

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

County Council of Howard County, Maryland

2018 Legislative Session

Legislative Day No. **13**

Bill No. **73** -2018

Introduced by: The Chairperson

AN ACT amending Section 2 of Council Bill 46-2016 to correct for and accommodate an interpretation of the original legislation which did not reflect the Council's original intent.

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

By order _____
Jessica Feldmark, Administrator

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

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 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 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 Section 2. of*
2 *Council Bill 46-2016 is amended to strike "June 27, 2016" and substitute "July 1, 2017".*

3

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

6

7

Amendment 1 to Council Bill 73-2018

BY: Mary Kay Sigaty

Legislative Day No: 14
Date: 10/29/18

Amendment No. 1

1 (This amendment would insert "Section 2" from Council Bill 46-2016 with the proposed July
2 1, 2017 date into the current bill to clarify the intent of the bill.)
3
4

5 On page 1, in line 2, strike the period and substitute the following:

6 "so that Section 2 reads:

7 Section 2. Be it further enacted by the County Council of Howard County,
8 Maryland, that the provisions of subsections 125.0.A.11, 131.0.O.1.B,
9 131.0.O.1.C, 131.0.O.1.D, 131.0.O.1.E, and the first sentence of 131.0.O.1.I as
10 enacted by Section 1 of this Act, shall not apply to a property for which any
11 Conditional Use application for a gasoline service station was filed or for which
12 any site development plan for a gasoline service station was submitted prior to
13 July 1, 2017."
14
15

Sayers, Margery

From: Stuart Kohn <stukohn@verizon.net>
Sent: Monday, October 29, 2018 9:38 PM
To: HOWARD-CITIZEN@yahoogroups.com
Cc: CouncilMail
Subject: Re: [HOWARD-CITIZEN] CB73-2018 Needs to Be Voted Down

FYI,

Good News. This evening the County Council withdrew CB73-2018 which was by all means the right thing to do.

Sincerely,

Stu Kohn
HCCA, President

Sent from my iPhone

On Oct 28, 2018, at 9:02 PM, stukohn@verizon.net [HOWARD-CITIZEN] <HOWARD-CITIZEN@yahoogroups.com> wrote:

FYI,

On Monday, 29 October will be the last Legislative Hearing for our County Council Members. They hopefully will indeed go out on a positive note by voting **AGAINST** CB73-2018. We only can hope the Council will do the right thing as this Bill should never have been introduced. It would show the public that our voices really does matter.

The Howard County Citizens Association, HCCA testified **Against** this Bill as did Milton Matthews, President of the Columbia Association. You can read these by going to the link <https://apps.howardcountymd.gov/olis/LegislationDetail.aspx?LegislationID=3172> and then hit "Related Documents", "Public Hearing Testimony" and open the document(s). You will also see Brian England's Testimony. Brian as many of you know is a member of our HCCA Board. For many years, Brian has been a very passionate activist especially regarding Columbia and an advocate of Columbia New Town rules. In addition the Owen Brown Village Board provided very compelling written testimony. To view this it is the same instructions as mentioned but hit "Written Testimony."

It would be very discouraging, disappointing and wrong if our Council were to vote in Favor. This would illustrate the major concerns of constituents doesn't matter and previous Bills such as CB46-2016 <https://apps.howardcountymd.gov/olis/LegislationDetail.aspx?LegislationID=1738> which incorporates Amendment 3 are meaningless. The Council

should simply say we made a mistake. Can you imagine the possibility of a Royal Farms with a 20-Pump Gasoline Station having a Convenience Store and Car Wash on Snowden River Parkway. Where is the vision?

We urge our Council Members to just say "NO." Martin Luther King is quoted as saying "The time is always right to do what is right." In the case of CB73-2018 hopefully this quote will prevail as it should.

Sincerely,

Stu Kohn
HCCA, President

Posted by: stukohn@verizon.net

NOTE 1: When you choose REPLY, it will go to the entire group.
To send to one member, enter that address in the TO window.

NOTE 2: HCCA does not take responsibility for the content of messages posted on the listserve; assertions should be verified before placing reliance on them.

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Sayers, Margery

From: Ted Cochran <tedcochran55409@gmail.com>
Sent: Monday, October 29, 2018 12:13 PM
To: CouncilMail
Subject: CB73-2018

Greetings,

Please vote against this legislation. The text of this bill is disingenuous, and obscures its true purpose, which alone should be enough to kill it. If an applicant wants to construct a gas station, let it follow the current regulations.

Sincerely,

Ted Cochran
Columbia, MD.

Sayers, Margery

From: stukohn@verizon.net
Sent: Sunday, October 28, 2018 9:02 PM
To: CouncilMail; howard-citizen@yahoogroups.com
Subject: CB73-2018 Needs to Be Voted Down

FYI,

On Monday, 29 October will be the last Legislative Hearing for our County Council Members. They hopefully will indeed go out on a positive note by voting **AGAINST** CB73-2018. We only can hope the Council will do the right thing as this Bill should never have been introduced. It would show the public that our voices really does matter.

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We urge our Council Members to just say "**NO.**" Martin Luther King is quoted as saying "The time is always right to do what is right." In the case of CB73-2018 hopefully this quote will prevail as It should.

Sincerely,

Stu Kohn
HCCA, President

Sayers, Margery

From: Sigaty, Mary Kay
Sent: Thursday, October 25, 2018 3:52 PM
To: Feldmark, Jessica; Sayers, Margery
Subject: CB73-2018 Testimony
Attachments: Proposed Royal Farms Site - Columbia, Maryland; CB 73-2018

Metropolitan Rolling Door Inc.

To: Council Members Mary Kay Sigaty,
Jen Terrasa,
Jon Weinstein,
Greg Fox &
Calvin Ball

Chief of Staff Diane Wilson, for County Executive Allan Kittleman

Re: CB 73-2018

My name is Jeff Waterfield. I am one of the owners of Metropolitan Rolling Door, Inc., located at 9620 Gerwig Lane in Columbia. Our firm has been housed at this location since the late 1980s. We are a distributor and servicer of commercial/industrial rolling doors as one would see in shopping malls, fire departments, and similar buildings.

At this location, we primarily operate a service organization and dispatch 7 to 10 work crews daily. Our business does not rely on pass-by traffic. Access to our premises had been typically via Berger Road for years. Development of the land tract west of the proposed Royal Farms site in the last decade or so and then the eventual opening of Minstrel Way as a through street to Gerwig Lane has caused numerous conflicts that did not exist before.

There has already been a substantial increase in both illegal on-street parking and cut-through traffic on Gerwig Lane to avoid the congestion on Snowden River Parkway. The above mentioned development and the opening of Minstrel Way causes traffic to sometimes back up on the westbound Route 32/northbound Broken Land Parkway ramps and continue out to the freeway. It can delay our crews 10 minutes each trip when traveling from Route 32 to our building.

Minstrel Way's existing traffic volumes onto Snowden River Parkway already cause it to fail at certain times. Adding another left turn lane will not mitigate the current situation nor handle the proposed changes.

Building the Royal Farms complex will only result in making a bad situation worse.

I understand that CB 73-2018 would exempt Royal Farms from certain regulations. Given the serious problems that exist, we believe it would be negligent to exempt them from regulations that are intended to address conflicts with other property owners.

In view of these facts, we respectfully request you to vote against this Bill.

Sincerely,



Jeffrey R. Waterfield,
Co-Owner
Metropolitan Rolling Door, Inc.
9620 Gerwig Lane
Columbia, MD 21046
410-995-6336

Sayers, Margery

From: Rick Levitan <ricklevitan@verizon.net>
Sent: Wednesday, October 24, 2018 7:03 PM
To: Sigaty, Mary Kay; Ball, Calvin B; Weinstein, Jon; Jterrasa@howardcountymd.com; Fox, Greg
Subject: CB 73-2018
Attachments: Letter to the Howard County Council Members - CB 73-201818-10-24.docx

Dear County Council Members – I would appreciate it very much if would read the attached letter regarding CB 73-2018. Thank you, Rick Levitan

October 24, 2018

Dear County Council Members:

I am writing today to share my recollection of ZRA 159, CB 46-2016 and urge you to vote **no** on CB – 73-2018.

I was intimately involved with the ZRA and subsequent Bill. My motivation was prompted by my involvement with several gas station petitions (Marriottsville Road, Centre Park Drive, & Snowden River Parkway) that were very costly for me and completely went against the the General Plan and vision that Jim Rouse had laid out in developing Columbia.

I would like you to consider the following:

- A gas station is never a “permitted use by right”. Historically, it required an approved site plan recorded on an FDP in New Town or a Conditional Use Permit in the Euclidean Zone.
- CB 46-2016 specifically was negotiated with a grandfather clause that allowed any conditional use or site development plan (SDP) that had been filed on or before June 27, 2016 and were in process, to be grandfathered. These locations were specifically discussed and identified. The parties never agreed that any subsequent conditional use or SDP submittal would be grandfathered.
- Royal Farms had a SDP on file, that was grandfathered, but they chose not to pursue their full appeal rights and they let the SDP expire. They have now filed a new SDP which was filed after June 27, 2016 and is therefore **not** grandfathered. They knew that only the conditional use and SDP’s that everyone agreed to, prior to CB 46 – 2016 being passed, would be grandfathered.
- If, according to Mr. Oh, that the Grinnell site was “permitted by right” to be a gas station, then it would seem obvious that a major oil company would have placed a station there many, many years ago prior to a warehouse being built there.
- As a former Real Estate Manager for Mobil Oil, I can tell you that we never closed on a gas station site transaction without having building permits in hand. That is standard industry practice. The fact that Royal Farms rolled the dice on the Grinnell site on Snowden River Parkway under the belief it was “permitted by right” should not result in the County passing a statute that essentially exempts them from the zoning structure and grandfathering provisions, we all, including Royal Farms, agreed to with the passage of CB 46-2016.
- The County now has a concrete example of the definition of “blighting influence” according to the zoning regulations. Just drive down to Restaurant Row and you’ll see

the closed Exxon station that went out of business within 90 days of the Royal Farms adding fuel to their location on Route 108.

- Placing gas stations within Village Centers was part of the Jim Rouse vision for his planned community. I have advocated for many years that if the Hypermarketers want to come into the planned community, that they should take over our positions within the Village Centers. However, they do not want to abide by the rules and regulations that have been in place for 50 plus years. Rather than blight the Village Centers, they could help make them stronger. While they couldn't have their traditional footprint, they still could have several additional sites within Columbia.
- Since the Hypermarketers like Royal Farms do not want to abide by the regulations and rules that have been established over the past 50 years, and the County has been moving away from the Rouse vision, I was forced to lease my location in the Owen Brown Village Center to a large distributor who was willing to invest \$800,000 in updating and replacing the underground storage tanks, lines, fuel dispensers and canopies. A small business owner, like myself, could not make that investment given the uncertainty in which the County operates.

I know the Columbia Association; Howard County Citizens Association and the Owen Brown Village Association, as well as others all oppose this Bill. I trust you will look at this logically and concur that they are correct in their opposition and you will vote **No** on this Bill.

Sincerely,

Richard J. Levitan

Rick Levitan
Autostream Car Care
7248 Cradlerock Way
Columbia, MD 21045

Sayers, Margery

From: D Boulton <ddboulton@verizon.net>
Sent: Tuesday, October 23, 2018 10:42 PM
To: CouncilMail
Subject: CB73

I have to be amazed at the tenacity of Two Farms in persisting in its efforts to put a mega gas station/car wash/mini mart that nobody wants on already over-congested Snowden River Parkway. As CA President Milton Matthews and HCCA president Stu Kohn pointed out, CB73, a Two Farms lobbied legislative gambit, violates any number of county charter and procedural policies. It will certainly be challenged.

As you all leave the County Council, is this the tawdry piece of trumped up twaddle what you want to be remembered for?

Dick Boulton
4669 Hallowed Stream
Ellicott City, MD 21042

Sayers, Margery

From: Rebecca Lyter <b1keeper@aol.com>
Sent: Monday, October 22, 2018 9:10 PM
To: CouncilMail
Subject: Re: CB75-2018

I neglected to sign my email below.

I am,

Rebecca Lyter
Ellicott City resident

Sent from my iPhone

> On Oct 22, 2018, at 9:09 PM, Rebecca Lyter <b1keeper@aol.com> wrote:

>

> I am writing in strong opposition to CB75-2018.

>

> This law is entirely unnecessary and is an intentional end run around what just yesterday were considered critical historic preservation protections. Public safety concerns are not a new phenomenon, yet the historic preservation commission adequately did their job all of these years. Why doesn't someone want to let them do their job now? Isn't that curious.

>

> I actually can't believe this law was ever proposed, let alone would be seriously considered. Are we that lost in the political battle of the moment to see the forest from the trees? Instead of being stewards of our historic structures and bolstering our historic preservation laws, our politicians are looking to create holes in them an 18-wheeler could drive through? Why?

>

> This is a very dangerous way to govern/lead. It places historic preservation in the county completely at risk. We can't do that. We need to let the commission do its job. To protect us from ourselves. Please reject this law. Enough is enough.

>

> Sent from my iPhone

Sayers, Margery

From: Rebecca Lyter <b1keeper@aol.com>
Sent: Monday, October 22, 2018 9:09 PM
To: CouncilMail
Subject: CB75-2018

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This law is entirely unnecessary and is an intentional end run around what just yesterday were considered critical historic preservation protections. Public safety concerns are not a new phenomenon, yet the historic preservation commission adequately did their job all of these years. Why doesn't someone want to let them do their job now? Isn't that curious.

I actually can't believe this law was ever proposed, let alone would be seriously considered. Are we that lost in the political battle of the moment to see the forest from the trees? Instead of being stewards of our historic structures and bolstering our historic preservation laws, our politicians are looking to create holes in them an 18-wheeler could drive through? Why?

This is a very dangerous way to govern/lead. It places historic preservation in the county completely at risk. We can't do that. We need to let the commission do its job. To protect us from ourselves. Please reject this law. Enough is enough.

Sent from my iPhone

Sayers, Margery

From: listan 1 <listan1@msn.com>
Sent: Monday, October 22, 2018 8:57 PM
To: CouncilMail
Subject: CB75-2018

Hi, I wanted to email to express my deep concern, in fact outrage, over the proposal of CB75-2018:

PUBLIC SAFETY. THE COMMISSION SHALL APPROVE AN APPLICATION FOR A CERTIFICATE OF APPROVAL IF THE PROPOSED ALTERATION, CONSTRUCTION, MOVING OR DEMOLITION OF THE PROPOSED WORK IS NECESSARY TO PROTECT AGAINST THREATS TO PUBLIC SAFETY, INCLUDING APPLICATIONS FOR STRUCTURES OF UNUSUAL IMPORTANCE.

If passed, this would remove the review and consent responsibilities of the Howard County Preservation Commission and essentially make the HPC and historic preservation concerns irrelevant in potentially a wide range of scenarios. It would require them to approve demolition or other alterations of even the most important historic structures if there is some sort of public safety issue. This is a significant evisceration of the protections for historic buildings that we have built into our laws for years and for such good reason. Every developer will now claim a public safety concern in order to bypass the HPC and important protections for our heritage. The HPC always considers public safety in their reviews and this has worked successfully.

The only reason this law is proposed now is to do an end run around the HPC and our existing laws to get ONE project approved, the pet project of the council person proposing the law to rid himself of a barrier to his project. That is actually outrageous and we should never sanction that way of governing. It is very Trumpian. Or a lesson learned from the GOP Congress. If you can't get what you want, just change the rules. I am so disappointed in what is so clearly bad faith maneuvering. Such a lack of ethics to make this proposal for a singular purpose without any regard for the tremendous repercussions that go well beyond this one project politicians are looking to grease the skids for. This could jeopardize important historical structures all across the county for decades to come and for what? Expediency of the moment. We have no idea how this might threaten historic preservation in the county and it is not the right of any one politician or this council to decide that for the community. This is a shameful time and when we look back 50 years down the road, we will not think favorably of the awful stewards we have been of the county's history.

Please do not pass this law or amend it. It is unnecessary and should be discarded in its entirety.

Lisa Orenstein
Ellicott City, MD

Sayers, Margery

From: Sally Bright <sr.bright01@hotmail.com>
Sent: Monday, October 22, 2018 1:43 PM
To: CouncilMail
Subject: Opposition to CB-75-2018

As a former resident of the Ellicott City historic district for 35 years I am opposed to CB-75-2018.

During the 35 years my wife and I lived in the Ellicott City historic district and raised our family, we were at the forefront of historic preservation along with many others who saw the potential of this special place. We bought and restored two residences, adhering to the design guidelines for historic preservation .

Having traveled extensively throughout this country, I can state that there are not too many towns left that are unique and authentic where one can stroll down its main street and enjoy the variety of shops and restaurants in a truly special setting, one that is not of the cookie cutter variety. Add to that the tremendous history that has come before that has placed Ellicott City on the National Register of Historic Places. Its crown jewel is the B&O Railroad Station listed as a National Landmark. This is why everyone comes to Ellicott City and immediately falls in love with its charms.

One of the most enjoyable experiences I had while living in Ellicott City was serving on the Historic District Commission (now known as the Historic Preservation Commission). I saw firsthand the importance of preserving this town and educating those who came before the Commission on the importance of being a steward of their property, making appropriate changes so as to not drastically alter its exterior, and passing it on to the next generation in the best possible condition.

The reason I am opposed to CB-75 is that it is unnecessary because the Commission already has the power to consider demolition, usually as a last possible alternative. The best example I can relate is when a fire consumed some structures on Main Street. There was no doubt that those buildings were totally destroyed. The Commission gave permission to have them torn down. However, their role did not stop there. Instead the Commission worked with the Restoration Foundation and its architect to collaborate with the owners to come up with an exterior design that was compatible with the streetscape.

Enacting CB-75, whether you replace the wording "shall" with "may", and adding public safety as a standard sends a signal that demolition is on the table, front and center. It is unnecessary and furthermore, demolition precludes any chances for historic tax incentives for rebuilding. The Commission understands its responsibilities under the Howard County charter and the Secretary of the Interior's Standards for Historic Preservation and Rehabilitation, and does not need this legislation to remind them of their role.

Finally, even though I no longer live in the historic district and live in Cambridge taking care of 350-year-old home on a family farm, I do maintain a residence at Waverly Woods in Woodstock and pay Howard County taxes.

Dr. Richard D. Bright

Saturday Dr. Ball said that CB73 2018 bill pertained to an “intent” to allow Royal Farms to build their mega gas station, convenience and car wash along side a Columbia Parkway.

Evidently an agreement was made!

This is outrageous!

Val Lazdins rightly said this project is out of sync with the rest of the Parkway!

Royal Farms had their chance to submit a plan that followed the “Industrial Park Guidelines” but they waited too long.

The fuel task force stated that these type of mega gas stations should be located near large highways like I-95 and I-70.

This bill changes the date to allow this one company to build a mega gas station without complying with the “conditional use regulations” or for that matter these “Industrial Park Design Guidelines”.

The idea that one company can ignore the regulations and the date in the original bill and that you are going to help them by changing a date is wrong, very wrong.

It’s interesting it was the “intent” to have an later date, well the intent of the FDP 55 that covers this property is that *ONLY* “Wholesale gas stations” are allowed in this Industrial Park!

That has been the “intent” for 45 years!

But I was told by DPZ “gas station” means any type gas station!

Using the same standard, 2016 means 2016! The bill passed and that’s it, too late!

Please vote No!

I am also adding to the record a more detailed technical explanation of why you should vote no!

Brian England
Columbia Md.

CB 73.

Why you should vote NO

CB 73-2018 has no title or subject. The effect of this Bill would exempt a single Columbia property from the Conditional Use requirements for a gas station. This is unprecedented. All gas stations approved or modified in Columbia from 1979 to the present day were subject to the Conditional Use regulations. In 2016, Costco amended their plan to allow for 4 additional gas pumps.

The Bill in its current form violates Council rules, and legislative due process that require clear notice for legislation.

It pertains to the Zoning Regulations so it must follow the ZRA procedures.

The Council is not allowed to consider Zoning Bills during Councilmanic elections.

*The subject of this bill is unclear; apparently it pertains to the applicability of the Zoning Regulations and a grandfather date exempting certain plans with a vague reference to Section 2 of CB 46-2016 (ZRA 159). This Bill has no title or subject. How is the public supposed to have notice without a title or subject?

Rule 1.006(1.) requires each Bill have a title and shall be succinct to the reference of the general subject of the bill.

*It appears this Bill future dates a change to a grandfather date in ZRA 159. This date was never codified in the Zoning Regulations. So effectively this is an amendment to Bill CB 46-2016 that was adopted more than 30 months ago.

You can't amend old Bills with new legislation. The purpose of legislation is to adopt or amend the County Code or the Zoning Regulations.

*It appears that the lack of a title or subject makes this Bill ineffective because it does not satisfy notice requirements.

The omission of a title and subject does not satisfy legislative notice requirements. A reference to a previously passed Bill does not suffice.

*Since the Bill does not meet the form requirements under Rule 1.006(1.) the Council would have to suspend the rules to take it up.

*Did the Office of Law sign off that it is legally sufficient? If so, how could they sign off when it is in clear violation of several sections of the County Code and the Council Rules?

*The Bill apparently amends a provision from a ZRA to Zoning Regulations. DPZ and the Planning Board have to evaluate all Zoning Regulation Amendments and make a recommendation as required under Section 16.208 of the Zoning Enabling Act.

*Since this Bill pertains to the Zoning Regulations and it is not an "Emergency" it cannot be considered during the Councilmanic election as prohibited by Section 16.211.

In conclusion, it appears that this Bill violates legislative due process of law. I would be interested to know the Office of Law's position.

Brian England. Columbia, Maryland 21044

Date: 15 October 2018

Subject: The Howard County Citizens Association (HCCA) is Against CB73-2018

Good evening. My name is Stu Kohn and I am the President of the Howard County Citizens Association, HCCA.

We are vehemently against CB73-2018. We have some questions which need to be answered. They are – What is the vision of Snowden River Parkway? How many more Fueling Stations and with 20 pumps, a Car Wash and a Convenience Store does one need? What is the compelling need for CB73? We ask because the content of the Bill has no explanation as to the rationale. All it states is “AN ACT amending Section 2 of Council Bill 46-2016 to correct for and accommodate an interpretation of the original legislation which did not reflect the Council’s original intent.” What is the so-called “interpretation?” Why was the original Bill, CB68-2018 withdrawn? Why has part of the contents of the Introduction of CB73 been eliminated when comparing CB68? What was eliminated is “which specified the application of certain provisions to certain properties for which any site development plan or Conditional Use applications for a Gasoline Service Station?” We are curious as to the rationale of the change?

Why doesn’t our testimony, the testimonies of many others and the passage of CB46-2016, and the approval by the County Executive in August 2016 count? Why wasn’t a ZRA filed as a preamble to create CB73 as was done regarding CB46-2018 under ZRA159?

These are important questions which the public should have the opportunity to hear your answers. If nothing else with the most persuasive testimony of the Columbia Association and others you should not in any way pass this Bill.

What has changed since CB46 was passed? The Bill included Amendment 3 introduced by Dr. Ball and passed by the entire Council with the specified date of June 27, 2016. Oh – By the Way – It should in no way matter that Royal Farms decided not to protest regarding the established date. We heard this at the County Executive Forum held in Savage this past Saturday by Dr. Ball. With this thinking if any concerned citizen didn’t protest does this mean the Council will permit a redo? Have there been any deals made with Royal Farms since the passage of CB46-2016 that the public should have knowledge?

Hopefully you will just say “NO” to a Bill that should not in any way be before you or us. How about ending your tenure on a positive note by showing us that the passage of previous Bills and the voices of your constituents matter?



Stu Kohn
HCCA, President



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

I, Stu Kohn, 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 CB73-2018 to express the organization's
(bill or resolution number)

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

Printed Name: Stu Kohn

Signature: Stu Kohn

Date: 15 OCT 18

Organization: HCCA

Organization Address: P.O. Box 89 ELLICOTT CITY MD

Chair/President: Stu Kohn

TESTIMONY AT LEGISLATIVE PUBLIC HEARING

MEETING OF HOWARD COUNTY COUNCIL

MONDAY, 15 OCTOBER 2018

GOOD EVENING, CHAIRWOMAN SIGATY AND THE OTHER MEMBERS OF THE COUNTY COUNCIL.

I AM MILTON W. MATTHEWS, PRESIDENT/CEO, COLUMBIA ASSOCIATION.

ON BEHALF OF COLUMBIA ASSOCIATION, I AM HERE THIS EVENING TO TESTIFY IN OPPOSITION TO **CB 73-2018**.

WE AT COLUMBIA ASSOCIATION HAVE SIGNIFICANT CONCERNS REGARDING THE IMPROPER PROCESS AND PROCEDURE BEING FOLLOWED BY THE COUNTY COUNCIL, WITH RESPECT TO THIS LEGISLATION.

FIRST, I MUST NOTE THAT **CB 73-2018** VIOLATES **ARTICLE II, SECTION 209(b)** OF THE **HOWARD COUNTY CHARTER**, WHICH PROVIDES:

EACH LAW ENACTED BY THE COUNCIL SHALL EMBRACE BUT ONE SUBJECT AND THAT SUBJECT SHALL BE DESCRIBED IN ITS TITLE; AND NO LAW OR SECTION OF LAW SHALL BE REVISED OR AMENDED BY REFERENCE TO ITS TITLE OR SECTION ONLY.

CONTRARY TO THOSE REQUIREMENTS, **CB 73-2018** DOES NOT DESCRIBE THE SUBJECT OF THE BILL, BUT INSTEAD SIMPLY REFERENCES A PARTICULAR SECTION OF LEGISLATION PASSED BY THE COUNTY COUNCIL MORE THAN TWO (2) YEARS AGO. ADDITIONALLY, **CB 73-2018** DOES NOT EVEN DESCRIBE THE LEGISLATION FROM MORE THAN TWO (2) YEARS AGO.

SECTION 209(b) OF THE COUNTY CHARTER WAS ENACTED TO ENSURE LEGISLATIVE DUE PROCESS TO THE CITIZENS OF HOWARD COUNTY. BY REQUIRING THAT A BILL DESCRIBE ITS SUBJECT WITHIN ITS TITLE, EACH CITIZEN OF HOWARD COUNTY IS AFFORDED A REASONABLE OPPORTUNITY TO QUICKLY AND CONVENIENTLY ASCERTAIN WHETHER HE OR SHE HAS AN INTEREST IN THE LEGISLATION BEING PROPOSED BY THE COUNTY COUNCIL.

IN ORDER TO FURTHER ENSURE LEGISLATIVE DUE PROCESS, **ARTICLE II, SECTION 209(c)** OF THE **COUNTY CHARTER** PRESCRIBES THAT:

THE TITLE OF EACH BILL AND THE TIME AND PLACE OF THE HEARING THEREON SHALL BE PUBLISHED ONCE A WEEK FOR TWO (2) SUCCESSIVE WEEKS IN AT

LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY, AND IN AT LEAST ONE ELECTRONIC MEDIUM READILY AVAILABLE TO THE PUBLIC.

AS DRAFTED, THE TITLE OF CB 73-2018 MAKES IT LIKELY THAT THE AVERAGE CITIZEN OF HOWARD COUNTY WHEN READING THE LEGAL NOTICES SECTION OF THE NEWSPAPER WILL HAVE NO IDEA AT ALL AS TO THE SUBJECT OF CB 73-2018.

THEREFORE, WE BELIEVE THE LEGAL NOTICE AFFORDED TO THE PUBLIC WITH RESPECT TO CB 73-2018 IS INEFFECTIVE AND VIOLATES THE LEGISLATIVE DUE PROCESS RIGHTS OF THE CITIZENS OF HOWARD COUNTY.

THE SECOND CONCERN COLUMBIA ASSOCIATION HAS WITH CB 73-2018 IS, IN PARTICULAR, WE BELIEVE THAT FINAL ACTION ON THIS BILL BY THE COUNTY COUNCIL WOULD VIOLATE HOWARD COUNTY CODE SECTION 16.211, WHICH PROVIDES:

IN ANY YEAR IN WHICH MEMBERS OF THE COUNTY COUNCIL ARE ELECTED, THE INCUMBENT COUNCILMEMBERS, SHALL NOT TAKE FINAL ACTION ON ANY ZONING APPLICATION AFTER THE DATE OF THE PRIMARY ELECTION AS SET BY LAW AND UNTIL THE NEWLY ELECTED COUNTY COUNCILMEMBERS HAVE QUALIFIED AND TAKEN OFFICE. THE ENACTMENT OF THIS SECTION SHALL NOT IN ANY WAY PREVENT THE ZONING BOARD OR COUNTY COUNCIL FROM ACTING ON ZONING MATTERS WHICH ARE CONSIDERED, IN THE DISCRETION OF THE COUNCIL OR THE BOARD, TO BE EMERGENCY MATTERS THAT COULD BE INJURIOUS TO THE COUNTY OR ANY OF ITS CITIZENS.

WE BELIEVE, WITHOUT DOUBT, THAT THE SUBJECT OF CB 73-2018 IS ZONING – EVEN THOUGH THAT WORD IS NOT USED ANYWHERE IN THE TITLE OR BODY OF THE LEGISLATION.

ALSO, WE BELIEVE THE BILL'S PURPOSE AND EFFECT IS TO AMEND THE ZONING REGULATIONS OF HOWARD COUNTY. THE LEGISLATION DOES SO BY SEEKING TO AMEND CB 46-2016, WHICH IS ITSELF UNQUESTIONABLY A ZONING REGULATION AMENDMENT ACCORDING TO ITS OWN TITLE, WHICH STATES:

AN ACT AMENDING THE HOWARD COUNTY ZONING REGULATIONS GASOLINE SERVICE STATION PROVISIONS BY CREATING A NEW DEFINITION FOR MOTOR VEHICLE FUELING FACILITY, REPEALING THE GASOLINE SERVICE STATION CONDITIONAL USE, AND CREATING A NEW MOTOR VEHICLE FUELING FACILITIES CONDITIONAL USE; AND GENERALLY RELATING TO GASOLINE SERVICE STATIONS AND MOTOR VEHICLE FUELING FACILITIES.

BECAUSE CB 73-2018 IS A ZONING REGULATION AMENDMENT, HOWARD COUNTY CODE SECTION 16.211 PROHIBITS THIS COUNCIL FROM TAKING FINAL ACTION ON THE AMENDMENT AFTER THE DATE OF THE PRIMARY ELECTION.

IT DOES NOT MATTER AT ALL THAT THE PURPORTED REASON FOR TAKING THIS ACTION IS TO CORRECT A SUPPOSED MISTAKE IN THE ORIGINAL LEGISLATION.

CORRECTING A MISTAKE IS STILL A SUBSTANTIVE AMENDMENT TO THE ZONING REGULATIONS AND IS NOT PERMITTED AT THIS TIME UNDER COUNTY CODE.

AGAIN, FROM HOWARD COUNTY CODE SECTION 16.211, THE ONLY ZONING MATTERS THAT MAY BE APPROVED BY THIS COUNCIL AT THIS TIME ARE EMERGENCY MATTERS THAT COULD BE INJURIOUS TO THE COUNTY OR ANY OF ITS CITIZENS.

CB 73-2018 IS SIMPLY NOT AN EMERGENCY MATTER; THEREFORE, WE BELIEVE THIS COUNCIL IS BARRED FROM TAKING FINAL ACTION ON IT.

OUR FINAL CONCERN WITH **CB 73-2018** IS THAT THE LEGISLATION VIOLATES **HOWARD COUNTY CODE SECTION 16.209**, WHICH DETAILS THE PROCEDURES THE COUNTY COUNCIL MUST FOLLOW TO CONSIDER A ZONING REGULATION AMENDMENT.

HOWARD COUNTY CODE SECTION 16.209 PROHIBITS COUNTY COUNCIL FROM ADDING A PROPOSED ZONING REGULATION AMENDMENT TO ITS AGENDA UNTIL IT HAS RECEIVED:

- 1) **A FINAL TECHNICAL STAFF REPORT AND RECOMMENDATION FROM THE DEPARTMENT OF PLANNING AND ZONING; AND**

- 2) **A RECOMMENDATION AND REPORT FROM THE PLANNING BOARD.**

WE ARE NOT AWARE OF THE COUNTY COUNCIL RECEIVING THE DOCUMENTS MENTIONED ABOVE, AND **CB 73-2018** NEVER HAS BEEN CONSIDERED BY THE PLANNING BOARD.

FOR ALL THE REASONS I HAVE STATED, COLUMBIA ASSOCIATION RESPECTFULLY REQUESTS THAT THIS COUNTY COUNCIL ABIDE BY THE PROVISIONS OF THE COUNTY CHARTER AND COUNTY CODE AND NOT TAKE FINAL ACTION ON **CB 73-2018**.

THANK YOU FOR THE OPPORTUNITY TO SPEAK TO YOU.



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

I, Milton H. Matthews have been duly authorized by
(name of individual)

Columbia Association to deliver testimony to the
(name of nonprofit organization or government board, commission, or task force)

County Council regarding CR 12.2018 to express the organization's
(bill or resolution number)

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

Printed Name: Milton H. Matthews

Signature: Milton H. Matthews

Date: 10.15.18

Organization: Columbia Association

Organization Address: 1310 Hillside Court

Columbia 21046

Chair/President: Milton H. Matthews

Sayers, Margery

From: Craig Barton <manager@owenbrownvillage.org>
Sent: Monday, October 08, 2018 12:13 PM
To: CouncilMail
Subject: Council Bill 73-2018
Attachments: CB73-2018 Letter.pdf

Please see attached letter.

Craig Barton
Village Manager
Owen Brown Community Association, Inc.
6800 Cradlerock Way
Columbia, MD 21045
T -410-381-0202
F -410-381-0235
www.owenbrownvillage.org



OWEN BROWN COMMUNITY ASSOCIATION, INC
6800 Cradlerock Way, Columbia, Maryland 21045-4809
Phone 410-381-0202 Fax 410-381-0235
WEB Page: www.owenbrownvillage.org

October 5, 2018

The Honorable Mary Kay Sigaty
Chairperson
Howard County Council
3430 Courthouse Dr.
Ellicott City, MD 21043

Subject: CB 73 -2018 Amending Section 2 of Council Bill 46-2016

Dear Ms. Sigaty:

On behalf of the residents of Owen Brown, the Owen Brown Village Board respectfully voices our opposition to Council Bill 73-2018. The county's Conditional Use regulations are an important tool in protecting the character of Columbia and Owen Brown while ensuring development can continue in accordance with the master development plan. We support enforcement of the applicable Conditional Use regulations and oppose any attempt to grant exceptions to these rules or grandfather in specific businesses. CB 73 clearly intends to make those exemptions for Royal Farms and we respectfully ask that you oppose it.

In the spirit of ensuring development of our community is consistent with our character and to ensure that there are not two different sets of rules for different businesses, our Board has previously opposed a Site Development Plan submitted by Royal Farms that did not meet NT zoning requirements. In that same spirit, we now oppose this attempt to exempt Royal Farms from adhering to those requirements. We ask that the County Council opposes CB 73-2018 and supports the spirit of our intent into the future.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne Eldridge", written over a horizontal line.

Wayne Eldridge, Chair
Owen Brown Village Board

Cc: Jennifer Terrasa
Jon Weinstein
Calvin Ball
Greg Fox