTING STREET SHALL BE INDICATED;

18 d. THE (SUBDIVISION) LOT AND BLOCK NUMBER OF THE SUBJECT PROPERTY (IF
19 ANY);

20 e. A NORTH ARROW AND SCALE (NO SMALLER THAN ONE INCH EQUALS FOUR
21 HUNDRED FEET);

22 f. THE TOTAL AREA OF THE PROPERTY (IN EITHER SQUARE FEET OR ACRES);

23 g. THE LOCATION OF ALL EXISTING BUILDINGS, STRUCTURES, AND OTHER
24 IMPROVEMENTS ON THE PROPERTY; AND

25 h. THE SUBJECT PROPERTY OUTLINED IN RED.

26 (ii) FOUR COPIES OF THE ZONING MAP PAGE ON WHICH THE PROPERTY IS PLOTTED
27 TO SCALE AND OUTLINED IN RED;

28 (iii) THREE COPIES OF A TYPEWRITTEN STATEMENT OF JUSTIFICATION IN SUPPORT
29 OF THE REQUEST. THE STATEMENT SHALL SET FORTH THE LEGAL BASIS BY
30 WHICH THE REQUESTED AMENDMENT MAY BE APPROVED, AND FACTUAL
31 REASONS SHOWING WHY APPROVAL OF THE REQUEST WILL NOT BE

1 DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, AND WELFARE. THIS
2 STATEMENT MAY BE ACCOMPANIED BY THREE COPIES OF ANY MATERIAL WHICH
3 (IN THE PETITIONER'S OPINION) IS NECESSARY TO CLARIFY OR EMPHASIZE THE
4 TYPEWRITTEN STATEMENT. THIS ADDITIONAL MATERIAL, IF NOT FOLDABLE,
5 SHALL BE NO LARGER THAN EIGHTEEN BY TWENTY-FOUR INCHES;

6 (iv) A STATEMENT LISTING THE NAMES, AND THE BUSINESS ~~AND RESIDENTIAL~~
7 ADDRESSES, OF ALL INDIVIDUALS HAVING AT LEAST A FIVE PERCENT FINANCIAL
8 INTEREST IN THE SUBJECT PROPERTY;

9 (v) IF ANY OWNER IS A CORPORATION, A STATEMENT LISTING THE OFFICERS OF THE
10 CORPORATION, THEIR BUSINESS ~~AND RESIDENTIAL~~ ADDRESSES, AND THE DATE
11 ON WHICH THEY ASSUMED THEIR RESPECTIVE OFFICES. THE STATEMENT SHALL
12 ALSO LIST THE CURRENT BOARD OF DIRECTORS, THEIR BUSINESS ~~AND~~
13 RESIDENTIAL ADDRESSES, AND THE DATES OF EACH DIRECTOR'S TERM. ~~AN~~
14 OWNER THAT IS A CORPORATION LISTED ON A NATIONAL STOCK EXCHANGE
15 SHALL BE EXEMPT FROM THE REQUIREMENT TO PROVIDE RESIDENTIAL
16 ADDRESSES OF ITS OFFICERS AND DIRECTORS;

17 (vi) IF THE OWNER IS A CORPORATION OR ANY OTHER REGISTERED ENTITY,
18 INCLUDING A LIMITED LIABILITY COMPANY OR LIMITED PARTNERSHIP (EXCEPT
19 ONE LISTED ON A NATIONAL STOCK EXCHANGE), A STATEMENT CONTAINING THE
20 NAMES AND ~~RESIDENTIAL~~ BUSINESS ADDRESSES OF THOSE PERSONS OWNING AT
21 LEAST FIVE PERCENT OF THE OWNERSHIP INTEREST OR SHARES OF ANY CLASS OF
22 CORPORATE SECURITY (INCLUDING STOCKS AND SERIAL MATURITY BONDS) OF
23 THE OWNER ENTITY. IF ANY PERSON WITH AN OWNERSHIP INTEREST IN THE
24 PROPERTY IS ITSELF A REGISTERED ENTITY, INCLUDING A LIMITED LIABILITY
25 COMPANY OR LIMITED PARTNERSHIP (EXCEPT ONE LISTED ON A NATIONAL
26 STOCK EXCHANGE), A STATEMENT CONTAINING THE NAMES AND ~~RESIDENTIAL~~
27 BUSINESS ADDRESSES OF THOSE PERSONS OWNING AT LEAST FIVE PERCENT (5%)
28 OF THE OWNERSHIP INTEREST OR SHARES OF ANY CLASS OF CORPORATE
29 SECURITY (INCLUDING STOCKS AND SERIAL MATURITY BONDS) OF THAT ENTITY;

30 (vii) A LIST CONTAINING THE NAMES AND ADDRESSES OF ALL ADJOINING PROPERTY
31 OWNERS AND THE OWNERS OF THOSE PROPERTIES DIRECTLY ACROSS A STREET,

1 ALLEY, OR STREAM, AND A SET OF PREADDRESSED ENVELOPES OR MAILING
2 LABELS; AND
3 (viii) ANY OTHER DATA OR EXPLANATORY MATERIAL REQUIRED BY THE DEPARTMENT
4 OR HEARING EXAMINER.

5 (D) OATH. AN INDIVIDUAL TESTIFYING SHALL GIVE THEIR NAME AND ADDRESS AND TAKE
6 THE FOLLOWING OATH GIVEN BY THE CHAIR: "I SOLEMNLY SWEAR OR AFFIRM UNDER
7 THE PENALTIES OF PERJURY THAT THE RESPONSES GIVEN AND STATEMENTS MADE WILL
8 BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH.

9

10 **SEC. 16.205A. AMENDMENT OF APPLICATIONS.**

11 (a) REQUESTS TO AMEND AN APPLICATION SHALL BE IN WRITING AND SIGNED BY THE
12 OWNER OF RECORD. THE REQUEST MAY BE SUBMITTED ONLY BY THE ~~APPLICANT~~
13 PETITIONER (OR THEIR AUTHORIZED REPRESENTATIVE). THE AMENDMENT OF
14 APPLICATIONS SHALL BE SUBJECT TO THE FOLLOWING:

15 (1) AMENDMENTS CONCERNING AN ERROR, OMISSION OF FACT, OR OTHER FACTUAL
16 CHANGE NOT MENTIONED BELOW IN THIS SECTION SHALL BE PERMITTED AT ANY
17 TIME.

18 (2) AMENDMENTS THAT CHANGE THE TOTAL AREA OR CONFIGURATION OF A PROPERTY
19 SHALL BE MADE BEFORE THE APPLICATION IS TRANSMITTED TO THE PLANNING
20 BOARD. IF THE AREA IS INCREASED, THE APPROPRIATE ADDITIONAL FILING FEE
21 SHALL BE PAID.

22 (3) AMENDMENTS THAT CHANGE THE REQUESTED ZONING CLASSIFICATION SHALL BE
23 ACCOMPANIED BY A NEW (REVISED) JUSTIFICATION STATEMENT. THE AMENDMENT
24 SHALL ALSO BE THE SUBJECT OF A NEW (REVISED) TECHNICAL STAFF REPORT OR A
25 STATEMENT BY THE TECHNICAL STAFF THAT A NEW (REVISED) REPORT IS
26 UNNECESSARY. REQUESTS RECEIVED PRIOR TO THE DATE OF THE PUBLIC RELEASE
27 OF THE TECHNICAL STAFF REPORT SHALL BE ADMINISTRATIVELY GRANTED. IF THE
28 TECHNICAL STAFF RECOMMENDS AN AMENDMENT, THE ~~APPLICANT~~ PETITIONER
29 MAY REQUEST THE AMENDMENT WITHIN FIFTEEN DAYS AFTER THE DATE OF THE
30 PUBLIC RELEASE OF THE TECHNICAL STAFF REPORT, IN WHICH CASE THE REQUEST
31 SHALL BE ADMINISTRATIVELY GRANTED. IF THE PLANNING BOARD HEARS THE

1 CASE, AND EITHER THE AMENDMENT IS DIFFERENT THAN THE ONE RECOMMENDED
2 BY THE STAFF OR THE FIFTEEN DAYS HAVE LAPSED, THE AMENDMENT REQUEST
3 SHALL BE DIRECTED TO THE PLANNING BOARD PRIOR TO OR ON THE DATE ON
4 WHICH IT FIRST HEARS THE APPLICATION, OR WITHIN TEN DAYS AFTER THE DATE
5 THE PLANNING BOARD RECOMMENDS THE AMENDMENT. THE AMENDMENT SHALL
6 NOT BE PERMITTED IF MORE THAN TEN DAYS HAVE ELAPSED SINCE THE DATE OF THE
7 PLANNING BOARD'S RECOMMENDATION.

8 (4) NOTIFICATION OF ANY AMENDMENTS SHALL BE FURNISHED TO ANY PERSON WHO
9 HAS REQUESTED (IN WRITING) A COPY OF THE TECHNICAL STAFF REPORT.

10
11 **SEC. 16.205B. WITHDRAWAL.**

12 (a) ANY ~~APPLICATION~~ PETITION MAY BE WITHDRAWN. ALL REQUESTS FOR WITHDRAWAL
13 SHALL BE IN WRITING AND SIGNED BY THE OWNER OF RECORD. ONLY THE ~~APPLICANT~~
14 PETITIONER MAY SUBMIT THE REQUEST (OR THEIR AUTHORIZED REPRESENTATIVE).

15 (b) REQUESTS MADE PRIOR TO THE DATE THE APPLICATION IS TRANSMITTED TO THE
16 ZONING BOARD SHALL BE FILED WITH THE HEARING EXAMINER.

17 (c) REQUESTS MADE ON OR AFTER THE DATE THE APPLICATION IS TRANSMITTED TO THE
18 ZONING BOARD SHALL BE DIRECTED TO THE ZONING BOARD.

19 (d) REQUESTS RECEIVED PRIOR TO THE DATE OF THE PUBLIC RELEASE OF THE TECHNICAL
20 STAFF REPORT SHALL BE ADMINISTRATIVELY GRANTED, AND THE PROVISIONS OF
21 SECTION 16.205C SHALL NOT APPLY.

22 (e) REQUESTS RECEIVED ON OR AFTER THE DATE OF THE PUBLIC RELEASE OF THE
23 TECHNICAL STAFF REPORT SHALL BE ADMINISTRATIVELY GRANTED, AND THE
24 PROVISIONS OF SECTION 16.205C SHALL APPLY.

25
26 **SEC. 16.205C. REAPPLICATION.**

27 NO NEW ZONING MAP AMENDMENT APPLICATION MAY BE FILED ON THE SAME LAND
28 UNTIL TWO YEARS HAVE ELAPSED AFTER FINAL ACTION (INCLUDING APPELLATE REVIEW)
29 ON A PREVIOUS APPLICATION. AFTER TWO APPLICATIONS ON THE SAME LAND HAVE BEEN
30 ACTED UPON, FOUR YEARS MUST ELAPSE BEFORE ANOTHER APPLICATION ON THE SAME

1 LAND MAY BE FILED. NO LAND SHALL BE THE SUBJECT OF TWO APPLICATIONS FOR MAP
2 AMENDMENT AT THE SAME TIME.

3

4 **SEC. 16.205D. JOINT APPLICATIONS.**

5 AN APPLICATION FOR A MAP AMENDMENT MAY BE FILED OR CONSIDERED AT THE
6 SAME TIME THAT A CONDITIONAL USE APPLICATION ON THE SAME LAND IS FILED OR
7 CONSIDERED.

8

9 **SEC. 16.205E. HEARING DATE.**

10 (a) HEARING DATE ESTABLISHED. THE HEARING EXAMINER, OR THE ZONING BOARD IF THE
11 ZONING BOARD ELECTS TO FIRST HEAR THE APPLICATION, SHALL ESTABLISH THE DATE
12 OF THE EVIDENTIARY HEARING.

13 (b) REQUEST TO DELAY HEARING. THE ZONING COUNSEL OR ANY ~~PERSON OF RECORD~~
14 PARTY MAY REQUEST THE CONTINUANCE OF A HEARING UNDER THIS SECTION. THE
15 HEARING EXAMINER SHALL GRANT A CONTINUANCE IF A REQUIRED TECHNICAL STAFF
16 REPORT HAS NOT BEEN FILED AT LEAST THIRTY DAYS BEFORE THE SCHEDULED
17 HEARING. IF A CONTINUANCE IS GRANTED FOR THIS REASON, THE HEARING EXAMINER
18 MAY NOT HEAR THE CASE UNTIL AT LEAST THIRTY DAYS AFTER THE TECHNICAL STAFF
19 REPORT HAS BEEN FILED. IF THE REQUEST FOR A CONTINUANCE IS APPROVED, THE
20 HEARING EXAMINER SHALL RESCHEDULE THE HEARING DATE.

21

22 **SEC. 16.205F. MAP AMENDMENT APPLICATION FILE.**

23 (a) TRANSMITTAL. AT LEAST THIRTY DAYS PRIOR TO THE EVIDENTIARY HEARING
24 ADMINISTRATIVE MEETING, THE DEPARTMENT SHALL SEND THE ORIGINAL COPY OF THE
25 APPLICATION, PLANS, MAPS, SPECIFICATIONS, TECHNICAL STAFF REPORT, AND ALL
26 OTHER DATA, MATERIALS, AND RECORD EVIDENCE (TO DATE) PERTAINING TO THE
27 REQUESTED MAP AMENDMENT OR DEVELOPMENT PLAN TO THE HEARING EXAMINER.

28 (b) PUBLIC EXAMINATION. AT LEAST THIRTY DAYS PRIOR TO THE EVIDENTIARY HEARING
29 ADMINISTRATIVE MEETING, THE ORIGINAL MAP AMENDMENT OR DEVELOPMENT PLAN
30 PETITION FILE SHALL BE AVAILABLE FOR PUBLIC EXAMINATION IN THE OFFICE OF THE
31 ZONING BOARD, AND A COPY OF THE FILE SHALL BE AVAILABLE FOR PUBLIC

1 EXAMINATION IN THE DEPARTMENT. ANYONE MAY REVIEW THE FILE AND COPIES OF ITS
2 CONTENTS MAY BE OBTAINED AT A REASONABLE COST.

3
4 **SEC. 16.205G. TECHNICAL STAFF REPORT.**

5 (a) THE DEPARTMENT TECHNICAL STAFF SHALL SUBMIT A REPORT IN CONNECTION WITH
6 EACH APPLICATION TO THE ~~HEARING EXAMINER~~ ZONING BOARD THAT SHALL INCLUDE:

- 7 (1) THE STAFF'S FINDINGS;
8 (2) A DELINEATION OF THE APPROXIMATE AREA OF THE NEIGHBORHOOD, WHICH
9 SHALL BE SHOWN ON EITHER A ZONING MAP, AERIAL PHOTOGRAPH, OR SKETCH
10 MAP;
11 (3) A DESCRIPTION OF LAND USE AND ZONING IN THE NEIGHBORHOOD; AND
12 (4) IN CASES WHERE THE STAFF RECOMMENDS A ZONE DIFFERENT THAN THAT
13 REQUESTED, AN ANALYSIS OF THE ALTERNATIVE ZONE RECOMMENDED.

14 (b) THE TECHNICAL STAFF REPORT SHALL BE PUBLISHED ON THE HEARING EXAMINER OR
15 ZONING BOARD WEBSITE. ANY PERSON MAY REQUEST, IN WRITING, A COPY OF THE
16 TECHNICAL STAFF REPORT SENT BY FIRST CLASS MAIL. A REASONABLE FEE MAY BE
17 CHARGED TO COVER THE COSTS OF POSTAGE AND COPYING. A COPY OF THE REPORT
18 SHALL BE INCLUDED IN THE RECORD.

19
20 **SEC. 16.205H. MAP AMENDMENT APPROVAL.**

21 (a) CONDITIONAL APPROVAL.

22 (1) WHEN IT APPROVES A ZONING MAP AMENDMENT OTHER THAN PIECEMEAL MAP
23 AMENDMENT CASES BASED ON THE CHANGE/MISTAKE RULE, THE ZONING BOARD
24 MAY IMPOSE REASONABLE REQUIREMENTS AND SAFEGUARDS (IN THE FORM OF
25 CONDITIONS) WHICH THE ZONING BOARD FINDS ARE NECESSARY TO EITHER:

- 26 (i) PROTECT SURROUNDING PROPERTIES FROM ADVERSE EFFECTS WHICH
27 MIGHT ACCRUE FROM THE ZONING MAP AMENDMENT; OR
28 (ii) FURTHER ENHANCE THE COORDINATED, HARMONIOUS, AND SYSTEMATIC
29 DEVELOPMENT OF HOWARD COUNTY.

30 (2) IN NO CASE SHALL THESE CONDITIONS WAIVE OR LESSEN THE REQUIREMENTS OF,
31 OR PROHIBIT USES ALLOWED IN, THE APPROVED ZONE.

- 1 (3) ALL BUILDING AND DEVELOPMENT PLANS SHALL LIST THE CONDITIONS AND
2 SHALL SHOW HOW THE PROPOSED DEVELOPMENT COMPLIES WITH THEM.
- 3 (4) CONDITIONS IMPOSED BY THE ZONING BOARD ARE A PERMANENT PART OF THE
4 ZONING MAP AMENDMENT AND ARE BINDING FOR AS LONG AS THE ZONE REMAINS
5 IN EFFECT ON THE PROPERTY (UNLESS AMENDED BY THE ZONING BOARD).
- 6 (5) IF CONDITIONS ARE IMPOSED, THE ~~APPLICANT~~ PETITIONER SHALL HAVE NINETY
7 DAYS FROM THE DATE OF APPROVAL TO ACCEPT OR REJECT THE REZONING AS
8 CONDITIONALLY APPROVED. THE ~~APPLICANT~~ PETITIONER SHALL ADVISE (IN
9 WRITING) THE ZONING BOARD, ACCORDINGLY. IF THE ~~APPLICANT~~ PETITIONER
10 ACCEPTS THE CONDITIONS, THE ZONING BOARD SHALL ENTER AN ORDER
11 ACKNOWLEDGING THE ACCEPTANCE AND APPROVING THE MAP AMENDMENT, AT
12 WHICH TIME THE ZONING BOARD'S ACTION SHALL BE FINAL. FAILURE TO ADVISE
13 THE ZONING BOARD SHALL BE CONSIDERED A REJECTION OF THE CONDITIONS.
14 REJECTION SHALL VOID THE MAP AMENDMENT AND REVERT THE PROPERTY TO
15 ITS PRIOR ZONING CLASSIFICATION. THE ZONING BOARD SHALL ENTER AN ORDER
16 ACKNOWLEDGING THE REJECTION, VOIDING ITS PREVIOUS DECISION, AND
17 REVERTING THE PROPERTY TO ITS PRIOR ZONING CLASSIFICATION, AT WHICH TIME
18 THE ZONING BOARD'S ACTION SHALL BE FINAL.
- 19 (6) ALL ZONING MAP AMENDMENTS WHICH ARE APPROVED SUBJECT TO CONDITIONS
20 SHALL BE SHOWN ON THE HOWARD COUNTY ZONING MAP WITH THE LETTER "C"
21 AFTER THE APPLICATION NUMBER.

22 (b) NONCOMPLIANCE WITH CONDITIONS.

- 23 (1) ALL CONDITIONS IMPOSED SHALL BE MANDATORY. FAILURE TO COMPLY WITH
24 ANY CONDITION SHALL CONSTITUTE A ZONING VIOLATION AND SHALL BE
25 GROUNDS FOR THE ZONING BOARD TO:
- 26 (i) ANNUL THE MAP AMENDMENT;
27 (ii) REVOKE A USE AND OCCUPANCY PERMIT;
28 (iii) INSTITUTE APPROPRIATE CIVIL OR CRIMINAL PROCEEDINGS; OR
29 (iv) INSTITUTE ANY OTHER ACTION NECESSARY TO OBTAIN COMPLIANCE.
- 30 (2) BEFORE THE ZONING BOARD ANNULS AN APPROVED CONDITIONAL ZONING MAP
31 AMENDMENT, THE HEARING EXAMINER SHALL HOLD AN EVIDENTIARY HEARING,

1 IN ACCORDANCE WITH SECTION 16.203A, AND TRANSMIT A WRITTEN REPORT ON
2 THE MATTER. THE FOLLOWING PROCEDURES SHALL BE FOLLOWED:

3 (i) THE DIRECTOR OF THE DEPARTMENT (OR IT'S DESIGNEE) SHALL PETITION
4 THE ZONING BOARD TO ANNUL THE ZONING MAP AMENDMENT. THE
5 PETITION SHALL STATE THE REASONS FOR THE REQUEST. AT THE SAME
6 TIME, A COPY OF THE PETITION SHALL BE SENT TO THE HEARING
7 EXAMINER.

8 (ii) AFTER THE CLOSE OF THE HEARING RECORD, THE HEARING EXAMINER
9 SHALL FILE A WRITTEN REPORT WITH THE ZONING BOARD.

10 (iii) ANY ~~PERSON OF RECORD~~ PARTY MAY APPEAL THE REPORT OF THE
11 HEARING EXAMINER WITHIN FIFTEEN DAYS AFTER THE FILING OF THE
12 HEARING EXAMINER'S REPORT WITH THE ZONING BOARD. IF APPEALED,
13 ALL ~~PERSONS OF RECORD~~ PARTIES MAY ARGUE BEFORE THE ZONING
14 BOARD.

15 (iv) ~~PERSONS~~ PARTIES ARGUING SHALL ADHERE TO THE ZONING BOARD'S
16 RULES OF PROCEDURE, AND ARGUMENT SHALL BE LIMITED TO THIRTY
17 MINUTES FOR EACH ~~SIDE~~ PARTY, AND TO THE HEARING EXAMINER
18 RECORD OF THE ANNULMENT HEARING.

19 (c) EFFECT ON CONDITIONAL USES

20 (1) WHEN ANY LAND UPON WHICH A CONDITIONAL USE HAS BEEN APPROVED IS
21 RECLASSIFIED TO A ZONING CATEGORY DIFFERENT FROM THAT CATEGORY IN
22 WHICH IT WAS CLASSIFIED AT THE TIME THE CONDITIONAL USE WAS APPROVED,
23 THE FOLLOWING SHALL APPLY:

24 (i) IF, AT THE TIME OF THE REZONING, THE APPROVED USE REQUIRES THE
25 APPROVAL OF A CONDITIONAL USE IN THE NEW ZONE, AND THE SPECIFIC
26 CONDITIONAL USE REQUIREMENTS GOVERNING THE USE ARE THE SAME
27 IN BOTH ZONES, THE CONDITIONAL USE AS APPROVED, SHALL REMAIN IN
28 FULL FORCE AND EFFECT.

29 (ii) IF, AT THE TIME OF THE REZONING, THE APPROVED USE IS NOT PERMITTED
30 IN THE NEW ZONE, OR REQUIRES APPROVAL OF A CONDITIONAL USE WITH
31 DIFFERENT REQUIREMENTS, AND THE USE OR CONSTRUCTION

1 AUTHORIZED BY THE CONDITIONAL USE HAS COMMENCED AND HAS NOT
2 CEASED, THE CONDITIONAL USE SHALL NOT TERMINATE AND THE USE
3 MAY CONTINUE AS A NONCONFORMING USE.

4 (iii) IF, AT THE TIME OF THE REZONING, THE APPROVED USE IS NOT PERMITTED
5 IN THE NEW ZONE, OR REQUIRES APPROVAL OF A CONDITIONAL USE WITH
6 DIFFERENT REQUIREMENTS, AND THE USE OR CONSTRUCTION
7 AUTHORIZED BY THE CONDITIONAL USE HAS NOT COMMENCED OR HAS
8 CEASED, THE CONDITIONAL USE SHALL TERMINATE, AND ALL
9 PROVISIONS OF THE NEW ZONE SHALL APPLY TO THE USE AND
10 DEVELOPMENT OF THE PROPERTY.

11 (iv) IF, AT THE TIME OF THE REZONING, THE APPROVED USE IS PERMITTED IN
12 THE NEW ZONE WITHOUT APPROVAL OF A CONDITIONAL USE, THE
13 CONDITIONAL USE SHALL TERMINATE, AND ALL PROVISIONS OF THE NEW
14 ZONE SHALL APPLY TO FURTHER USE AND DEVELOPMENT OF THE
15 PROPERTY.

16
17 **Sec. 16.206. Conduct of hearings.**

18 All [[public]] EVIDENTIARY hearings on piecemeal map amendment or development
19 plan petitions shall be conducted in accordance with the [[rules of procedure]] RULES OF
20 PROCEDURE adopted by the Zoning Board insofar as they do not conflict with the Howard
21 County Administrative Procedure Act. The HEARING EXAMINER AND ZONING Board shall
22 prepare an official record of its proceedings in each case, which shall include testimony
23 and exhibits; but it shall not be necessary to transcribe the testimony unless requested for
24 court review. Every decision and final order in a piecemeal map amendment or
25 development plan case shall be in writing, signed by a majority of the entire board,
26 attested by the administrative assistant to the Board, and shall be accompanied by
27 findings of fact and conclusions of law and shall be made a part of the record of
28 proceedings. The final order of the Zoning Board denying or granting the petition for a
29 piecemeal map amendment, or approving or disapproving a development plan, shall be

1 filed with the Department of Planning and Zoning, which shall maintain it as part of the
2 official records of the County.

3
4 **Sec. 16.207. Judicial review.**

5 (a) Within 30 days after any final WRITTEN AND SIGNED decision and order of the
6 Zoning Board is entered on a piecemeal map amendment or development plan
7 petition, any person, Officer, Department, Board or Bureau of the County or State,
8 jointly or severally aggrieved by any such decision and order, and a party to the
9 proceeding below, may appeal to the Circuit Court for Howard County, in
10 accordance with the Maryland Rules of Procedure providing for appeals from
11 administrative agencies. The Zoning Board shall be a party to all appeals and shall
12 be represented on appeal by ~~ZONING BOARD COUNSEL~~ OR the Office of Law.

13 (b) The review of the record of proceedings made before the Zoning Board shall be
14 conducted by the court without a jury. In cases of alleged irregularities in procedure
15 before the Zoning Board amounting to a denial of due process, not shown on the
16 record, testimony thereon may be taken in the court. The court shall, upon request,
17 hear oral argument and receive written briefs. Upon the hearing of such appeal, the
18 action of the Zoning Board shall be presumed by the court to be proper and to best
19 serve the public interest. The court may affirm the decision of the Zoning Board or
20 remand the case for further proceedings, or it may reverse or modify the decision if
21 the substantial rights of the appellants to a fair hearing before the Board and a fair
22 decision by the Board may have been prejudiced because the Zoning Board's
23 findings, inferences, conclusions or decisions were or are:

- 24 (1) In violation of constitutional or Charter provisions; or
25 (2) Beyond the statutory authority or jurisdiction of the Board; or
26 (3) Made upon unlawful procedure; or
27 (4) Fraudulent; or
28 (5) So grossly erroneous as to imply bad faith; or

- 1 (6) Unsupported by competent, material and substantial evidence in view of the
- 2 entire record as submitted; or
- 3 (7) Arbitrary or capricious; or
- 4 (8) Affected by other error of law.

5

6

Subtitle 10. – Zoning Counsel.

7

8

Sec. 16.1000. - Zoning Counsel.

9

(a) The County Council may employ a Zoning Counsel on a part-time, contractual basis.

10

The Zoning Counsel shall be a member in good standing of the Bar of the Maryland Court of Appeals and at the time of appointment shall have been actively engaged in the general practice of law for at least five years.

11

12

13

(b) A decision to enter into a contract with an individual to perform the duties of Zoning Counsel shall be made by an affirmative vote of at least three Councilmembers. A decision to terminate a Zoning Counsel's contract shall be made by an affirmative vote of at least four Councilmembers.

14

15

16

17

(c) The Zoning Counsel shall appear at all EVIDENTIARY HEARINGS, BEFORE THE Zoning Board [[hearings]] AND THE HEARING EXAMINER on requests for piecemeal zoning map amendments for the purposes of producing evidence and testimony supporting comprehensive rezoning and facilitating the compilation of a complete record.

18

19

20

21

(d) In the performance of these duties the Zoning Counsel may:

22

(1) Present evidence and witnesses;

23

(2) Examine and cross-examine witnesses;

24

(3) Present argument; and

25

(4) Take any other action necessary to perform these duties.

26

(e) The budget for the Zoning Counsel shall be included in the County Council budget.

27

(f) The Zoning Counsel may retain expert witnesses and compensate them to the extent that the Council budget includes funds for such compensation.

28

29

(g) The Zoning Counsel shall be available:

1 (1) To any person interested in any zoning matter to advise as to procedures before
2 a County agency or board, provided that when doing so the Zoning Counsel
3 does not engage in the practice of law or render individual legal advice; and

4 (2) To any group to speak about zoning procedures in the County.

5 (h) The Zoning Counsel shall attend certain presubmission community meetings, as
6 necessary. The County Council shall determine whether or not the Zoning Counsel
7 shall attend certain presubmission community meetings to advise any person or group
8 of procedural matters.

9 (i) The Zoning Counsel:

10 (1) Does not represent the County, any government agency or any private party;

11 (2) Is not a party and does not have a right of appeal in connection with any case
12 before the Board of Appeals;

13 (3) May not represent any client involving land use in Howard County; and

14 (4) May not represent any client before the Zoning Board or Board of Appeals for
15 one year after leaving the Office of Zoning Counsel.

16 (i) Subject to section 22.1000 of the County Code, on or before July 1 of
17 each year, the Zoning Counsel shall submit to the Council and the
18 County Executive a report on the activities of the office in the past year.

19

20 **Title 22 – General Provisions**

21 **Subtitle 9. – Computation of Time.**

22

23 **Sec. 22.901. Application.**

24 [[This]] EXCEPT AS OTHERWISE EXPRESSLY PROVIDED BY LAW, THIS subtitle
25 applies to any deadline established by this Code that exceeds seven days.

26

27 **Section 2. And Be It Further Enacted** by the County Council of Howard County,
28 Maryland, that this Act shall become effective 61 days after its enactment.

Amendment 1 to Council Bill No. 10-2023

BY: Liz Walsh at the request of the Zoning Board

Legislative Day No. 5

Date: May 1, 2023

Amendment No. 1

(This Amendment updates references to “parties” and “persons of record” for consistency.)

1 On the title page, in the fourth line of the purpose paragraph, after “rights and duties of” insert
2 “parties and”.

3 On page 11:

- 4 • In line 1, strike “PERSON OF RECORD OR PARTY OF RECORD” and substitute “PARTY”.
- 5 • Beginning in line 5, strike “PERSON OR PARTY OF RECORD” and substitute “PARTY”.

6 On page 16, in line 20, after “WHICH” insert “PARTIES AND”.

7 On page 19, in line 24, strike all the square brackets and strike “PERSON OF RECORD”.

8 On page 20:

- 9 • In line 11, strike all the square brackets and strike “PERSON OF RECORD”.
- 10 • Beginning in line 14, strike all the square brackets and strike “PERSON OF RECORD”.
- 11 • In line 16, strike all the square brackets and strike “PERSONS OF RECORD”.
- 12 • In line 18, strike all the square brackets and strike “PERSON OF RECORD”.
- 13 • In line 19, strike all the square brackets and strike “PERSON OF RECORD” in both instances.
- 14 • In line 20, strike all the square brackets and strike “PERSON OF RECORD’S”.
- 15 • In line 27, strike “PERSONS OF RECORD” and substitute “PARTIES”.
- 16 • In line 28, strike “PERSONS OF RECORD” and substitute “PARTIES”.

17 On page 22, in line 15, strike all the square brackets and before “PERSONS” insert “AND”.

18 On page 23, in line 28, before “PERSONS OF RECORD” insert “PARTIES OR”.

19 On page 31, in line 25, strike “PERSON OF RECORD” and substitute “PARTY”.

20 On page 34:

- 21 • In line 23, strike “PERSON OF RECORD” and substitute “PARTY”.

1

I certify this is a true copy of

Am 1 to CB 10-2023

passed on May 1, 2023

Michelle Dorr
Council Administrator

- 22 • In line 26, strike “PERSONS OF RECORD” and substitute “PARTIES”.
- 23 • In line 27, strike “PERSONS” and substitute “PARTIES”.

Amendment 2 to Council Bill No. 10-2023

BY: Liz Walsh at the request of the Zoning Board

**Legislative Day 5
Date: May 1, 2023**

Amendment No. 2

(This amendment alters the sponsor of the bill, defines administrative meetings, removes requirements for residential address disclosures, alters the time limits for exceptions arguments, grants the Hearing Examiner subpoena power, clarifies timelines connected to administrative meetings and evidentiary hearings, and makes technical fixes.)

- 1 On the title page, after “Liz Walsh,” insert: “at the request of the Zoning Board”.
- 2 On page 3, line 9, strike “A DAY” and substitute: “THE LAST DAY”
- 3 On page 16, line 16, insert “OR” before “EVIDENTIARY HEARING” and strike “, OR MEETING”.
- 4 On page 16, line 18, strike “AND THE PUBLIC”.
- 5 On page 16, strike lines 23 and 24 in their entirety.
- 6 On page 16, after line 24, insert:
 - 7 “(4) ADMINISTRATIVE MEETING MEANS AN OPEN MEETING DURING WHICH THE ZONING
 - 8 BOARD DECIDES TO HEAR A CASE AS THE ZONING BOARD OR ASSIGN A CASE TO THE
 - 9 HEARING EXAMINER, AS SET FORTH IN SECTION 16.203A.”
- 10 On page 16, line 25, strike the brackets and “4”.
- 11 On page 18, strike lines 25 through 27 in their entirety and substitute:
 - 12 (1) FOR PETITIONS AUTHORIZED TO BE HEARD BY THE ZONING BOARD UNDER SECTION
 - 13 16.204 OF THIS SUBTITLE, THE ZONING BOARD BY MAJORITY VOTE AT AN ADMINISTRATIVE
 - 14 MEETING MAY AUTHORIZE THE HEARING EXAMINER TO FIRST HEAR PETITIONS.
- 15 On page 19, line 12, after “VOTE” insert “AT AN ADMINISTRATIVE MEETING”
- 16 On page 20, line 24 and line 25, strike the brackets.
- 17 On page 20, starting on line 25, strike “THE TOTAL TIME ALLOWED FOR ORAL ARGUMENT ON ALL
- 18 EXCEPTIONS SHALL BE ONE HOUR, WITH THE PETITIONER(S) AND PERSONS OF RECORD IN
- 19 SUPPORT CUMULATIVELY ALLOWED THIRTY MINUTES AND THE PROTESTANT(S) AND
- 20 PERSONS OF RECORD IN OPPOSITION CUMULATIVELY ALLOWED THIRTY MINUTES.”
- 21 On page 21, after line 14, insert:

I certify this is a true copy of

Am 2 to CB10-2023

passed on May 1, 2023

Michele Torres
Council Administrator

1 (G) SUBPOENAS. THE HEARING EXAMINER MAY ISSUE SUBPOENAS TO COMPEL THE
2 ATTENDANCE OF WITNESSES AND THE PRODUCTION OF DOCUMENTS AND TO ADMINISTER
3 OATHS TO WITNESSES.

4 On page 22, line 23, strike “EVIDENTIARY hearing” and substitute “ADMINISTRATIVE MEETING”.

5 On page 22, starting on line 24, strike the brackets and strike “APPLICANT”.

6 On page 23, line 1, strike “EVIDENTIARY hearing” and substitute “ADMINISTRATIVE MEETING”.

7 On page 23, starting on line 2, strike the brackets and strike “APPLICANT”.

8 On page 23, line 5, strike “HEARING” and substitute “ADMINISTRATIVE MEETING”.

9 On page 23, line 21, strike “HEARING” and substitute “ADMINISTRATIVE MEETING”.

10 On page 23, line 31, strike the brackets and strike “APPLICANT”.

11 On page 26, strike lines 1 through 3 in their entirety. Renumber the section accordingly.

12 On page 26, line 5, strike the brackets and strike “APPLICANT”.

13 On page 26, line 21, strike “a hearing date” and substitute “THE ADMINISTRATIVE MEETING
14 DATE”.

15 On page 26, line 25, strike “hearing” and substitute “ADMINISTRATIVE MEETING”.

16 On page 27, line 20, strike “APPLICANT” and substitute “PETITIONER”.

17 On page 28, line 20, strike “AND RESIDENTIAL”.

18 On page 28, line 24, strike “AND RESIDENTIAL”.

19 On page 28, starting on line 26, strike “AND RESIDENTIAL”.

20 On page 28, starting on line 27, strike “. AN OWNER THAT IS A CORPORATION LISTED ON A
21 NATIONAL STOCK EXCHANGE SHALL BE EXEMPT FROM THE REQUIREMENT TO PROVIDE
22 RESIDENTIAL ADDRESSES OF ITS OFFICERS AND DIRECTORS”.

23 On page 29, line 4, strike “RESIDENTIAL” and substitute “BUSINESS”.

24 On page 29, line 10, strike “RESIDENTIAL” and substitute “BUSINESS”.

25 On page 29, after line 19, insert:

26 “(D) OATH. AN INDIVIDUAL TESTIFYING SHALL GIVE THEIR NAME AND ADDRESS AND TAKE
27 THE FOLLOWING OATH GIVEN BY THE CHAIR: “I SOLEMNLY SWEAR OR AFFIRM UNDER THE
28 PENALTIES OF PERJURY THAT THE RESPONSES GIVEN AND STATEMENTS MADE WILL BE THE
29 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH.”

30 On page 29, line 23, strike “APPLICANT” and substitute “PETITIONER”.

- 1 On page 30, line 27, strike “APPLICATION” and substitute “PETITION”.
- 2 On page 30, lines 9 and 25 strike the instances of “APPLICANT” and substitute “PETITIONER”.
- 3 On page 32, line 5, “EVIDENTIARY HEARING” and substitute “ADMINISTRATIVE MEETING”.
- 4 On page 32, line 8, after “AMENDMENT” insert “OR DEVELOPMENT PLAN”.
- 5 On page 32, line 11, after “AMENDMENT” insert “OR DEVELOPMENT PLAN”.
- 6 On page 32, line 10, “EVIDENTIARY HEARING” and substitute “ADMINISTRATIVE MEETING”.
- 7 On page 32, line 18, strike “HEARING EXAMINER” and substitute “ZONING BOARD”.
- 8 On page 33, line 3, after “AMENDMENT” insert “OTHER THAN PIECEMEAL MAP AMENDMENT CASES
9 BASED ON THE CHANGE/MISTAKE RULE AS ESTABLISHED BY MARYLAND CASE LAW”.
- 10 On page 33, lines 17, 19, and 20 strike the instances of “APPLICANT” and substitute
11 “PETITIONER”.
- 12 On page 34, line 29, strike “SIDE” and substitute “PARTY”.
- 13 On page 36, line 24, strike “ZONING BOARD COUNSEL OR”

Amendment 1 to Amendment 2 Council Bill No. 10-2023

BY: Christiana Rigby

**Legislative Day 5
Date: May 1, 2023**

Amendment No. 1

(This Amendment removes a reference to Maryland Case Law.)

- 1 On page 3 of the amendment, strike lines 8 and 9 in their entirety.

I certify this is a true copy of

Am 1 to Am 2 CB 10-2023

~~dated~~ on May 1, 2023

Michelle Haessig
Council Administrator

Withdrawn

1000

Amendment 2 to Amendment 2 to Council Bill No. 10-2023

**BY: Liz Walsh and
Christiana Rigby**

**Legislative Day 5
Date: May 1, 2023**

Amendment No. 2

(This amendment removes the reference to Maryland Case Law)

- 1 On page 3, in line 9, strike "AS ESTABLISHED BY MARYLAND CASE LAW".

I certify this is a true copy of
Am 2 to Am 2 to CB 10-2023
passed on May 1, 2023
Michelle Herring
Council Administrator

Amendment 3 to Council Bill No. 10-2023

BY: Christiana Rigby

**Legislative Day 5
Date: May 1, 2023**

Amendment No. 3

(This amendment alters the definition of a piecemeal map amendment.)

- 1 On page 16, starting on line 25, strike: "A ZONING CHANGE IN OR TO ANY EUCLIDEAN, FLOATING,
2 OVERLAY ZONE, OR MIXED-USE DISTRICT, AND MEANS".

I certify this is a true copy of

Am 3 to CB10-2023

passed on May 1, 2023

Michelle Darrow
Council Administrator

Introduced 03.06.2023
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2023 Legislative Session

Legislative Day No. 3

Bill No. 10 -2023

Introduced by: Liz Walsh

AN ACT to clarify the role of the hearing examiner to hear certain matters in the jurisdiction of the Zoning Board; specifying the powers and duties of, and the procedures used by, the hearing examiner, including in an evidentiary hearing; removing certain mediation procedures; specifying the rights and duties of persons of record in matters heard by the hearing examiner; providing for the process of petition applications for piecemeal map amendments and development plans; allowing for certain conditional approvals; defining certain terms and rules of construction; and generally relating to Piecemeal map amendments and development plan approvals.

Introduced and read first time March 6, 2023. Ordered posted and hearing scheduled.
By order Michelle Harrod
Michelle Harrod, 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 March 25, 2023.

By order Michelle Harrod
Michelle Harrod, Administrator

This Bill was read the third time on April 3, 2023 and Passed _____, Passed with amendments _____, Failed _____.

By order _____
Michelle Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2023 at ___ a.m./p.m.

By order _____
Michelle Harrod, Administrator

Approved/Vetoed by the County Executive _____, 2023

Calvin Ball, 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.

Tabled 4-3-2023 Michelle Harrod

1 **Section 1. Be It Enacted** by the County Council of Howard County, Maryland, that the
2 Howard County Code is amended as follows:

3
4 *By amending:*

5 *Title 16 - Planning, zoning and Subdivisions and Land Development Regulations*

6 *Subtitle 1. Subdivision and Land Development Regulations*

7 *Article I. General*

8 *Section 16.108 - Rules of construction; definitions.*

9 *Subtitle 2. Zoning*

10 *Section 16.200 - Zoning authority; definitions; short title.*

11 *Section 16.202 - Purpose; establishment of zoning districts*
12 *and regulations.*

13 *Section 16.203A - Hearing examiner.*

14 *Section 16.204 - Piecemeal map amendments and*
15 *development plan approvals.*

16 *Section 16.205 - Procedure.*

17 *Section 16.206 - Conduct of hearings.*

18 *Section 16.207 - Judicial review.*

19 *Subtitle 10. Zoning Counsel*

20 *Section 16.1010 - Zoning Counsel.*

21 *Title 22. General Provisions*

22 *Subtitle 9. - Computation of Time.*

23 *Sec. 22.901 - Application.*

24
25 *By adding:*

26 *Title 16. Planning, Zoning and Subdivisions and Land Development Regulations*

27 *Subtitle 2. Zoning*

28 *Section 16.205A - Amendment Of Applications*

29 *Section 16.205B - Withdrawal*

30 *Section 16.205C - Reapplication*

31 *Section 16.205D - Joint Applications*

1 *Section 16.205E - Hearing Date*

2 *Section 16.205F - Map Amendment Application File*

3 *Section 16.205G - Technical Staff Report*

4 *Section 16.205H - Map Amendment Approval*

5
6 **HOWARD COUNTY CODE**

7 **Title 16 - Planning, Zoning, and Subdivisions and Land Development Regulations**

8 **Subtitle 1. - Subdivision and Land Development Regulations.**

9 **Article I. - General**

10
11 **Sec. 16.108. Rules of Construction; Definitions.**

12 (a) *Rules of Construction.* The following rules apply to the text of this subtitle:

13 (1) The particular AND SPECIFIC shall control the general.

14 (2) In case of any difference of meaning or implication between the text of this
15 subtitle and any caption, illustration, summary table, or illustrative table, the
16 text shall control.

17 (3) [[The word "shall" is always mandatory and not discretionary. The word "may"
18 is permissive.

19 (4)]] Words used in the present tense shall include the future; words used in the
20 singular number shall include the plural; words used in the plural number shall
21 include the singular.

22 [[(5) A building or structure includes any part thereof.]]

23 (4) WORDS USED IN THE SINGULAR INCLUDE THE PLURAL (AND VICE VERSA) AND
24 WORDS USED IN ONE GENDER INCLUDE ALL OTHER GENDERS, UNLESS THE
25 OBVIOUS CONSTRUCTION OF THE WORDING INDICATES THE CONTRARY.

26 (5) WORDS AND PHRASES NOT SPECIFICALLY DEFINED OR INTERPRETED IN THE
27 HOWARD COUNTY CODE OR THE HOWARD COUNTY ZONING REGULATIONS
28 SHALL BE CONSTRUED ACCORDING TO THE COMMON AND GENERALLY
29 RECOGNIZED USAGE OF THE LANGUAGE. TECHNICAL WORDS AND PHRASES, AND
30 OTHERS THAT HAVE ACQUIRED A PECULIAR AND APPROPRIATE MEANING IN THE
31 LAW, SHALL BE CONSTRUED ACCORDING TO THAT MEANING.

- 1 (6) COMPUTATION OF TIME:
- 2 (i) *BEGINNING OF THE PERIOD OF TIME.* IN COMPUTING ANY PERIOD OF TIME
3 SUBJECT TO THIS SUBTITLE, THE DAY OF THE ACT AFTER WHICH THE
4 DESIGNATED PERIOD OF TIME BEGINS TO RUN, IS NOT TO BE INCLUDED.
- 5 (ii) *DEADLINE.* THE DEADLINE IS TO BE COMPUTED AS FOLLOWS:
- 6 a. IF THE LAST DAY IS A SATURDAY, SUNDAY, OR HOLIDAY, THE DEADLINE
7 SHALL BE THE END OF THE NEXT BUSINESS DAY, OR;
- 8 b. IF THE COUNTY OFFICE IS NOT OPEN ON THE LAST DAY OF THE PERIOD,
9 OR IS CLOSED FOR A PART OF A DAY, THE DEADLINE SHALL BE THE END
10 OF THE NEXT BUSINESS DAY.
- 11 (iii) WHEN THE PERIOD OF TIME IS MORE THAN SEVEN DAYS, INTERMEDIATE
12 SATURDAYS, SUNDAYS, AND COUNTY LEGAL HOLIDAYS SHALL BE
13 CONSIDERED AS OTHER DAYS. IF THE PERIOD OF TIME IS SEVEN DAYS OR
14 LESS, INTERMEDIATE SATURDAYS, SUNDAYS, AND HOLIDAYS SHALL NOT BE
15 COUNTED.
- 16 (7) UNLESS OTHERWISE SPECIFIED, AN *AREA* OF LAND MEANS *CONTIGUOUS AREA*.
- 17 (8) THE WORD *APPROVE* INCLUDES *APPROVE WITH CONDITIONS, MODIFICATIONS, OR*
18 *AMENDMENTS.*
- 19 (9) A *BUILDING, STRUCTURE, LAND, OR PROPERTY* INCLUDES THE WORDS *OR PART*
20 *THEREOF,* UNLESS THE OBVIOUS CONSTRUCTION OF THE WORDING INDICATES THE
21 CONTRARY.
- 22 (10) THE WORD *BUY* ALSO INCLUDES THE WORDS *OFFER TO BUY.*
- 23 (11) THE WORDS *ERECTED* AND *CONSTRUCTED* ALSO INCLUDE *MODIFIED,*
24 *RECONSTRUCTED, BUILT, REBUILT, ALTERED, PLACED, RELOCATED, MOVED, AND*
25 *MAINTAINED.*
- 26 (12) THE TERMS *LAND USE* AND *USE OF LAND* ALSO INCLUDE *BUILDING USE* AND THE
27 *USE OF A BUILDING.*
- 28 (13) WHEN SOMETHING IS REFERRED TO AS BEING *REQUIRED,* IT MEANS REQUIRED AS
29 A PART OF THE REGULATIONS AND PROCEDURES SET FORTH IN LAW.
- 30 (14) THE WORD *SELL* ALSO INCLUDES *DISPENSE, OFFER FOR SALE, DISPLAY FOR SALE, OR*
31 *INTEND TO SELL.*

- 1 (15) THE WORDS *SHALL*, *MUST*, *MAY ONLY* OR *MAY NOT* ARE ALWAYS MANDATORY AND
2 NOT DISCRETIONARY. THE WORD *MAY* IS PERMISSIVE.
- 3 (16) THE WORD *INCLUDES* SHALL NOT LIMIT A TERM TO THE SPECIFIED EXAMPLES BUT
4 IS INTENDED TO EXTEND ITS MEANING TO ALL OTHER INSTANCES OR
5 CIRCUMSTANCES OF LIKE KIND OR CHARACTER.
- 6 (17) WHENEVER ONE TITLE, SUBTITLE, ARTICLE, SECTION, SUBSECTION, ETC.,
7 REFERENCES ANOTHER TITLE, SUBTITLE, ETC., BY REFERRING TO TITLE *ABOVE* OR
8 TITLE *BELOW*, IT IS INTENDED THAT THE TITLE *ABOVE* OR *BELOW* IS THE NEXT ONE
9 PRECEDING (ABOVE) OR FOLLOWING (BELOW).
- 10 (18) IT IS NOT INTENDED THAT SPECIFIC REQUIREMENTS BE INTERPRETED SEPARATELY
11 OR EXCLUSIVELY FROM ALL OTHER SPECIFIC REQUIREMENTS OR FROM THE
12 GENERAL REQUIREMENTS IN THIS TITLE. THE PROVISIONS OF THIS TITLE SHALL
13 BE READ AS A WHOLE.
- 14 (19) ADJECTIVES AND ADVERBS: ADJECTIVES OR ADVERBS APPEARING BEFORE A
15 SERIES OF NOUNS OR VERBS, RESPECTIVELY, APPLY TO THE ENTIRE SERIES UNLESS
16 SPECIFICALLY NOTED OR THE OBVIOUS SENSE OF THE PHRASE DICTATES
17 OTHERWISE.
- 18 (20) THE WORD *FOLLOWING* MEANS NEXT AFTER.
- 19 (21) THE WORD *PRECEDING* MEANS NEXT BEFORE.
- 20 (22) ANY DOCUMENT REQUIRED TO BE SUBMITTED IN WRITING PURSUANT TO THIS
21 SUBTITLE MAY BE SUBMITTED ELECTRONICALLY.
- 22 ([[6]]23) The phrase *used for* includes *arranged for*, *designed for*, *intended for*,
23 *maintained for*, or *occupied for*.
- 24 ([[7]]24) The word *person* includes an individual, a corporation, a partnership, an
25 incorporated association, or any other similar entity.
- 26 ([[8]]25) Unless the context clearly indicates the contrary, where a regulation
27 involves two or more items, conditions, provisions, or events connected by the
28 conjunction *and*, *or*, or *either/or*, the conjunction shall be interpreted as follows:
29 (i) *And* indicates that all the connected items, conditions, provisions, or
30 events shall apply;
31 (ii) *Or* indicates that the connected items, conditions, provisions, or events

1 may apply separately or in any combination; and

2 (iii) *Either/or* indicates that the connected items, conditions, provisions, or
3 events shall apply separately but not in combination.

4 [[(9) The word *includes* shall not limit a term to the specified examples, but is
5 intended to extend its meaning to all other instances or circumstances of like
6 kind or character.]]

7 (26) SUCH AS: SEE *INCLUDES* (PARAGRAPH 16 ABOVE).

8 ([[10]]27) All terms defined in subtitles 11 and 12 of this title, in the County zoning
9 regulations and the Design Manual where occurring in this subtitle, shall have the
10 meanings specified in those regulations.

11 ([[11]]28) The word *County* means Howard County, Maryland. The word *State* means
12 the State of Maryland. The term *County boundary* means any exterior boundary
13 of the County.

14 ([[12]]29) The terms *County Council*, *County Executive*, *ZONING BOARD*, *Board of*
15 *Appeals*, *Director of Planning and Zoning*, *Planning Board*, *County Solicitor*,
16 *Director of Public Works*, *Director of Fire and Rescue Services*, *Director of*
17 *Recreation and Parks*, *Department of Education*, and *County Health Officer* mean
18 the respective council, boards and officers of the County.

19 ([[13]]30) Throughout these regulations, all words, other than the terms specifically
20 defined above and below shall have the meaning implied by their context in these
21 regulations or their ordinarily accepted definitions.

22 (b) *Definitions*. As used in these regulations, the following terms shall be defined as
23 follows:

24 (1) *Active processing time* means the period of time after formal application for
25 approval of a sketch plan, preliminary equivalent sketch plan, preliminary plan,
26 final plan and plat, or site development plan during which the County is
27 required to determine whether or not the development or subdivision plan or
28 plat and attendant documents conform to County regulations. If a reviewing
29 agency makes a written request to the developer for additional data or
30 information, the time between issuance of the request and receipt of the reply is
31 not part of the active processing time.

- 1 (1.1) *Adjoining property* OR *ADJOINING* means land which is touching or would be
2 touching in the absence of an intervening utility or road right-of-way, other than
3 a principal arterial highway[[, shall be considered adjoining for purposes of this
4 subtitle]] OR A STREAM BED OR THE LIKE.
- 5 (2) *Agricultural preservation subdivisions* means subdivisions of land in the County
6 or State agricultural preservation programs, for which an agricultural
7 preservation easement has been acquired pursuant to title 15, subtitles 5 and 6 of
8 the Howard County Code and title 2, subtitle 5 of the Agricultural Article of the
9 Annotated Code of Maryland.
- 10 (3) *Application, formal* means an application is formal when the Department of
11 Planning and Zoning determines that the required number of plans and attendant
12 documents have been submitted in the form required by these regulations and the
13 appropriate fees have been paid.
- 14 (4) *Area, gross* means the entire area within a subdivision plan or plat or
15 development project.
- 16 (5) Reserved.
- 17 (6) *Building development* means the improvement of land by the addition of
18 structures.
- 19 (7) *Building envelope* means the area of a lot in which the principal buildings shall
20 be located. The envelope is formed by the building restriction lines.
- 21 (8) *Building restriction line* means lines established on lots to indicate the setbacks
22 required by the zoning regulations for the zoning district in which the lot is
23 located or the setbacks required by section 16.120 of this subtitle, if more
24 restrictive.
- 25 (8.1) *Bulk parcel* means bulk parcels may be recorded to permit a developer to stage
26 subdivision or when project phasing is necessary because tentative housing
27 allocations are not available. The bulk parcel must be resubdivided or developed
28 in accordance with the pre-established phasing plan and may initially be
29 buildable or non buildable depending on whether one housing unit allocation has
30 been granted for the parcel.

- 1 (9) *Capital budget* means the plan of the County, approved in the annual budget and
2 appropriation ordinance, to receive and expend funds for capital projects during
3 the first fiscal year included in the capital program.
- 4 (10) *Capital program* means an annual document approved by resolution of the
5 County Council indicating planned County capital projects authorized for the
6 current fiscal year and for the following five fiscal years.
- 7 (11) Reserved.
- 8 (12) *Dedication* means the offering for conveyance of land or public improvements
9 for any general and public uses, reserving to the owner no other rights than those
10 of the general public.
- 11 (12.1) *DEPARTMENT* MEANS THE DEPARTMENT OF PLANNING AND ZONING.
- 12 (13) *Design manual* means Howard County's technical standards, approved by
13 resolution of the County Council, for design, construction and inspection of
14 bridges, roads, storm drain structures, stormwater management systems,
15 sidewalks, walkways, pathways, trails, parking areas, traffic-control devices,
16 water and sewer facilities, and other improvements.
- 17 (14) *Developer* means an individual, partnership, public agency or corporation (or
18 their agent) that undertakes the responsibility for any or all of the activities
19 covered by this subtitle, particularly the designing of a subdivision or site
20 development plat or plan showing the layout of the land and the required public
21 improvements. The term *developer* is intended to include the term *subdivider*
22 even though the personnel involved in successive stages of the project may vary.
- 23 (15) *Develop* or *development* means the establishment of a principal use on a site; a
24 change in a principal use of a site; or the improvement or alteration of a site by
25 the construction, enlargement, or relocation of a structure; the provision of
26 stormwater management or roads; the grading of existing topography; the
27 clearing or grubbing of existing vegetation; or any other non-farming activity that
28 results in a change in existing site conditions.
- 29 (16) Reserved.

- 1 (17) *Developer's agreement* means an agreement between the County and the
2 developer, covering the developer's financial obligations for all required public
3 improvements relating to the subdivision.
- 4 (18) ~~[[Reserved.]] ZONING DISTRICT OR DISTRICT (IN THE CONTEXT OF ZONING) MEANS~~
5 ~~THE ZONE OR ZONES ASSIGNED TO A PROPERTY BY THE HOWARD COUNTY ZONING~~
6 ~~MAP AND DEFINED IN THE HOWARD COUNTY ZONING REGULATIONS.~~
- 7 (18.1) *Driveway* means a privately owned and maintained road which provides direct
8 vehicular access from a public or private road to one or more lots or parcels.
- 9 (19) Reserved.
- 10 (20) *Final plat* means the official record of a division of land approved by the
11 Department of Planning and Zoning and recorded in the land records of Howard
12 County.
- 13 (21) *Final subdivision plan* means a final plat and supporting detailed plans and data
14 demonstrating that all technical requirements of the County's regulations have
15 been met.
- 16 (22) *Fire lane* means a lane within a road or a separate driveway to provide adequate
17 emergency vehicle access.
- 18 (23) *Floodplain* means that area which would be inundated by stormwater runoff
19 equivalent to that which would occur from a rainfall of 100-year frequency,
20 assuming total development of the watershed as shown in the general plan of the
21 County. Floodplain determination shall be in accordance with the Design
22 Manual.
- 23 (24) *Frontage* means that portion of a lot or parcel of land which adjoins a public road
24 that provides vehicular access to the property.
- 25 (25) *General plan* means a plan for the County, approved by ordinance of the County
26 Council, which includes, but is not limited to a plan for land use and land
27 conservation and multiyear plans for transportation, public facilities, water,
28 sewerage, parkland, housing, human services, historic preservation and
29 environmental protection.
- 30 (26) Reserved.

1 (27) *Government action* means the action or inaction of a governmental agency in
2 relation to a timely filed action by a developer. *Governmental agency* means an
3 agency of the Federal, State, or local government, including, but not limited to,
4 the U.S. Corps of Engineers, the Maryland Department of the Environment, the
5 County Council, the Zoning Board, and the Board of Appeals.

6 (28) *Health authority* means The Health Officer of Howard County or the officer's
7 duly authorized representative.

8 (28.1) *Initial plan submittal*. For required presubmission community meetings, the
9 initial plan submittal is the:

10 (i) Zoning petition, if it includes a site plan or a preliminary development
11 plan;

12 (ii) Conditional use petition, if required;

13 (iii) Sketch plan or preliminary equivalent sketch plan for a major
14 subdivision;

15 (iv) Final plan for a minor subdivision or resubdivision; or

16 (v) Site development plan for single-family units on deeded parcels, or for
17 condominium or rental units on a parcel which is not part of a recorded
18 subdivision that authorized an equal or greater number of residential
19 units than proposed on the site development plan.

20 (29) *Landscape edge* means the area around the perimeter of a development
21 designated for buffer or screen plantings in accordance with the Landscape
22 Manual.

23 (30) *Lot or parcel* means a piece of land described in a final plat or deed and
24 recorded in the land records of Howard County in accordance with the laws and
25 regulations in effect at the time of recordation.

26 (31) *Maryland Coordinate System* means a system of plan rectangular coordinates
27 established for defining and stating the position or location of points on the
28 surface of the earth within the State of Maryland.

29 (31.1) Major subdivision means the division of a residential or agricultural parcel
30 into five or more residential lots, including buildable preservation parcels, but
31 excluding open space and nonbuildable preservation parcels.

1 (32) *Minor subdivision* means the division of a residential or agricultural parcel that
2 has not been part of a previously recorded subdivision, into four or fewer
3 residential lots (including buildable preservation parcels but excluding open
4 space and nonbuildable preservation parcels), either all at one time or lot by lot.
5 However, a lot of 20 acres or less created by a division approved by Howard
6 County prior to January 1, 1984 in order to comply with a court-ordered partition
7 of real property, shall not be considered part of a previously recorded subdivision
8 within the meaning of this definition.

9 (32.1) *Net area* means the *gross area* minus all steep slopes existing at the time of
10 subdivision and the area within the 100-year floodplain.

11 (33) *Open space* means a separate lot or area which provides for protection of the
12 environment, for recreation or for public use, including: public facilities such as
13 schools, libraries, fire stations and parks as shown on the general plan or hiking,
14 biking, and equestrian trails.

15 (34) *Owner* means the person [[or other legal entity holding current legal]] IN WHOM
16 LEGAL OR EQUITABLE title RESTS. *OWNER* MEANS ANY PART OWNER, JOINT OWNER,
17 OWNER OF A COMMUNITY OR PARTNERSHIP INTEREST, LIFE TENANT, TENANT IN
18 COMMON, TENANT BY THE ENTIRETY, OR JOINT TENANT. WHERE THE SIGNATURE
19 OF AN *OWNER* IS REQUIRED, THE TERM *OWNER* INCLUDES ANYONE HAVING CLEAR
20 WRITTEN AUTHORITY TO ACT ON BEHALF OF THE ACTUAL *OWNER*. FOR
21 APPLICATIONS AND PETITIONS UNDER THIS SUBTITLE, A CONTRACT PURCHASER
22 SHALL BE AN OWNER. *OWNER OF RECORD* MEANS THE NAME OF THE PERSON LISTED
23 ON THE DEED FOR THE PROPERTY AS THE OWNER.

24 (35) *Parcel number* means a descriptive term used to identify portions of land
25 contained in the tax maps of Howard County.

26 (36) *Pathway* or *walkway* means as distinguished from a sidewalk and crosswalk
27 which are incorporated in a street right-of-way, a pathway or walkway is a paved
28 path within a ten-foot pedestrian right-of-way, usually extending from a street to
29 another street, or to a school site, open space, or other public or general use area.

30 (37) *Pavement* means that portion of a street or walkway surfaced for vehicular or
31 pedestrian traffic and constructed according to the Design Manual.

1 (37.1) *PERSON OF RECORD OR PARTY OF RECORD* MEANS:

2 (i) THE OWNER, APPLICANT, PETITIONER, APPELLANT, APPELLEE, AND
3 RESPONDENT; AND

4 (ii) ANY CIVIC ASSOCIATION, OWNER'S ASSOCIATION, OR OTHER PERSON
5 WHICH REQUESTS, BY WRITING OR TESTIMONY, TO BECOME A PERSON OR
6 PARTY OF RECORD ON OR BEFORE THE DATE THE HEARING AUTHORITY OR
7 ZONING BOARD, AS APPLICABLE, CLOSES THE RECORD AND TAKES THE
8 CASE UNDER ADVISEMENT.

9 (38) *Phased subdivision* means a subdivision utilizing sequential development by
10 sections pursuant to a sketch plan for the entire subdivision which includes a
11 schedule for submission of plans for the various sections and a schedule for
12 completion of these sections.

13 (39) *Pipestem lot* means a residential lot that is shaped like a pipe or flag, and is
14 separated from the nearest road by another lot, except for an unbuildable strip of
15 land 50 feet or less in width.

16 (40) *Preliminary equivalent sketch plan* means a sketch plan which also provides the
17 information required with a preliminary plan.

18 (41) *Preliminary plan* means the preliminary engineered drawings and supplementary
19 material that indicate how the proposed layout of the subdivision will meet the
20 technical requirements of the County regulations.

21 (41.1) *Preservation parcel* means a parcel in the RC or RR zoning district that
22 encompasses all or a portion of the preserved area of a cluster subdivision or
23 receiving subdivision, or that is designated as a sending parcel on a final plat of
24 easement. A preservation parcel is encumbered by a preservation parcel
25 easement and may be buildable or nonbuildable depending on whether one of the
26 housing units permitted by zoning will be located on the parcel.

27 (41.2) *Preservation parcel easement* means a permanent easement that prohibits a
28 preservation parcel from subdivision and most types of development, as specified
29 in the requirements for the RC and RR zoning districts.

30 (42) *Public* means open to common use, whether or not public ownership is involved.

- 1 (43) *Public improvements* means public improvements include all the infrastructure
2 and improvements which this subtitle requires a developer to install in a
3 subdivision or land development.
- 4 (44) *Recorded subdivision* means a subdivision which has been recorded pursuant to:
- 5 (i) Approval by the Howard County Planning Commission prior to March
6 12, 1969;
 - 7 (ii) Approval by the Department of Planning and Zoning on or after March
8 12, 1969; or
 - 9 (iii) A plat recorded prior to the requirement for County approval, including,
10 but not limited to, North Laurel Park, Harwood Park, Lennox Park, The
11 Cedars, Villa Heights, High Ridge Park, and Nordau.
- 12 (45) *Reservation; reserve* means the identification and setting aside of an area of land,
13 building development or other development on a subdivision or site development
14 plan for future condemnation or acquisition for public use, which subjects the
15 land, building development or other development reserved to use limitations for
16 a specified period of time. Such land, building development or other development
17 may be designated on the general plan or in the County or State capital
18 improvement program or the State highway needs inventory.
- 19 (45.1) *Residential infill* means a residential development in the area planned for both
20 water and sewer service that creates one or more units on a property that adjoins
21 an existing residential unit.
- 22 (46) *Resubdivision* means a further division or modification of an existing subdivision
23 previously approved by the County and recorded in the Howard County Land
24 Records. However, a lot of 20 acres or less created by a division approved by
25 Howard County prior to January 1, 1984 in order to comply with a court-ordered
26 partition of real property, shall not be considered part of an existing subdivision
27 previously approved by the County within the meaning of this definition.
- 28 (47) *Review committee* means an advisory group to the Department of Planning and
29 Zoning, organized to coordinate the subdivision and site development plan
30 review process. The group shall include, but not be limited to, representatives of
31 the following agencies:

- 1 (i) Department of Public Works;
 - 2 (ii) Health Department;
 - 3 (iii) Department of Education;
 - 4 (iv) Department of Recreation and Parks;
 - 5 (v) Department of Fire and Rescue Services;
 - 6 (vi) Department of Inspections, Licenses and Permits;
 - 7 (vii) Soil conservation district;
 - 8 (viii) Maryland State Highway Administration; and
 - 9 (ix) Office of Transportation.
- 10 (48) *Scenic road* means a public road or road segment that is included in the scenic
11 roads inventory adopted by the County Council in accordance with section
12 16.1403 of this Code.
- 13 (49) *Right-of-way* means a strip or parcel of land designated for use as a street,
14 highway, driveway, alley, or walkway or for any drainage or public utility
15 purpose or other similar uses.
- 16 (50) *Sidewalk* means a paved walk primarily for pedestrian traffic, normally placed
17 parallel to a street or highway and within the street right-of-way.
- 18 (51) *Sight distance* means visual distance along a road or across an intersection, more
19 specifically described in the Design Manual.
- 20 (52) *Site development plan* means the plan indicating the location of existing and
21 proposed buildings, structures, paved areas, walkways, existing and proposed
22 grades, vegetative cover, landscaping, and screening within a lot or parcel
23 proposed for development.
- 24 (53) *Sketch plan* means a sketch indicating the developer's general objectives and lay-
25 out for development of the land. The basic role of the sketch plan is to allow the
26 County to provide the developer with important information that may affect the
27 project and to ensure that the plan complies with Zoning Regulations and
28 incorporates good planning and development principles.
- 29 (54) *Soil map* means a map showing soil map symbols and outlines of soil types
30 (U.S.D.A.—1968 and subsequent amendments).

- 1 (55) *Steep slope* means a slope that averages 25 percent or greater over ten vertical
2 feet.
- 3 (56) *Stormwater management*:
- 4 (i) *Quantity control* means a system of vegetative, structural, and other
5 measures that control the increased volume and rate of surface runoff
6 caused by development.
- 7 (ii) *Quality control* means a system of vegetative, structural and other
8 measures that reduce or eliminate pollutants that might otherwise be
9 carried by surface runoff from development.
- 10 (57) *Stormwater management plan* means a set of drawings or other documents,
11 submitted as a prerequisite to obtaining stormwater management approval, which
12 contain all of the information and specifications required by the Department of
13 Public Works.
- 14 (58) *Stream* means water, flowing in a definite direction in a channel with a bed and
15 banks, and having a substantial degree of permanence, although flow may vary
16 and in times of drought may cease to flow for a period of time. Includes perennial
17 or intermittent streams, but does not include ditches or gullies resulting entirely
18 from pipe outfalls or other man made features. Streams usually are shown on the
19 1 inch = 200 feet topographic maps of Howard County produced by Howard
20 County or the soil survey of Howard County, Maryland, but field verification is
21 necessary.
- 22 (59) *Street, highway, road* means a facility providing for vehicular traffic. The
23 Howard County General Plan designates highways which perform an arterial or
24 collector function.
- 25 (60) *Subdivision* means any division of a lot or parcel of land into lots or parcels for
26 the immediate or future transfer of ownership, sale, lease or building
27 development. The term includes lot mergers and resubdivision and, when
28 appropriate to the context, shall relate to the process of subdivision or to the land
29 subdivided.
- 30 (61) *Traffic-control devices* means signs, signals, markings, and other devices
31 prescribed to regulate, guide, or warn traffic.

1 (62) *Trails* means as distinguished from a walkway and pathway which are paved, a
2 natural path within a minimum ten-foot hiking/biking/equestrian right-of-way,
3 intended to be open for common use.

4 (63) *Wetland* means any land which has been determined by the Army Corps of
5 Engineers or the Maryland Department of the Environment to be a regulated or
6 jurisdictional wetland, as well as any land determined by the Soil Conservation
7 District to be regulated wetlands using Federal and State standards.

8
9 **Subtitle 2. - Zoning.**

10
11 **Sec. 16.200. - Zoning authority; definitions; short title.**

12 (a) *Zoning Authority*. This subtitle provides that the Zoning Authority of Howard
13 County for comprehensive zoning and for amendments to the text of the Howard
14 County regulations shall be the County Council of Howard County and the Zoning
15 Authority of Howard County for piecemeal zoning map amendments and decisions
16 on development plans shall be the Howard County Zoning Board. The Howard
17 County Council, acting as a legislative body, reserves unto itself the authority to
18 grant variances from the strict application of the zoning regulations with regard to
19 governmental uses of land. This authority shall be exercised by passage of a
20 resolution after a public hearing and a finding that the action is in the public
21 interest.

22 (b) *RULES OF CONSTRUCTION; Definitions*. For the purposes of this subtitle, the
23 [[following]] RULES AND definitions SET FORTH IN SECTION 16.108 SHALL apply:

24 (1) [[*Adjoining* means land which is touching or would be touching in the absence
25 of an intervening utility or road right-of-way, other than a principal arterial
26 highway.

27 (2)]]*Comprehensive zoning* means zoning:

- 28 (i) Involving both maps and regulations;
29 (ii) Which is legislative in nature;
30 (iii) Which concerns legislative facts;

- 1 (iv) Which is adopted after extensive study;
- 2 (v) Which covers a substantial area of the County; and
- 3 (vi) Which has an impact on the general welfare of the County in that it is
- 4 designed to control and direct the use of land and buildings according
- 5 to present and planned future conditions so as to accomplish, as far as
- 6 possible, the most appropriate uses of land consistent with the public
- 7 interest and the safeguarding of the interests of individual property
- 8 owners.

9 ~~[(3) *Department* means the Department of Planning and Zoning.~~

10 ~~(4)] (2) *Development plan* means [[a]] ANY development plan, A PRELIMINARY~~

11 ~~DEVELOPMENT PLAN, A FINAL DEVELOPMENT PLAN, A COMPREHENSIVE SKETCH~~

12 ~~PLAN, A DEVELOPMENT CONCEPT PLAN, A MAJOR OR MINOR VILLAGE CENTER~~

13 ~~REDEVELOPMENT PLAN, OR ANY OTHER DEVELOPMENT PLAN, REGARDLESS OF ITS~~

14 ~~NAME, that, as provided in the zoning regulations, the Zoning Board approves~~

15 ~~or disapproves.~~

16 ~~(3) *HEARING, PUBLIC HEARING, EVIDENTIARY HEARING, OR MEETING* MEANS A~~

17 ~~PROCEEDING BY AN ADMINISTRATIVE BOARD, BODY, OFFICER, OR HEARING~~

18 ~~AUTHORITY AT WHICH PERSONS AND THE PUBLIC MAY PROVIDE TESTIMONY AND~~

19 ~~INFORMATION.~~

20 ~~(i) *EVIDENTIARY HEARING* MEANS A HEARING DURING WHICH PERSONS OF~~

21 ~~RECORD SHALL HAVE AN OPPORTUNITY TO TESTIFY UNDER OATH AND AT~~

22 ~~WHICH EVIDENCE MAY BE PRESENTED.~~

23 ~~(ii) *MEETING* MEANS A PROCEEDING BY AN ADMINISTRATIVE BOARD,~~

24 ~~OFFICER, OR BODY.~~

25 ~~[[5]]4) *Piecemeal map amendment* means A ZONING CHANGE IN OR TO ANY~~

26 ~~EUCLIDEAN, FLOATING OVERLAY ZONE, OR MIXED-USE DISTRICT, AND MEANS~~

27 ~~rezoning:~~

28 ~~(i) Involving only zoning maps;~~

29 ~~(ii) Which is quasi-judicial in nature;~~

30 ~~(iii) Which concerns individual applications to change the zoning of~~

31 ~~particular pieces of property; and~~

1 (iv) Is based on findings as to administrative facts regarding specific criteria
2 for change in zoning.

3 (c) *Short Title.* This subtitle may be cited as the "Zoning Enabling Act of Howard
4 County."

5 **Sec. 16.202. Purpose; establishment of zoning districts and regulations.**

6 (a) *County Council Authority.* For the purpose of promoting the health, safety, morals
7 and general welfare of Howard County, the County Council is hereby empowered
8 to:

9 (1) Regulate and restrict the height, number of stories and size of buildings and other
10 structures; the location, construction, alteration and use of buildings and other
11 structures; the percentage of lot area that may be occupied by structures; the size
12 of yards, courts and other open spaces; the density of population; and the location
13 and use of land for trade, industry, government, residence or other purpose;

14 (2) Regulate the construction, alteration, reconstruction, moving and demolition of
15 structures of historic, architectural and archeological value through the
16 establishment of historic districts.

17 (b) (1) *Establishment of districts and regulations.* For many or all of the purposes of this
18 subtitle, the County Council may divide the County into zoning districts of a
19 number, shape and area as may be deemed best suited to carry out the purposes of
20 this subtitle. THE ZONING OR ZONE OF THE PROPERTY IS THE ZONING DISTRICT IN
21 WHICH IT IS LOCATED. In addition, for many of the purposes of this subtitle and all
22 the purposes of title 16, subtitle 6 of this Code relating to historic preservation and
23 protection of historic structures, the County may establish historic districts as may
24 be deemed best suited to carry out those purposes. The criteria for the County
25 Council's establishment of an historic district in the nature of comprehensive zoning,
26 multiple site historic districts, are as provided in the Howard County Zoning
27 Regulations, and these districts are established by the County Council. The criteria
28 for the Zoning Board's establishment of an historic district on a piecemeal basis,
29 single-site historic districts, are as provided in title 16, subtitle 6 of the Howard
30 County Code, and these districts are established by the Zoning Board.

1 (2) *Purpose of districts and regulations.* The zoning district boundaries and
2 regulations shall be made in accordance with a comprehensive zoning plan and
3 shall be designed to:

- 4 (i) Implement the policies and goals of the general plan;
- 5 (ii) Promote health, safety, and the general welfare;
- 6 (iii) Provide for the best use of land and the stewardship of our
7 environmental resources;
- 8 (iv) Lessen congestion in the streets;
- 9 (v) Secure safety from fire and other dangers;
- 10 (vi) Provide adequate light and air;
- 11 (vii) Avoid undue concentration of population; and
- 12 (viii) Facilitate the adequate provision of transportation, water, sewerage,
13 schools, parks and other public requirements.

14 (3) *Suitability and appropriateness.* The zoning district boundaries and zoning
15 regulations shall be made with reasonable consideration to, among other things,
16 the character of the zoning district and its suitability for particular uses and types
17 of development, and with a view to conserving property values and encouraging
18 the most appropriate use and enjoyment of land throughout the County based
19 upon the purposes, policies and goals of the general plan.

20 (4) *Uniformity.* The zoning regulations shall be uniform for each class or kind of
21 building or structure or use throughout each district, but the regulations in one
22 district may differ from those in other districts.

23 **Sec. 16.203A. Hearing examiner**

24 (a) *In General.*

25 (1) Except as set forth in section 16.203A(a)([3])4, a Hearing Examiner shall first
26 hear the petitions that are authorized to be heard by the Zoning Board under
27 section 16.204 of this subtitle.

28 (2) ~~[[A]] AN EVIDENTIARY hearing under this section shall be held in the same~~
29 ~~manner as a hearing that the Zoning Board holds under sections 16.204 and~~
30 ~~16.206 of this subtitle and the hearing examiner shall not issue a decision but shall~~

1 issue a report. When the Hearing Examiner holds [[a]] AN EVIDENTIARY hearing
2 under this section, the hearing shall proceed as set forth in sections 16.204 and
3 16.206 of this subtitle as if the term "Zoning Board" or "Chairperson" includes
4 "Hearing Examiner."

5 (3) The Zoning Board shall adopt Rules of Procedure for the Hearing Examiner in
6 Zoning Board cases.

7 (4) The Zoning Board shall hear and decide a case if:

8 (i) The Hearing Examiner position is vacant;

9 (ii) The Zoning Board determines that the Hearing Examiner is unable to
10 hear the case because of a conflict of interest or other disqualification;

11 or

12 (iii) The Zoning Board by majority vote decides to hear the case.

13 (b) *Report.*

14 (1) (i) The Hearing Examiner shall issue a report on each petition heard by the Hearing
15 Examiner.

16 (ii) The Hearing Examiner shall issue the report within 60 days after the
17 conclusion of the EVIDENTIARY hearing unless the Zoning Board
18 specifies a different time.

19 (2) The report shall include findings of fact, summaries of arguments and respective
20 positions in the case or theory in support of it, and conclusions of law.

21 (3) The report is not an order or final action of the Zoning Board.

22 (4) The report shall be signed by the Hearing Examiner and sent to the Zoning Board
23 Administrator to be distributed to the members of the Zoning Board, each
24 [[party]] PERSON OF RECORD to the case, and posted on the Zoning Board's
25 website. The report shall be deemed issued on the date that the report is signed
26 by the Hearing Examiner.

27 (c) *Record.*

28 (1) The record shall include:

- 1 (i) All items listed in section 2.121(a) of the County Code;
- 2 (ii) Maps;
- 3 (iii) Recordings of the hearings held by the Hearing Examiner;
- 4 (iv) Presentation by the Department of Planning and Zoning; and
- 5 (v) All other materials provided to the Hearing Examiner by the petitioner,
- 6 the opposition, and government agencies.

7 (2) Following the close of the record, the Hearing Examiner shall send the record
8 to the Zoning Board Administrator to be distributed to the members of the
9 Zoning Board.

10 (d) *Exceptions.*

11 (1) After a Hearing Examiner issues a report, a [[party]] PERSON OF RECORD may
12 submit to the Zoning Board exceptions to the report.

13 (2) Exceptions shall be in writing and shall be filed with the Zoning Board within 20
14 business days after the Hearing Examiner's report is issued. The [[party]] PERSON
15 OF RECORD filing exceptions shall send the exceptions to the Zoning Board
16 Administrator and all other [[parties]] PERSONS OF RECORD in the case by both
17 email and first-class mail, postage paid. The exceptions shall specify in detail
18 those items to which the [[party]] PERSON OF RECORD excepts and the reasons
19 why the [[party]] PERSON OF RECORD excepts. Any [[party]] PERSON OF RECORD
20 may file a written response to any other [[party's]] PERSON OF RECORD'S
21 exceptions within 20 business days of the filing of any exceptions.

22 (3) On the filing of exceptions, the Zoning Board shall schedule an oral argument on
23 the exceptions in a timely manner. The oral argument is limited to those matters
24 to which exceptions have been taken. [[Each party shall be limited to 30 minutes
25 total of oral argument for all exceptions filed by that party.]] THE TOTAL TIME
26 ALLOWED FOR ORAL ARGUMENT ON ALL EXCEPTIONS SHALL BE ONE HOUR, WITH
27 THE PETITIONER(S) AND PERSONS OF RECORD IN SUPPORT CUMULATIVELY
28 ALLOWED THIRTY MINUTES AND THE PROTESTANT(S) AND PERSONS OF RECORD IN
29 OPPOSITION CUMULATIVELY ALLOWED THIRTY MINUTES. The Zoning Board may
30 choose to take evidence on an exception.

1 (e) *Presentation to the Zoning Board.* The report, along with the record, shall be
2 presented by the Hearing Examiner to the Zoning Board at a meeting of the Zoning
3 Board. The hearing of exceptions to the report shall follow the Hearing Examiner's
4 presentation.

5 (f) *Actions by the Zoning Board* Every decision and final order in a piecemeal map
6 amendment or development plan case shall be in writing, signed by a majority of the
7 entire Zoning Board, attested by the Zoning Board Administrator, and shall be
8 accompanied by findings of fact and conclusions of law and shall be made a part of
9 the record of proceedings. The final order of the Zoning Board denying or granting
10 the petition for a piecemeal map amendment, or approving or disapproving a
11 development plan, shall be filed with the Department of Planning and Zoning, which
12 shall maintain it as part of the official records of the County. The Zoning Board may
13 decide by majority vote to remand the petition to the Hearing Examiner for
14 additional testimony and hearing.

15 **Sec. 16.204. Piecemeal map amendments and development plan approvals.**

16 (a) *Zoning Board.* The Zoning Board may exercise the Zoning Authority delegated to it
17 by this subtitle to make decisions on piecemeal map amendments and development
18 plans in pursuance of a petition filed in accordance with section 16.205 ET SEQ. of
19 this subtitle and shall establish procedures for doing so.

20 [(b) *Mediation.* The Zoning Board may refer an applicant and other persons affected by a
21 pending application, other than piecemeal map amendment cases based on the
22 change/mistake rule as established by Maryland Case Law, to the Mediation and
23 Conflict Resolution Center, Inc., of Howard County or a conflict resolution or
24 mediation service which has been deemed acceptable by the Board. The purpose of
25 such referral shall be to resolve conflict between these parties, but the results
26 thereof shall not bind the Board to any result. Any resolution that is agreed upon by
27 both parties shall be subject to findings of the Board required by law. Petition
28 approval may not be granted solely on the basis of mediation resolution.

29 A referral may be made either before or after a public hearing on a pending
30 petition decision, but only after an application is deemed complete. Any mediation

1 shall occur prior to the Zoning Board voting on a petition. The cost of the mediation
2 service shall be incurred by the petitioner.

3 If no agreement is reached between the parties within 45 days, or at anytime the
4 mediator deems any further meetings futile, the Board shall continue with its
5 proceedings or deliberations on the matter. If both parties agree, mediation may be
6 extended past 45 days to a period of time as agreed to by the parties.

7 Nothing in this section shall preclude the parties from meeting on their own at any
8 time, with or without a mediator, in an attempt to resolve their differences. It is the
9 policy of the County to encourage applicants and neighbors to have early
10 discussions on proposed projects so that differences may be resolved prior to the
11 submission of an application.

12 (c) *Public*] (B) *EVIDENTIARY Hearing Required*. The Zoning Board shall hold [[a]] AN
13 EVIDENTIARY hearing, unless the Hearing Examiner has already held [[a]] AN
14 EVIDENTIARY hearing on piecemeal map amendments and development plan
15 petitions during which [[parties]] PERSONS OF RECORD to the case shall have an
16 opportunity to be heard. The Zoning Board shall be prohibited from holding
17 meetings which include an opportunity for public testimony on any day on which
18 Rosh Hashanah, Yom Kippur, Eid Ul Fitr or Eid Ul Adha is observed. The Zoning
19 Board shall not take final action on piecemeal map amendments or development
20 plan petitions until after:

21 (1) Any [[public]] EVIDENTIARY hearing; and

22 (2) The procedures in this section and section 16.203A of this subtitle are complete.

23 (d) *Advertising*. At least 30 days prior to the initial [[public]] EVIDENTIARY hearing on
24 the piecemeal map amendment or development plan petitions, the [[petitioner]]
25 APPLICANT, at its own expense, shall advertise the date, time, place and subject
26 matter of the petition in at least two newspapers of general circulation in Howard
27 County.

28 (e) *Posting and Mail Notice*:

1 (1) At least 30 days prior to the initial [[public]] EVIDENTIARY hearing on the
2 piecemeal map amendment or development plan petitions, the [[petitioner]]
3 APPLICANT shall:

4 (i) Post the property which is the subject of the hearing with the date, time,
5 place and subject matter of the hearing. The sign shall include the
6 address of Department of Planning and Zoning's website. The poster
7 shall be double-sided and at least 30 inches by 36 inches in size. The
8 poster shall include a three digit alphanumeric code, which would be
9 used to identify the case. The alphanumeric code shall be posted by the
10 Department of Planning and Zoning in at least five-inch lettering in the
11 top left corner of the poster. The Department of Planning and Zoning
12 shall determine the number of posters required and their location and
13 the petitioner shall bear the expense of posting. The Department of
14 Planning and Zoning shall supply the posters. The petitioner shall
15 properly erect and maintain the posters. The petitioner shall remove all
16 posters from the subject property in accordance with section 16.1613 of
17 this title; and

18 (ii) Send a certified letter to all persons whose property is adjoining to the
19 property which is the subject of the petition, according to the most
20 recent State taxation and assessment records, notifying those persons of
21 the date, time, place and subject matter of the hearing in accordance
22 with subsection 16.203(c)(7) and of this subtitle.

23 (2) Noncompliance with the mailing requirements of paragraph (1) of this
24 subsection does not constitute a basis for appeal or the setting aside of
25 piecemeal zoning or development plan decisions.

26 (f) *Report of the Planning Board.* Petitions for piecemeal map amendments or
27 development plan approvals shall be submitted to the Planning Board, WHICH SHALL
28 HOLD A PUBLIC MEETING, AT WHICH PERSONS OF RECORD AND THE PUBLIC MAY
29 PROVIDE TESTIMONY AND INFORMATION RELATING TO THE PETITION. At least 30 days
30 prior to a Planning Board meeting on any piecemeal map amendment or
31 development plan, the [[petitioner]] APPLICANT shall send notice of such meeting to

1 the relevant subscribers on the list maintained by the Department of Planning and
2 Zoning in accordance with subsection 16.145(b)(3). THE PLANNING BOARD SHALL
3 ISSUE A REPORT THAT INCLUDES A RECOMMENDATION BY THE PLANNING BOARD ON
4 THE PETITION. The Zoning Board shall consider the report of the Planning Board on
5 such petitions before the Zoning Board takes final action on them.

6 (g) *Department of Planning and Zoning's Findings and Analysis.* The Department of
7 Planning and Zoning shall transmit its findings and analysis concerning a petition
8 for piecemeal map amendments or development plans in a technical staff report to
9 the Planning Board at least two weeks prior to the Planning Board meeting on a
10 petition.

11 (h) *Questioning Departmental Findings.* At any time any [[individual]] PERSON may
12 submit a question to the staff of the Department of Planning and Zoning or related
13 agencies concerning the findings and analysis of the Department or related agencies.
14 If a written response is requested, the question should be submitted in writing to the
15 Department or agency. If the written request is submitted at least 30 days prior to the
16 Zoning Board hearing, the Department or agency shall respond to such requests in
17 writing and send a copy of the response to the Zoning Board at least two weeks prior
18 to the Zoning Board hearing. A response from a related agency to a question
19 concerning its findings and analysis may be considered by the Zoning Board only if
20 the response is in writing, unless a representative of the agency is present at the
21 hearing to answer questions.

22 (i) *Presentation of Departmental Findings and Analysis.* At least 30 days prior to a
23 Zoning Board Hearing, the Board Administrator shall send a written notice to the
24 Director of the Department of Planning and Zoning as to the date, time, and place of
25 the hearing. The Director of the Department of Planning and Zoning, or the
26 Director's Designee, shall attend a Zoning Board public hearing concerning a
27 petition for piecemeal map amendment or development plan and, under oath and
28 subject to cross-examination, summarize the Department's findings, explain the
29 development process, and answer any related questions.

1 (j) *Findings.* Before the Zoning Board makes a decision on any piecemeal map
2 amendment or development plan petition it shall make those findings of fact and
3 conclusions of law required by law.

4 (k) *Documentation REGARDING PROPOSED DEVELOPMENT AND USE OF PROPERTY.*

5 (1) A petition for a piecemeal amendment of the zoning map may include
6 documentation describing the proposed development and use of the property
7 under petition. The zoning regulations and Zoning Board's rules of procedure
8 shall govern the nature of the documentation and its review.

9 (2) A piecemeal map amendment shall be based on findings required by law. A
10 piecemeal map amendment petition may not be granted solely on the basis of
11 documentation relating to proposed development and use of the property.

12 (3) If the petition for a piecemeal map amendment includes documentation
13 describing the proposed development and use of the property under petition and
14 the petition is granted:

15 (i) The property may be developed and used only in accordance with the
16 documentation, notwithstanding any provision requiring uniformity of
17 zoning requirements; and

18 (ii) Unless the comprehensive zoning plan changes the zoning district of
19 the property, subsequent adoption of a comprehensive zoning plan shall
20 not affect the requirement that the property be used in accordance with
21 the documentation.

22 **Sec. 16.205. Procedure.**

23 (a) ~~[[Any person owning an interest in the property affected]]~~ GENERAL.

24 (1) AN OWNER may petition the Zoning Board for approval of a development plan,
25 and ~~[[a person owning an interest in the property affected]]~~ AN OWNER, the
26 Director of the Department of Planning and Zoning or members of the Zoning
27 Board may petition the Zoning Board for piecemeal map amendment. The form
28 and number of copies of the petition shall be as prescribed by law or by the
29 Zoning Board's rules of procedure.

1 (2) IF TWO OR MORE PARCELS ARE INCLUDED IN ONE APPLICATION, THEY MUST BE
2 ADJOINING. SEPARATE APPLICATIONS ARE REQUIRED FOR EACH PROPERTY IF
3 THEY ARE NOT ADJOINING.

4 ([[b]]3) *Presubmission Community Meeting.* Prior to the initial submittal of a
5 petition, the [[petitioner]] APPLICANT shall hold a presubmission community
6 meeting that provides information to the community regarding the petition and
7 allows community residents to ask questions and discuss any issues. The
8 meeting must be held in accordance with the procedures in section 16.128.

9 ([[c]]4) The petition shall be ON THE FORM PUBLISHED BY THE DEPARTMENT OF
10 PLANNING AND ZONING AND SHALL BE filed with the Department of Planning
11 and Zoning, which shall check the same for form, check that notice has been
12 provided, as required by law or by the Zoning Board's rules of procedure,
13 collect the proper fees, and refer the petition to the Planning Board for its
14 report.

15 ([[d]]5) Citizens may request a meeting with a staff member of the Department of
16 Planning and Zoning to review the development proposal after the petition has
17 been formally submitted to the Department.

18 ([[e]]6) No later than two days following the release of the report of the Planning
19 Board on the petition, the Department of Planning and Zoning shall submit the
20 petition with all of its supporting documents to the administrative assistant to
21 the Zoning Board, who shall set a hearing date. The Zoning Board shall be
22 prohibited from holding meetings which include an opportunity for public
23 testimony on any County holiday, Rosh Hashanah, Yom Kippur, Eid UI Fitr,
24 Eid UI Adha, and Chinese New Year is observed.

25 ([[f]]7) Notice of the place, time and date of the beginning of the hearing shall be
26 published as required by law or the Zoning Board's rules of procedure.

27 (b) CONTENTS OF PETITION.

28 (1) THE PETITION SHALL INCLUDE:

- 1 (i) THE NAME, ADDRESS, AND TELEPHONE NUMBER, AND SIGNATURE OF THE
- 2 PETITIONER, AND AN INDICATION OF THE PETITIONER'S STATUS AS
- 3 OWNER (CONTRACT PURCHASER, AGENT, OR OTHERWISE);
- 4 (ii) THE EXISTING AND REQUESTED ZONING DISTRICTS OF THE PROPERTY;
- 5 (iii) THE STREET ADDRESS OF THE PROPERTY;
- 6 (iv) THE NAME AND NUMBER OF THE ELECTION DISTRICT THE PROPERTY IS
- 7 IN;
- 8 (v) THE TOTAL AREA OF THE PROPERTY (EITHER IN ACRES OR SQUARE FEET);
- 9 (vi) THE PROPERTY'S LOT AND BLOCK NUMBERS, SUBDIVISION NAME, AND
- 10 PLAT BOOK AND PAGE NUMBER, IF ANY; OR A DESCRIPTION OF ITS
- 11 ACREAGE, WITH REFERENCE TO LIBER AND FOLIO NUMBERS;
- 12 (vii) THE NAME, ADDRESS, AND SIGNATURE OF EACH OWNER OF RECORD OF
- 13 THE PROPERTY. APPLICATIONS FOR PROPERTY OWNED BY A
- 14 CORPORATION OR OTHER REGISTERED ENTITY SHALL BE SIGNED BY AN
- 15 OFFICER OR DULY AUTHORIZED PERSON EMPOWERED TO ACT FOR THE
- 16 ENTITY; AND
- 17 (viii) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE CONTACT
- 18 PERSON IF DIFFERENT FROM THE OWNER.

19 (c) OTHER SUBMISSION REQUIREMENTS.

- 20 (1) ALONG WITH THE PETITION, THE APPLICANT SHALL SUBMIT THE FOLLOWING:
- 21 (i) FOUR COPIES OF AN ACCURATE PLAT, PREPARED, SIGNED, AND SEALED BY A
- 22 REGISTERED ENGINEER OR LAND SURVEYOR THAT SHOWS:
- 23 a. THE PRESENT CONFIGURATION OF THE PROPERTY, INCLUDING BEARINGS
- 24 AND DISTANCES (IN FEET);
- 25 b. THE NAMES OF OWNERS OF RECORD, OR SUBDIVISION LOT AND BLOCK
- 26 NUMBERS, OF ADJOINING PROPERTIES;
- 27 c. THE NAME, LOCATION, DISTANCE TO THE CENTER LINE, AND RIGHT-OF-WAY
- 28 WIDTH OF ALL ABUTTING STREETS. IF THE PROPERTY IS NOT LOCATED AT
- 29 THE INTERSECTION OF TWO STREETS, THE DISTANCE TO, AND THE NAME OF,
- 30 THE NEAREST INTERSECTING STREET SHALL BE INDICATED;

- d. THE (SUBDIVISION) LOT AND BLOCK NUMBER OF THE SUBJECT PROPERTY (IF ANY);
- e. A NORTH ARROW AND SCALE (NO SMALLER THAN ONE INCH EQUALS FOUR HUNDRED FEET);
- f. THE TOTAL AREA OF THE PROPERTY (IN EITHER SQUARE FEET OR ACRES);
- g. THE LOCATION OF ALL EXISTING BUILDINGS, STRUCTURES, AND OTHER IMPROVEMENTS ON THE PROPERTY; AND
- h. THE SUBJECT PROPERTY OUTLINED IN RED.

(ii) FOUR COPIES OF THE ZONING MAP PAGE ON WHICH THE PROPERTY IS PLOTTED TO SCALE AND OUTLINED IN RED;

(iii) THREE COPIES OF A TYPEWRITTEN STATEMENT OF JUSTIFICATION IN SUPPORT OF THE REQUEST. THE STATEMENT SHALL SET FORTH THE LEGAL BASIS BY WHICH THE REQUESTED AMENDMENT MAY BE APPROVED, AND FACTUAL REASONS SHOWING WHY APPROVAL OF THE REQUEST WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, AND WELFARE. THIS STATEMENT MAY BE ACCOMPANIED BY THREE COPIES OF ANY MATERIAL WHICH (IN THE PETITIONER'S OPINION) IS NECESSARY TO CLARIFY OR EMPHASIZE THE TYPEWRITTEN STATEMENT. THIS ADDITIONAL MATERIAL, IF NOT FOLDABLE, SHALL BE NO LARGER THAN EIGHTEEN BY TWENTY-FOUR INCHES;

(iv) A STATEMENT LISTING THE NAMES, AND THE BUSINESS AND RESIDENTIAL ADDRESSES, OF ALL INDIVIDUALS HAVING AT LEAST A FIVE PERCENT FINANCIAL INTEREST IN THE SUBJECT PROPERTY;

(v) IF ANY OWNER IS A CORPORATION, A STATEMENT LISTING THE OFFICERS OF THE CORPORATION, THEIR BUSINESS AND RESIDENTIAL ADDRESSES, AND THE DATE ON WHICH THEY ASSUMED THEIR RESPECTIVE OFFICES. THE STATEMENT SHALL ALSO LIST THE CURRENT BOARD OF DIRECTORS, THEIR BUSINESS AND RESIDENTIAL ADDRESSES, AND THE DATES OF EACH DIRECTOR'S TERM. AN OWNER THAT IS A CORPORATION LISTED ON A NATIONAL STOCK EXCHANGE SHALL BE EXEMPT FROM THE REQUIREMENT TO PROVIDE RESIDENTIAL ADDRESSES OF ITS OFFICERS AND DIRECTORS;

- 1 (vi) If the owner is a corporation or any other registered entity,
2 including a limited liability company or limited partnership (except
3 one listed on a national stock exchange), a statement containing the
4 names and residential addresses of those persons owning at least
5 five percent of the ownership interest or shares of any class of
6 corporate security (including stocks and serial maturity bonds) of
7 the owner entity. If any person with an ownership interest in the
8 property is itself a registered entity, including a limited liability
9 company or limited partnership (except one listed on a national
10 stock exchange), a statement containing the names and residential
11 addresses of those persons owning at least five percent (5%) of the
12 ownership interest or shares of any class of corporate security
13 (including stocks and serial maturity bonds) of that entity;
- 14 (vii) A list containing the names and addresses of all adjoining property
15 owners and the owners of those properties directly across a street,
16 alley, or stream, and a set of preaddressed envelopes or mailing
17 labels; and
- 18 (viii) Any other data or explanatory material required by the department
19 or hearing examiner.

20
21 **SEC. 16.205A. AMENDMENT OF APPLICATIONS.**

- 22 (a) Requests to amend an application shall be in writing and signed by the
23 owner of record. The request may be submitted only by the applicant (or
24 their authorized representative). The amendment of applications shall be
25 subject to the following:
- 26 (1) Amendments concerning an error, omission of fact, or other factual
27 change not mentioned below in this section shall be permitted at any
28 time.
- 29 (2) Amendments that change the total area or configuration of a property
30 shall be made before the application is transmitted to the planning

1 BOARD. IF THE AREA IS INCREASED, THE APPROPRIATE ADDITIONAL FILING FEE
2 SHALL BE PAID.

3 (3) AMENDMENTS THAT CHANGE THE REQUESTED ZONING CLASSIFICATION SHALL BE
4 ACCOMPANIED BY A NEW (REVISED) JUSTIFICATION STATEMENT. THE AMENDMENT
5 SHALL ALSO BE THE SUBJECT OF A NEW (REVISED) TECHNICAL STAFF REPORT OR A
6 STATEMENT BY THE TECHNICAL STAFF THAT A NEW (REVISED) REPORT IS
7 UNNECESSARY. REQUESTS RECEIVED PRIOR TO THE DATE OF THE PUBLIC RELEASE
8 OF THE TECHNICAL STAFF REPORT SHALL BE ADMINISTRATIVELY GRANTED. IF THE
9 TECHNICAL STAFF RECOMMENDS AN AMENDMENT, THE APPLICANT MAY REQUEST
10 THE AMENDMENT WITHIN FIFTEEN DAYS AFTER THE DATE OF THE PUBLIC RELEASE
11 OF THE TECHNICAL STAFF REPORT, IN WHICH CASE THE REQUEST SHALL BE
12 ADMINISTRATIVELY GRANTED. IF THE PLANNING BOARD HEARS THE CASE, AND
13 EITHER THE AMENDMENT IS DIFFERENT THAN THE ONE RECOMMENDED BY THE
14 STAFF OR THE FIFTEEN DAYS HAVE LAPSED, THE AMENDMENT REQUEST SHALL BE
15 DIRECTED TO THE PLANNING BOARD PRIOR TO OR ON THE DATE ON WHICH IT FIRST
16 HEARS THE APPLICATION, OR WITHIN TEN DAYS AFTER THE DATE THE PLANNING
17 BOARD RECOMMENDS THE AMENDMENT. THE AMENDMENT SHALL NOT BE
18 PERMITTED IF MORE THAN TEN DAYS HAVE ELAPSED SINCE THE DATE OF THE
19 PLANNING BOARD'S RECOMMENDATION.

20 (4) NOTIFICATION OF ANY AMENDMENTS SHALL BE FURNISHED TO ANY PERSON WHO
21 HAS REQUESTED (IN WRITING) A COPY OF THE TECHNICAL STAFF REPORT.

22
23 **SEC. 16.205B. WITHDRAWAL.**

24 (a) ANY APPLICATION MAY BE WITHDRAWN. ALL REQUESTS FOR WITHDRAWAL SHALL BE
25 IN WRITING AND SIGNED BY THE OWNER OF RECORD. ONLY THE APPLICANT MAY
26 SUBMIT THE REQUEST (OR THEIR AUTHORIZED REPRESENTATIVE).

27 (b) REQUESTS MADE PRIOR TO THE DATE THE APPLICATION IS TRANSMITTED TO THE
28 ZONING BOARD SHALL BE FILED WITH THE HEARING EXAMINER.

29 (c) REQUESTS MADE ON OR AFTER THE DATE THE APPLICATION IS TRANSMITTED TO THE
30 ZONING BOARD SHALL BE DIRECTED TO THE ZONING BOARD.

1 (d) REQUESTS RECEIVED PRIOR TO THE DATE OF THE PUBLIC RELEASE OF THE TECHNICAL
2 STAFF REPORT SHALL BE ADMINISTRATIVELY GRANTED, AND THE PROVISIONS OF
3 SECTION 16.205C SHALL NOT APPLY.

4 (e) REQUESTS RECEIVED ON OR AFTER THE DATE OF THE PUBLIC RELEASE OF THE
5 TECHNICAL STAFF REPORT SHALL BE ADMINISTRATIVELY GRANTED, AND THE
6 PROVISIONS OF SECTION 16.205C SHALL APPLY.

7
8 **SEC. 16.205C. REAPPLICATION.**

9 NO NEW ZONING MAP AMENDMENT APPLICATION MAY BE FILED ON THE SAME LAND
10 UNTIL TWO YEARS HAVE ELAPSED AFTER FINAL ACTION (INCLUDING APPELLATE REVIEW)
11 ON A PREVIOUS APPLICATION. AFTER TWO APPLICATIONS ON THE SAME LAND HAVE BEEN
12 ACTED UPON, FOUR YEARS MUST ELAPSE BEFORE ANOTHER APPLICATION ON THE SAME
13 LAND MAY BE FILED. NO LAND SHALL BE THE SUBJECT OF TWO APPLICATIONS FOR MAP
14 AMENDMENT AT THE SAME TIME.

15
16 **SEC. 16.205D. JOINT APPLICATIONS.**

17 AN APPLICATION FOR A MAP AMENDMENT MAY BE FILED OR CONSIDERED AT THE
18 SAME TIME THAT A CONDITIONAL USE APPLICATION ON THE SAME LAND IS FILED OR
19 CONSIDERED.

20
21 **SEC. 16.205E. HEARING DATE.**

22 (a) HEARING DATE ESTABLISHED. THE HEARING EXAMINER, OR THE ZONING BOARD IF THE
23 ZONING BOARD ELECTS TO FIRST HEAR THE APPLICATION, SHALL ESTABLISH THE DATE
24 OF THE EVIDENTIARY HEARING.

25 (b) REQUEST TO DELAY HEARING. THE ZONING COUNSEL OR ANY PERSON OF RECORD MAY
26 REQUEST THE CONTINUANCE OF A HEARING UNDER THIS SECTION. THE HEARING
27 EXAMINER SHALL GRANT A CONTINUANCE IF A REQUIRED TECHNICAL STAFF REPORT
28 HAS NOT BEEN FILED AT LEAST THIRTY DAYS BEFORE THE SCHEDULED HEARING. IF A
29 CONTINUANCE IS GRANTED FOR THIS REASON, THE HEARING EXAMINER MAY NOT HEAR
30 THE CASE UNTIL AT LEAST THIRTY DAYS AFTER THE TECHNICAL STAFF REPORT HAS

1 BEEN FILED. IF THE REQUEST FOR A CONTINUANCE IS APPROVED, THE HEARING
2 EXAMINER SHALL RESCHEDULE THE HEARING DATE.

3
4 **SEC. 16.205F. MAP AMENDMENT APPLICATION FILE.**

5 (a) TRANSMITTAL. AT LEAST THIRTY DAYS PRIOR TO THE EVIDENTIARY HEARING, THE
6 DEPARTMENT SHALL SEND THE ORIGINAL COPY OF THE APPLICATION, PLANS, MAPS,
7 SPECIFICATIONS, TECHNICAL STAFF REPORT, AND ALL OTHER DATA, MATERIALS, AND
8 RECORD EVIDENCE (TO DATE) PERTAINING TO THE REQUESTED MAP AMENDMENT TO
9 THE HEARING EXAMINER.

10 (b) PUBLIC EXAMINATION. AT LEAST THIRTY DAYS PRIOR TO THE EVIDENTIARY HEARING,
11 THE ORIGINAL MAP AMENDMENT PETITION FILE SHALL BE AVAILABLE FOR PUBLIC
12 EXAMINATION IN THE OFFICE OF THE ZONING BOARD, AND A COPY OF THE FILE SHALL
13 BE AVAILABLE FOR PUBLIC EXAMINATION IN THE DEPARTMENT. ANYONE MAY REVIEW
14 THE FILE AND COPIES OF ITS CONTENTS MAY BE OBTAINED AT A REASONABLE COST.

15
16 **SEC. 16.205G. TECHNICAL STAFF REPORT.**

17 (a) THE DEPARTMENT TECHNICAL STAFF SHALL SUBMIT A REPORT IN CONNECTION WITH
18 EACH APPLICATION TO THE HEARING EXAMINER THAT SHALL INCLUDE:

- 19 (1) THE STAFF'S FINDINGS;
20 (2) A DELINEATION OF THE APPROXIMATE AREA OF THE NEIGHBORHOOD, WHICH
21 SHALL BE SHOWN ON EITHER A ZONING MAP, AERIAL PHOTOGRAPH, OR SKETCH
22 MAP;
23 (3) A DESCRIPTION OF LAND USE AND ZONING IN THE NEIGHBORHOOD; AND
24 (4) IN CASES WHERE THE STAFF RECOMMENDS A ZONE DIFFERENT THAN THAT
25 REQUESTED AN ANALYSIS OF THE ALTERNATIVE ZONE RECOMMENDED.

26 (b) THE TECHNICAL STAFF REPORT SHALL BE PUBLISHED ON THE HEARING EXAMINER OR
27 ZONING BOARD WEBSITE. ANY PERSON MAY REQUEST, IN WRITING, A COPY OF THE
28 TECHNICAL STAFF REPORT SENT BY FIRST CLASS MAIL. A REASONABLE FEE MAY BE
29 CHARGED TO COVER THE COSTS OF POSTAGE AND COPYING. A COPY OF THE REPORT
30 SHALL BE INCLUDED IN THE RECORD.

31

1 **SEC. 16.205H. MAP AMENDMENT APPROVAL.**

2 (a) **CONDITIONAL APPROVAL.**

- 3 (1) WHEN IT APPROVES A ZONING MAP AMENDMENT, THE ZONING BOARD MAY
4 IMPOSE REASONABLE REQUIREMENTS AND SAFEGUARDS (IN THE FORM OF
5 CONDITIONS) WHICH THE ZONING BOARD DEEMS ARE NECESSARY TO EITHER:
6 (i) PROTECT SURROUNDING PROPERTIES FROM ADVERSE EFFECTS WHICH
7 MIGHT ACCRUE FROM THE ZONING MAP AMENDMENT; OR
8 (ii) FURTHER ENHANCE THE COORDINATED, HARMONIOUS, AND SYSTEMATIC
9 DEVELOPMENT OF HOWARD COUNTY.
- 10 (2) IN NO CASE SHALL THESE CONDITIONS WAIVE OR LESSEN THE REQUIREMENTS OF,
11 OR PROHIBIT USES ALLOWED IN, THE APPROVED ZONE.
- 12 (3) ALL BUILDING AND DEVELOPMENT PLANS SHALL LIST THE CONDITIONS AND
13 SHALL SHOW HOW THE PROPOSED DEVELOPMENT COMPLIES WITH THEM.
- 14 (4) CONDITIONS IMPOSED BY THE ZONING BOARD ARE A PERMANENT PART OF THE
15 ZONING MAP AMENDMENT AND ARE BINDING FOR AS LONG AS THE ZONE REMAINS
16 IN EFFECT ON THE PROPERTY (UNLESS AMENDED BY THE ZONING BOARD).
- 17 (5) IF CONDITIONS ARE IMPOSED, THE APPLICANT SHALL HAVE NINETY DAYS FROM
18 THE DATE OF APPROVAL TO ACCEPT OR REJECT THE REZONING AS
19 CONDITIONALLY APPROVED. THE APPLICANT SHALL ADVISE (IN WRITING) THE
20 ZONING BOARD, ACCORDINGLY. IF THE APPLICANT ACCEPTS THE CONDITIONS,
21 THE ZONING BOARD SHALL ENTER AN ORDER ACKNOWLEDGING THE
22 ACCEPTANCE AND APPROVING THE MAP AMENDMENT, AT WHICH TIME THE
23 ZONING BOARD'S ACTION SHALL BE FINAL. FAILURE TO ADVISE THE ZONING
24 BOARD SHALL BE CONSIDERED A REJECTION OF THE CONDITIONS. REJECTION
25 SHALL VOID THE MAP AMENDMENT AND REVERT THE PROPERTY TO ITS PRIOR
26 ZONING CLASSIFICATION. THE ZONING BOARD SHALL ENTER AN ORDER
27 ACKNOWLEDGING THE REJECTION, VOIDING ITS PREVIOUS DECISION, AND
28 REVERTING THE PROPERTY TO ITS PRIOR ZONING CLASSIFICATION, AT WHICH TIME
29 THE ZONING BOARD'S ACTION SHALL BE FINAL.

1 (6) ALL ZONING MAP AMENDMENTS WHICH ARE APPROVED SUBJECT TO CONDITIONS
2 SHALL BE SHOWN ON THE HOWARD COUNTY ZONING MAP WITH THE LETTER "C"
3 AFTER THE APPLICATION NUMBER.

4 (b) NONCOMPLIANCE WITH CONDITIONS.

5 (1) ALL CONDITIONS IMPOSED SHALL BE MANDATORY. FAILURE TO COMPLY WITH
6 ANY CONDITION SHALL CONSTITUTE A ZONING VIOLATION AND SHALL BE
7 GROUNDS FOR THE ZONING BOARD TO:

- 8 (i) ANNUL THE MAP AMENDMENT;
- 9 (ii) REVOKE A USE AND OCCUPANCY PERMIT;
- 10 (iii) INSTITUTE APPROPRIATE CIVIL OR CRIMINAL PROCEEDINGS; OR
- 11 (iv) INSTITUTE ANY OTHER ACTION NECESSARY TO OBTAIN COMPLIANCE.

12 (2) BEFORE THE ZONING BOARD ANNULS AN APPROVED CONDITIONAL ZONING MAP
13 AMENDMENT, THE HEARING EXAMINER SHALL HOLD AN EVIDENTIARY HEARING,
14 IN ACCORDANCE WITH SECTION 16.203A, AND TRANSMIT A WRITTEN REPORT ON
15 THE MATTER. THE FOLLOWING PROCEDURES SHALL BE FOLLOWED:

- 16 (i) THE DIRECTOR OF THE DEPARTMENT (OR IT'S DESIGNEE) SHALL PETITION
17 THE ZONING BOARD TO ANNUL THE ZONING MAP AMENDMENT. THE
18 PETITION SHALL STATE THE REASONS FOR THE REQUEST. AT THE SAME
19 TIME, A COPY OF THE PETITION SHALL BE SENT TO THE HEARING
20 EXAMINER.
- 21 (ii) AFTER THE CLOSE OF THE HEARING RECORD, THE HEARING EXAMINER
22 SHALL FILE A WRITTEN REPORT WITH THE ZONING BOARD.
- 23 (iii) ANY PERSON OF RECORD MAY APPEAL THE REPORT OF THE HEARING
24 EXAMINER WITHIN FIFTEEN DAYS AFTER THE FILING OF THE HEARING
25 EXAMINER'S REPORT WITH THE ZONING BOARD. IF APPEALED, ALL
26 PERSONS OF RECORD MAY ARGUE BEFORE THE ZONING BOARD.
- 27 (iv) PERSONS ARGUING SHALL ADHERE TO THE ZONING BOARD'S RULES OF
28 PROCEDURE, AND ARGUMENT SHALL BE LIMITED TO THIRTY MINUTES FOR
29 EACH SIDE, AND TO THE HEARING EXAMINER RECORD OF THE
30 ANNULMENT HEARING.

31 (c) EFFECT ON CONDITIONAL USES

1 (1) WHEN ANY LAND UPON WHICH A CONDITIONAL USE HAS BEEN APPROVED IS
2 RECLASSIFIED TO A ZONING CATEGORY DIFFERENT FROM THAT CATEGORY IN
3 WHICH IT WAS CLASSIFIED AT THE TIME THE CONDITIONAL USE WAS APPROVED,
4 THE FOLLOWING SHALL APPLY:

- 5 (i) IF, AT THE TIME OF THE REZONING, THE APPROVED USE REQUIRES THE
6 APPROVAL OF A CONDITIONAL USE IN THE NEW ZONE, AND THE SPECIFIC
7 CONDITIONAL USE REQUIREMENTS GOVERNING THE USE ARE THE SAME
8 IN BOTH ZONES, THE CONDITIONAL USE AS APPROVED, SHALL REMAIN IN
9 FULL FORCE AND EFFECT.
- 10 (ii) IF, AT THE TIME OF THE REZONING, THE APPROVED USE IS NOT PERMITTED
11 IN THE NEW ZONE, OR REQUIRES APPROVAL OF A CONDITIONAL USE WITH
12 DIFFERENT REQUIREMENTS, AND THE USE OR CONSTRUCTION
13 AUTHORIZED BY THE CONDITIONAL USE HAS COMMENCED AND HAS NOT
14 CEASED, THE CONDITIONAL USE SHALL NOT TERMINATE AND THE USE
15 MAY CONTINUE AS A NONCONFORMING USE.
- 16 (iii) IF, AT THE TIME OF THE REZONING, THE APPROVED USE IS NOT PERMITTED
17 IN THE NEW ZONE, OR REQUIRES APPROVAL OF A CONDITIONAL USE WITH
18 DIFFERENT REQUIREMENTS, AND THE USE OR CONSTRUCTION
19 AUTHORIZED BY THE CONDITIONAL USE HAS NOT COMMENCED OR HAS
20 CEASED, THE CONDITIONAL USE SHALL TERMINATE, AND ALL
21 PROVISIONS OF THE NEW ZONE SHALL APPLY TO THE USE AND
22 DEVELOPMENT OF THE PROPERTY.
- 23 (iv) IF, AT THE TIME OF THE REZONING, THE APPROVED USE IS PERMITTED IN
24 THE NEW ZONE WITHOUT APPROVAL OF A CONDITIONAL USE, THE
25 CONDITIONAL USE SHALL TERMINATE, AND ALL PROVISIONS OF THE NEW
26 ZONE SHALL APPLY TO FURTHER USE AND DEVELOPMENT OF THE
27 PROPERTY.

28
29 **Sec. 16.206. Conduct of hearings.**

1 All [[public]] EVIDENTIARY hearings on piecemeal map amendment or development
2 plan petitions shall be conducted in accordance with the [[rules of procedure]] RULES OF
3 PROCEDURE adopted by the Zoning Board insofar as they do not conflict with the Howard
4 County Administrative Procedure Act. The HEARING EXAMINER AND ZONING Board shall
5 prepare an official record of its proceedings in each case, which shall include testimony
6 and exhibits; but it shall not be necessary to transcribe the testimony unless requested for
7 court review. Every decision and final order in a piecemeal map amendment or
8 development plan case shall be in writing, signed by a majority of the entire board,
9 attested by the administrative assistant to the Board, and shall be accompanied by
10 findings of fact and conclusions of law and shall be made a part of the record of
11 proceedings. The final order of the Zoning Board denying or granting the petition for a
12 piecemeal map amendment, or approving or disapproving a development plan, shall be
13 filed with the Department of Planning and Zoning, which shall maintain it as part of the
14 official records of the County.

15
16 **Sec. 16.207. Judicial review.**

- 17 (a) Within 30 days after any final WRITTEN AND SIGNED decision and order of the
18 Zoning Board is entered on a piecemeal map amendment or development plan
19 petition, any person, Officer, Department, Board or Bureau of the County or State,
20 jointly or severally aggrieved by any such decision and order, and a party to the
21 proceeding below, may appeal to the Circuit Court for Howard County, in
22 accordance with the Maryland Rules of Procedure providing for appeals from
23 administrative agencies. The Zoning Board shall be a party to all appeals and shall
24 be represented on appeal by ZONING BOARD COUNSEL OR the Office of Law.
- 25 (b) The review of the record of proceedings made before the Zoning Board shall be
26 conducted by the court without a jury. In cases of alleged irregularities in procedure
27 before the Zoning Board amounting to a denial of due process, not shown on the
28 record, testimony thereon may be taken in the court. The court shall, upon request,
29 hear oral argument and receive written briefs. Upon the hearing of such appeal, the
30 action of the Zoning Board shall be presumed by the court to be proper and to best

1 serve the public interest. The court may affirm the decision of the Zoning Board or
2 remand the case for further proceedings, or it may reverse or modify the decision if
3 the substantial rights of the appellants to a fair hearing before the Board and a fair
4 decision by the Board may have been prejudiced because the Zoning Board's
5 findings, inferences, conclusions or decisions were or are:

- 6 (1) In violation of constitutional or Charter provisions; or
- 7 (2) Beyond the statutory authority or jurisdiction of the Board; or
- 8 (3) Made upon unlawful procedure; or
- 9 (4) Fraudulent; or
- 10 (5) So grossly erroneous as to imply bad faith; or
- 11 (6) Unsupported by competent, material and substantial evidence in view of the
12 entire record as submitted; or
- 13 (7) Arbitrary or capricious; or
- 14 (8) Affected by other error of law.

15
16 **Subtitle 10. – Zoning Counsel.**

17
18 **Sec. 16.1000. - Zoning Counsel.**

- 19 (a) The County Council may employ a Zoning Counsel on a part-time, contractual basis.
20 The Zoning Counsel shall be a member in good standing of the Bar of the Maryland
21 Court of Appeals and at the time of appointment shall have been actively engaged in
22 the general practice of law for at least five years.
- 23 (b) A decision to enter into a contract with an individual to perform the duties of Zoning
24 Counsel shall be made by an affirmative vote of at least three Councilmembers. A
25 decision to terminate a Zoning Counsel's contract shall be made by an affirmative
26 vote of at least four Councilmembers.
- 27 (c) The Zoning Counsel shall appear at all EVIDENTIARY HEARINGS, BEFORE THE Zoning
28 Board [[hearings]] AND THE HEARING EXAMINER on requests for piecemeal zoning

1 map amendments for the purposes of producing evidence and testimony supporting
2 comprehensive rezoning and facilitating the compilation of a complete record.

3 (d) In the performance of these duties the Zoning Counsel may:

- 4 (1) Present evidence and witnesses;
- 5 (2) Examine and cross-examine witnesses;
- 6 (3) Present argument; and
- 7 (4) Take any other action necessary to perform these duties.

8 (e) The budget for the Zoning Counsel shall be included in the County Council budget.

9 (f) The Zoning Counsel may retain expert witnesses and compensate them to the extent
10 that the Council budget includes funds for such compensation.

11 (g) The Zoning Counsel shall be available:

- 12 (1) To any person interested in any zoning matter to advise as to procedures before
13 a County agency or board, provided that when doing so the Zoning Counsel
14 does not engage in the practice of law or render individual legal advice; and
- 15 (2) To any group to speak about zoning procedures in the County.

16 (h) The Zoning Counsel shall attend certain presubmission community meetings, as
17 necessary. The County Council shall determine whether or not the Zoning Counsel
18 shall attend certain presubmission community meetings to advise any person or group
19 of procedural matters.

20 (i) The Zoning Counsel:

- 21 (1) Does not represent the County, any government agency or any private party;
- 22 (2) Is not a party and does not have a right of appeal in connection with any case
23 before the Board of Appeals;
- 24 (3) May not represent any client involving land use in Howard County; and
- 25 (4) May not represent any client before the Zoning Board or Board of Appeals for
26 one year after leaving the Office of Zoning Counsel.

27 (i) Subject to section 22.1000 of the County Code, on or before July 1 of
28 each year, the Zoning Counsel shall submit to the Council and the
29 County Executive a report on the activities of the office in the past year.

30
31 **Title 22 – General Provisions**

Amendment 2 to Council Bill No. 10-2023

BY: Liz Walsh at the request of the Zoning Board

**Legislative Day 5
Date: May 1, 2023**

Amendment No. 2

(This amendment alters the sponsor of the bill, defines administrative meetings, removes requirements for residential address disclosures, alters the time limits for exceptions arguments, grants the Hearing Examiner subpoena power, clarifies timeliness connected to administrative meetings and evidentiary hearings, and makes technical fixes.)

- 1 On the title page, after “Liz Walsh,” insert: “at the request of the Zoning Board”.
- 2 On page 3, line 9, strike “A DAY” and substitute: “THE LAST DAY”
- 3 On page 16, line 16, insert “OR” before “EVIDENTIARY HEARING” and strike “, OR MEETING”.
- 4 On page 16, line 18, strike “AND THE PUBLIC”.
- 5 On page 16, strike lines 23 and 24 in their entirety.
- 6 On page 16, after line 24, insert:
 - 7 “(4) ADMINISTRATIVE MEETING MEANS AN OPEN MEETING DURING WHICH THE ZONING
 - 8 BOARD DECIDES TO HEAR A CASE AS THE ZONING BOARD OR ASSIGN A CASE TO THE
 - 9 HEARING EXAMINER, AS SET FORTH IN SECTION 16.203A.”
- 10 On page 16, line 25, strike the brackets and “4)”.
- 11 On page 18, strike lines 25 through 27 in their entirety and substitute:
 - 12 (1) FOR PETITIONS AUTHORIZED TO BE HEARD BY THE ZONING BOARD UNDER SECTION
 - 13 16.204 OF THIS SUBTITLE, THE ZONING BOARD BY MAJORITY VOTE AT AN ADMINISTRATIVE
 - 14 MEETING MAY AUTHORIZE THE HEARING EXAMINER TO FIRST HEAR PETITIONS.
- 15 On page 19, line 12, after “VOTE” insert “AT AN ADMINISTRATIVE MEETING”
- 16 On page 20, line 24 and line 25, strike the brackets.
- 17 On page 20, starting on line 25, strike “THE TOTAL TIME ALLOWED FOR ORAL ARGUMENT ON ALL
- 18 EXCEPTIONS SHALL BE ONE HOUR, WITH THE PETITIONER(S) AND PERSONS OF RECORD IN
- 19 SUPPORT CUMULATIVELY ALLOWED THIRTY MINUTES AND THE PROTESTANT(S) AND
- 20 PERSONS OF RECORD IN OPPOSITION CUMULATIVELY ALLOWED THIRTY MINUTES.”
- 21 On page 21, after line 14, insert:

1 (G) SUBPOENAS. THE HEARING EXAMINER MAY ISSUE SUBPOENAS TO COMPEL THE
2 ATTENDANCE OF WITNESSES AND THE PRODUCTION OF DOCUMENTS AND TO ADMINISTER
3 OATHS TO WITNESSES.

4 On page 22, line 23, strike “EVIDENTIARY hearing” and substitute “ADMINISTRATIVE MEETING”.

5 On page 22, starting on line 24, strike the brackets and strike “APPLICANT”.

6 On page 23, line 1, strike “EVIDENTIARY hearing” and substitute “ADMINISTRATIVE MEETING”.

7 On page 23, starting on line 2, strike the brackets and strike “APPLICANT”.

8 On page 23, line 5, strike “HEARING” and substitute “ADMINISTRATIVE MEETING”.

9 On page 23, line 21, strike “HEARING” and substitute “ADMINISTRATIVE MEETING”.

10 On page 23, line 31, strike the brackets and strike “APPLICANT”.

11 On page 26, strike lines 1 through 3 in their entirety. Renumber the section accordingly.

12 On page 26, line 5, strike the brackets and strike “APPLICANT”.

13 On page 26, line 21, strike “a hearing date” and substitute “THE ADMINISTRATIVE MEETING
14 DATE”.

15 On page 26, line 25, strike “hearing” and substitute “ADMINISTRATIVE MEETING”.

16 On page 27, line 20, strike “APPLICANT” and substitute “PETITIONER”.

17 On page 28, line 20, strike “AND RESIDENTIAL”.

18 On page 28, line 24, strike “AND RESIDENTIAL”.

19 On page 28, starting on line 26, strike “AND RESIDENTIAL”.

20 On page 28, starting on line 27, strike “. AN OWNER THAT IS A CORPORATION LISTED ON A
21 NATIONAL STOCK EXCHANGE SHALL BE EXEMPT FROM THE REQUIREMENT TO PROVIDE
22 RESIDENTIAL ADDRESSES OF ITS OFFICERS AND DIRECTORS”.

23 On page 29, line 4, strike “RESIDENTIAL” and substitute “BUSINESS”.

24 On page 29, line 10, strike “RESIDENTIAL” and substitute “BUSINESS”.

25 On page 29, after line 19, insert:

26 “(D) OATH. AN INDIVIDUAL TESTIFYING SHALL GIVE THEIR NAME AND ADDRESS AND TAKE
27 THE FOLLOWING OATH GIVEN BY THE CHAIR: “I SOLEMNLY SWEAR OR AFFIRM UNDER THE
28 PENALTIES OF PERJURY THAT THE RESPONSES GIVEN AND STATEMENTS MADE WILL BE THE
29 TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH.”

30 On page 29, line 23, strike “APPLICANT” and substitute “PETITIONER”.

- 1 On page 30, line 27, strike "APPLICATION" and substitute "PETITION".
- 2 On page 30, lines 9 and 25 strike the instances of "APPLICANT" and substitute "PETITIONER".
- 3 On page 32, line 5, "EVIDENTIARY HEARING" and substitute "ADMINISTRATIVE MEETING".
- 4 On page 32, line 8, after "AMENDMENT" insert "OR DEVELOPMENT PLAN".
- 5 On page 32, line 11, after "AMENDMENT" insert "OR DEVELOPMENT PLAN".
- 6 On page 32, line 10, "EVIDENTIARY HEARING" and substitute "ADMINISTRATIVE MEETING".
- 7 On page 32, line 18, strike "HEARING EXAMINER" and substitute "ZONING BOARD".
- 8 On page 33, line 3, after "AMENDMENT" insert "OTHER THAN PIECEMEAL MAP AMENDMENT CASES
9 BASED ON THE CHANGE/MISTAKE RULE AS ESTABLISHED BY MARYLAND CASE LAW".
- 10 On page 33, lines 17, 19, and 20 strike the instances of "APPLICANT" and substitute
11 "PETITIONER".
- 12 On page 34, line 29, strike "SIDE" and substitute "PARTY".
- 13 On page 36, line 24, strike "ZONING BOARD COUNSEL OR"

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on May 4, 2023.

Michelle Harrod
Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been passed by the yeas and nays of two-thirds of the members of the Council notwithstanding the objections of the Executive, stands enacted on _____, 2023.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having received neither the approval nor the disapproval of the Executive within ten days of its presentation, stands enacted on _____, 2023.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, not having been considered on final reading within the time required by Charter, stands failed for want of consideration on _____, 2023.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, having been disapproved by the Executive and having failed on passage upon consideration by the Council stands failed on _____, 2023.

Michelle Harrod, Administrator to the County Council

BY THE COUNCIL

This Bill, the withdrawal of which received a vote of two-thirds (2/3) of the members of the Council, is withdrawn from further consideration on _____, 2023.

Michelle Harrod, Administrator to the County Council