

Introduced 9/4/18
Public hearing 9/17/18
Council action 10/1/18
Executive action _____
Effective date _____

County Council of Howard County, Maryland

2018 Legislative Session

Legislative day # 12

BILL NO. 71 – 2018

Introduced by: Jennifer Terrasa and Calvin Ball

AN ACT requiring that Department of Planning and Zoning designees appear at quasi-judicial Planning Board hearings under oath, under certain circumstances; and generally relating to the Department of Planning and Zoning.

Introduced and read first time September 4, 2018. Ordered posted and hearing scheduled.

By order Jessica Feldmark
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on September 17, 2018.

By order Jessica Feldmark
Jessica Feldmark, Administrator

This Bill was read the third time on October 1, 2018 and Passed , Passed with amendments , Failed .

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2018 at ____ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2018

Allan H. Kittleman, County Executive

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

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

3
4 *By Amending:*

5
6 *Title 16. "Planning, Zoning and Subdivisions and Land Development Regulations"*

7
8 *Subtitle 8. "Department of Planning and Zoning"*

9 *Section 16.801. "The Department of Planning and Zoning."*
10
11

12 **HOWARD COUNTY CODE**

13
14 **Title 16. PLANNING, ZONING AND SUBDIVISIONS AND LAND DEVELOPMENT**
15 **REGULATIONS**

16
17 **Subtitle 8. Department of Planning and Zoning.**

18
19 **Section 16.801. The Department of Planning and Zoning.**

20 (a) *Head.* The Director of Planning and Zoning shall be the head of the Department of Planning
21 and Zoning (formerly known as the Office of Planning and Zoning).

22 (b) *Qualifications of Director of Planning and Zoning.* The Director of Planning and Zoning
23 shall be a trained planner with wide and varied experience in the fields of Planning and
24 Zoning. The Director shall have ten years of experience in urban and regional planning and
25 shall have held a position of administrative leadership and responsibility for at least five years.

26 (c) *Duties and Responsibilities.* The Department of Planning and Zoning shall comprehensively
27 plan for the growth and development of the County, including but not limited to the functions
28 set forth in this subsection.

29 (1) *Comprehensive general plan.* Within five years from the adoption of the comprehensive
30 rezoning plan, the Department of Planning and Zoning shall coordinate the preparation
31 and revision of a general plan for the County, including but not limited to a plan for land
32 use and land conservation and multiyear development plans for transportation, public
33 facilities, water, sewerage, parkland, housing, human services and environmental

1 protection. The general plan shall follow general guidelines promulgated by the Planning
2 Board and adopted by the County Council.

3 (2) *Subdivision rules and regulations:*

4 (i) *Preparation.* The Department of Planning and Zoning shall prepare and periodically
5 revise procedures governing the subdivision of land and land development.

6 (ii) The Department of Planning and Zoning shall prepare recommended language for
7 legislation governing development and the subdivision of land and shall forward this
8 to the County Executive for submission to the County Council.

9 (iii) The Department of Planning and Zoning shall administer and enforce laws and
10 procedures governing the subdivision of land and land development.

11 (3) *Zoning map; zoning regulations:*

12 (i) *Preparation.* The Department of Planning and Zoning shall prepare a
13 comprehensive zoning plan, including a zoning map and zoning regulations. The
14 Department shall submit these to the Planning Board for its recommendations and
15 then to the County Council. The County Council, after public notice, shall hold a
16 public hearing on the comprehensive zoning plan prior to taking final action on it.

17 (ii) *Enforcement.* The Department of Planning and Zoning shall administer and enforce
18 regulations governing zoning, except as otherwise provided by law.

19 (4) *Amendments to comprehensive zoning plan:*

20 (i) *Piecemeal map amendments.* The Department of Planning and Zoning shall receive
21 all petitions for piecemeal amendments to the zoning map. The Department shall
22 accept and review these petitions and prepare findings and recommendations. The
23 Department shall submit these petitions, recommendations and findings to the
24 Planning Board for its recommendations after public notice and then to the Zoning
25 Board. The Zoning Board, after public notice, shall hold a public hearing on the
26 proposed reclassification or amendment prior to taking action.

27 (ii) *Text amendments.* The County Council shall receive all petitions for text
28 amendments to the zoning regulations. The County Council shall submit these

1 petitions to the Department of Planning and Zoning and to the Planning Board for
2 their review and recommendations.

3 (5) *Deadline for traffic studies and all other technical reports for petitions to be considered*
4 *by the Zoning Board, County Council, and the Planning Board.* Any petitioner seeking
5 approval from the Zoning Board, County Council, or the Planning Board in a public
6 hearing shall submit other technical reports to the Department of Planning and Zoning at
7 least two weeks prior to the Planning Board meeting or hearing concerning the petition.
8 Within two weeks of the public hearing, no additional information shall be accepted by
9 the Department of Planning and Zoning. Any other technical reports submitted during
10 Planning Board or Zoning Board deliberations shall result in the granting of at least a two
11 week postponement for the opposing party, upon request. The Zoning Board, County
12 Council, or Planning Board may request any additional information during its
13 deliberation process and grant the parties at least a two-week postponement, upon request.

14 (6) *Deadline for technical staff reports for petitions to be considered by the Zoning Board,*
15 *County Council, and Planning Board.* The Department of Planning and Zoning shall
16 transmit its findings and recommendations concerning petitions to be considered by the
17 Zoning Board, County Council, or the Planning Board to the Planning Board and the
18 general public at least two weeks prior to any required public meeting or hearing. Any
19 initial meeting or hearing shall not be scheduled until all questions raised by the
20 Department of Planning and Zoning in their technical staff report are answered by the
21 petitioner, as determined by the Department of Planning and Zoning. Failure to adhere to
22 this provision will result in a postponement in consideration of the report until the next
23 meeting or hearing.

24 (7) *Other zoning changes.* The Department of Planning and Zoning shall receive all
25 petitions related to zoning matters, such as conditional uses, variances, and
26 nonconforming uses. The Department shall accept and review these applications and
27 petitions and shall transmit them to the Hearing Examiner for the Board of Appeals. For
28 all petitions related to variances in nonresidential districts, conditional uses, and
29 extension, enlargement, or alteration of nonconforming uses, the Department shall
30 prepare findings and recommendations in a technical staff report and shall submit the
31 petitions, findings and recommendations to the Hearing Examiner for the Board of

1 Appeals. The technical staff report shall be made available to the Hearing Examiner and
2 the general public at least two weeks prior to any required public meeting or hearing. If
3 the Hearing Examiner approves a petition subject to an amendment or modification of the
4 petition and the approval is appealed to the Board of Appeals, the Department will prepare
5 and submit to the Board its findings and recommendations concerning the amendment or
6 modification in a technical staff report. The technical staff report shall be made available
7 to the Board of Appeals and the general public at least two weeks prior to any required
8 public meeting or hearing.

9 (8) *Sites for public facilities.* The Department of Planning and Zoning shall assist in the
10 preparation of comprehensive multiyear plans for the siting and development of public
11 facilities, including but not limited to schools, police and fire stations, parks, facilities for
12 the provision of water and the handling of sewage and solid waste, libraries, and
13 government offices.

14 (9) *Historic preservation.* The Department of Planning and Zoning shall be responsible for
15 the administration and enforcement of the County's laws and regulations governing
16 historic preservation.

17 (10) *Capital program.* Each year the Department of Planning and Zoning shall review the
18 proposed capital program. The Department shall prepare comments and
19 recommendations on the impact of the proposed capital program on the County general
20 plan and the growth of the County and submit these comments and recommendations to
21 the County Executive.

22 (11) *Planning Board.* The Director of Planning and Zoning or the Director's designee shall serve
23 as Executive Secretary of the Planning Board and shall attend all meetings of that board. FOR
24 QUASI-JUDICIAL HEARINGS ON MATTERS THAT REQUIRE PLANNING BOARD APPROVAL, THE
25 DIRECTOR OF THE DEPARTMENT OF PLANNING AND ZONING OR THE DIRECTOR'S DESIGNEE
26 SHALL, UNDER OATH AND SUBJECT TO CROSS-EXAMINATION, SUMMARIZE THE DEPARTMENT'S
27 FINDINGS, EXPLAIN THE DEVELOPMENT PROCESS, AND ANSWER ANY RELATED QUESTIONS.

28 (12) *Agricultural preservation.* The Department of Planning and Zoning is responsible for
29 the operation of the County's agricultural land preservation program, pursuant to subtitle
30 5 of title 15 of the Howard County Code.

1 (13) *Other duties and responsibilities.* The Director of Planning and Zoning may assign
2 any administrative and/or supervisory duties and responsibilities to the Deputy Director
3 of Planning and Zoning. The Department of Planning and Zoning is responsible for
4 other functions prescribed by directive of the County Executive or by law.
5

6 *Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act shall*
7 *become effective 61 days after its enactment.*

September 16, 2018

TO: Howard County Council

FROM: Joan Lancos
6110 Covington Road
Columbia, MD 21044

RE: Council Bills 71-2018, 70-2018, 69-2018

I am unable to attend the County Council Hearing on September 17, 2018. Below is my testimony on three bills up for your consideration.

Council Bill 71-2018

Council Bill 71 would require that Planning Staff be available for questioning under oath at quasi-judicial Planning Board hearings. I am not sure what this bill is trying to accomplish. As a former Planning Board member, I often questioned Planning staff without fear that their responses were not truthful. Based on recent observations of public hearings, I don't know that allowing questioning of staff under oath by Planning Board members, lawyers representing petitioners or opponents, or the General Public would accomplish anything other than to delay and prolong cases before the Planning Board. In any event, any change of this significance should only be considered as part of the on-going Zoning Regulation Assessment. I request that you vote "NO" on Council Bill 71-2018.

Council Bill 70-2018

Council Bill 70 amends certain posting requirements for proposed community meetings. I attend many pre-submission community meetings. I think the meetings provide valuable insight and opportunity to neighbors regarding proposed development. Providing additional information that makes the sign posting more useful could be helpful. If the pre-submission process will be part of the Zoning Regulation Assessment, it may be beneficial to wait to make changes under that process. However, I am not opposed to Council Bill 70-2018.

Council Bill 69-2018

Council Bill 69 would require the Zoning Counsel appear at Planning Board hearings in support of adherence to the Downtown Columbia Plan. The NT zone was created to allow flexibility in final plans for the development of the planned community. The Planning Board was given the role of determining whether submitted Final Development Plans met the goal of the original design. The Section 125.0.E.4 specifically calls for flexibility in the review of FDPs in the Downtown Plan. I do not understand the need for the Zoning Counsel to appear at Planning Board hearings on development plans to assure adherence to a plan that is supposed to be flexible in its implementation. As a former Planning Board member, I believe this bill usurps the original intent and power given to the Planning Board when the NT zoned was first approved and re-affirmed under the Downtown Columbia Master Plan. I strongly encourage you to vote "NO" on Council Bill 69-2018.

September 17, 2018

Lisa Markovitz

for The People's Voice on CB 71-2018 Support

Thank you for updating the procedures of the Quasi-judicial Planning Board hearings to include the ability to ask questions of and/or cross-examine the representative from the Department of Planning of Zoning. After all, other witnesses are sworn in and made available for that same process, so it makes sense, since the Department's presentations and information is part of the record and very important witness testimony that needs to be subject to all the same rules in the process.

I am sure the chair of the Planning Board can be sure to understand or instructed on how to make sure the procedures are followed, and that those asking questions stay on topic, relevant, and appropriate for each case's legal subject matter.

Thank you for your service, all of you, for all these years, and for creating more civic input to be available in these areas with these bills.



**HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
TO TESTIFY ON BEHALF OF AN ORGANIZATION**

I, Lisa Markovitch, have been duly authorized by
(name of individual)

~~of the~~ The People's Voice to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB71-18 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Lisa Markovitch

Signature: [Handwritten Signature]

Date: 7/17/18

Organization: The People's Voice

Organization Address: 3095 Corporate Ct.

Edgewater City MD 21042

Number of Members: 2314

Name of Chair/President: Lisa Markovitch

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 5pm the day of the Public Hearing or delivered in person the night of the Public Hearing before testifying.

Date: 17 September 2018

Subject: HCCA Testimony CB71

My name is Stu Kohn and I am the President of the Howard County Citizens Association, HCCA. I am extremely pleased to state we are by all means definitely in favor of CB71-2018. Thank you both Councilpersons Terrasa and Ball. This Bill is simply correcting an oversight regarding CB16-2018 which was introduced by Councilpersons Sigaty and Terrasa and passed unanimously on 2 April. I am proud to say that HCCA brought this oversight to the attention of Councilwoman Terrasa. She not only listened, but took the necessary action to do the right thing. Thank you Councilman Ball for being a part of this Bill.

The oversight is that CB16-2018 did not include the Department of Planning and Zoning designees to appear at quasi-judicial hearings with the Planning Board for the opportunity of audience members to ask questions after their presentation. It only addressed the Zoning Board. Now under CB71 on page 4, lines 22 thru 27 corrects this most important matter. This enables interested parties to have the Director of Planning and Zoning or a representative to answer questions and to be subject to cross-examination.

Like CB70 to obtain a Zoning Counsel, CB71 is an extremely important step in the right direction to perhaps provide a more level playing field of all concerned parties.

Thank You,

Stu Kohn
HCCA, President



HOWARD COUNTY COUNCIL
AFFIDAVIT OF AUTHORIZATION
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I, Stu Kohw, have been duly authorized by
(name of individual)

HOWARD County Citizens ASSOCIATION to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CB71-2018 to express the organization's
(bill or resolution number)

support for / opposition to / request to amend this legislation.
(Please circle one.)

Printed Name: Stu Kohw

Signature: Stu Kohw

Date: 17 Sept 18

Organization: HCCA

Organization Address: HCCA PO Box 89 Ellicott City MD 21041

Chair/President: Stu Kohw