

Introduced October 5, 2020
Public Hearing October 9, 2020
Council Action November 2, 2020
Executive Action November 4, 2020
Effective Date January 5, 2021

County Council of Howard County, Maryland

2020 Legislative Session

Legislative Day No. 14

Bill No. 57 -2020

Introduced by: David Yungmann

Co-sponsored by: Deb Jung

AN ACT amending the Howard County Code to specify that the Department of Planning and Zoning is only to submit Zoning Regulation Amendment petitions on behalf of the County; replace the recommendation requirement with an analysis requirement for the Department of Planning and Zoning's Technical Staff Reports; to establish criteria for Technical Staff Report analyses; and generally relating to Technical Staff Reports.

Introduced and read first time October 5, 2020. Ordered posted and hearing scheduled.

By order

Diane Schwartz Jones
Diane Schwartz Jones, 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 October 19, 2020.

By order

Diane Schwartz Jones
Diane Schwartz Jones, Administrator

This Bill was read the third time on November 2, 2020 and Passed , Passed with amendments , Failed .

By order

Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Scaled with the County Seal and presented to the County Executive for approval this 3rd day of November, 2020 at 11:30 a.m./p.m.

By order

Diane Schwartz Jones
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive November 4, 2020

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

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

3 By amending:

4 Title 16. "Planning, Zoning and Subdivisions and Land Development Regulations"

5 Subtitle 2. "Zoning"

6 Section. 16.204. "Piecemeal map amendments and development plan
7 approvals."; and

8 Section. 16.208. "Zoning regulation text amendments."

9 Subtitle 8. "Department of Planning and Zoning"

10 Section. 16.801. "The Department of Planning and Zoning."

11 Subtitle 9. "Planning Board"

12 Section 16.900. "Planning Board."

13
14 **HOWARD COUNTY CODE**

15
16 **Title 16 - Planning, Zoning and Subdivisions and Land Development Regulations**

17
18 **Subtitle 2. – Zoning**

19
20 **Section. 16.204. - Piecemeal map amendments and development plan approvals.**

- 21 (a) *Zoning Board.* The Zoning Board may exercise the Zoning Authority delegated to it by this subtitle to
22 make decisions on piecemeal map amendments and development plans in pursuance of a petition
23 filed in accordance with section 16.205 of this subtitle and shall establish procedures for doing so.
- 24 (b) *Mediation.* The Zoning Board may refer an applicant and other persons affected by a pending
25 application, other than piecemeal map amendment cases based on the change/mistake rule as
26 established by Maryland Case Law, to the Mediation and Conflict Resolution Center, Inc., of Howard
27 County or a conflict resolution or mediation service which has been deemed acceptable by the Board.
28 The purpose of such referral shall be to resolve conflicts between these parties, but the results thereof
29 shall not bind the Board to any result. Any resolution that is agreed upon by both parties shall be
30 subject to findings of the Board required by law. Petition approval may not be granted solely on the
31 basis of mediation resolution.

1 A referral may be made either before or after a public hearing on a pending petition decision, but only
2 after an application is deemed complete. Mediation shall not occur after the Zoning Board votes on a
3 petition. The cost of the mediation service shall be incurred by the petitioner.

4 If no agreement is reached between the parties within 45 days, or at anytime the mediator deems any
5 further meetings futile, the Board shall continue with its proceedings or deliberations on the matter. If both
6 parties agree, mediation may be 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 time, with or without a
8 mediator, in an attempt to resolve their differences. It is the policy of the County to encourage applicants
9 and neighbors to have early discussions on proposed projects so that differences may be resolved prior
10 to the submission of an application.

11 (c) *Public Hearing Required.* The Zoning Board shall hold a public hearing on these piecemeal map
12 amendments and development plan petitions at which parties in interest and citizens shall have an
13 opportunity to be heard. The Zoning Board shall be prohibited from holding meetings which include an
14 opportunity for public testimony on any day on which Rosh Hashanah, Yom Kippur, Eid Ul Fitr or Eid
15 Ul Adha is observed. The Zoning Board shall not take final action on piecemeal map amendments or
16 development plan petitions until after the public hearing.

17 (d) *Advertising.* At least 30 days prior to the initial public hearing on the piecemeal map amendment or
18 development plan petitions, the petitioner, at its own expense, shall advertise the date, time, place and
19 subject matter of the petition in at least two newspapers of general circulation in Howard County.

20 (e) *Posting and Mail Notice:*

21 (1) At least 30 days prior to the initial public hearing on the piecemeal map amendment or
22 development plan petitions, the petitioner shall:

23 (i) Post the property which is the subject of the hearing with the date, time, place and subject
24 matter of the hearing. The sign shall include the address of Department of Planning and
25 Zoning's website. The poster shall be double-sided and at least 30 inches by 36 inches in
26 size. The poster shall include a three digit alphanumeric code, which would be used to
27 identify the case. The alphanumeric code shall be posted by the Department of Planning and
28 Zoning in at least five-inch lettering in the top left corner of the poster. The Department of
29 Planning and Zoning shall determine the number of posters required and their location and
30 the petitioner shall bear the expense of posting. The Department of Planning and Zoning
31 shall supply the posters. The petitioner shall properly erect and maintain the posters; and

32 (ii) Send a certified letter to all persons whose property is adjoining to the property which is the
33 subject of the petition, according to the most recent State taxation and assessment records,

1 notifying those persons of the date, time, place and subject matter of the hearing in
2 accordance with subsection 16.203(c)(7) and of this subtitle.

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

6 (f) *Report of the Planning Board.* Petitions for piecemeal map amendments or development plan
7 approvals shall be submitted to the Planning Board. At least 30 days prior to a Planning Board meeting
8 on any piecemeal map amendment or development plan, the petitioner shall send notice of such
9 meeting to the relevant subscribers on the list maintained by the Department of Planning and Zoning
10 in accordance with subsection 16.145(b)(3). The Zoning Board shall consider the report of the Planning
11 Board on such petitions before the Zoning Board takes final action on them.

12 (g) *Department of Planning and Zoning's Findings and [[Recommendations]] Analysis.* The Department
13 of Planning and Zoning shall transmit its findings and [[recommendations]] ANALYSIS concerning a
14 petition for piecemeal map amendments or development plans in a technical staff report to the
15 Planning Board at least two weeks prior to the public meeting on a petition.

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

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

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

1 (k) *Documentation.*

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

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

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

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

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

15
16 **Section. 16.208. - Zoning regulation text amendments.**

17 (a) *Petition.* Any person, the Director of the Department of Planning and Zoning, ON BEHALF OF THE
18 COUNTY BUT NOT ON BEHALF OF A PRIVATE ENTITY the members of the County Council or any duly
19 appointed county board may petition the County Council for an amendment, repeal, or change to the
20 text of the zoning regulations.

21 (b) *Copy of petition to Department of Planning and Zoning and Planning Board; [[Recommendations]].*
22 The County Council shall deliver a copy of the proposed zoning regulation text amendment to the
23 Department of Planning and Zoning and to the Planning Board. ~~The~~ Subject to subsection (d) of this
24 section, the Department of Planning and Zoning shall prepare and submit a technical staff report ~~[[and~~
25 ~~recommendation]]~~ to the County Council on the proposed text amendment petition. The Planning
26 Board shall also prepare and submit a recommendation to the County Council on the proposed text
27 amendment petition.

28 (c) *Consideration of proposed text amendment.* When exercising the Zoning Authority of Howard County
29 with respect to the consideration of and decision on a proposed zoning regulation text amendment,
30 the County Council shall proceed in the following manner:

31 (1) The County Council shall introduce a bill proposing the adoption of the text amendment as
32 submitted by the petitioner or as amended pursuant to THE TECHNICAL STAFF REPORT

1 [[recommendations]] of the Department of Planning and Zoning, OR RECOMMENDATIONS OF the
2 Planning Board or the County Council.

3 (2) A bill proposing the adoption of the text amendment shall not be added to the Council's legislative
4 agenda until the County Council has received:

5 (i) A final technical staff report and [[recommendation]] ANALYSIS from the Department of
6 Planning and Zoning; and

7 (ii) A recommendation and report [[form]] FROM the Planning Board.

8 (3) The County Council shall vote on the proposed bill according to County Council bill procedures.

9 (d) Technical staff report.

10 At a minimum, the technical staff report shall include an analysis of:

11 (1) The compatibility, including potential adverse impacts and consequences, of the
12 proposed Zoning Regulation Amendment with the existing and potential land uses of the
13 surrounding areas and within the same zoning district;

14 (2) The properties to which the Zoning Regulation Amendment could apply and, if
15 feasible, a map of the impacted properties;

16 (3) Conflicts in the Howard County Zoning Regulations as a result of the Zoning
17 Regulation Amendment; and

18 (4) The compatibility of the proposed zoning regulation amendment with the policies and
19 objectives, specifically including the environmental policies and objectives, of the Howard
20 County General Plan.

21
22 **Subtitle 8. – Department of Planning and Zoning**

23
24 **Section. 16.801. - The Department of Planning and Zoning.**

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

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

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

1 (1) *Comprehensive general plan.* Within five years from the adoption of the comprehensive rezoning
2 plan, the Department of Planning and Zoning shall coordinate the preparation and revision of a
3 general plan for the County, including but not limited to a plan for land use and land conservation
4 and multiyear development plans for transportation, public facilities, water, sewerage, parkland,
5 housing, human services and environmental protection. The general plan shall follow general
6 guidelines promulgated by the Planning Board and adopted by the County Council.

7 (2) *Subdivision rules and regulations:*

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

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

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

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

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

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

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

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

31 (ii) *Text amendments.* The County Council shall receive all petitions for text amendments to the
32 zoning regulations. The County Council shall submit these petitions to the Department of

1 Planning and Zoning FOR STAFF FINDINGS AND ANALYSIS, and to the Planning Board for their
2 review and recommendations.

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

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

24 (7) *Other zoning changes.* The Department of Planning and Zoning shall receive all petitions related
25 to zoning matters, such as conditional uses, variances, and nonconforming uses. The Department
26 shall accept and review these applications and petitions and shall transmit them to the Hearing
27 Examiner for the Board of Appeals. For all petitions related to variances in nonresidential districts,
28 conditional uses, and extension, enlargement, or alteration of nonconforming uses, the
29 Department shall prepare findings and [[recommendations]] ANALYSIS in a technical staff report
30 and shall submit the petitions, findings and [[recommendations]] ANALYSIS to the Hearing
31 Examiner for the Board of Appeals. The technical staff report shall be made available to the
32 Hearing Examiner and the general public at least two weeks prior to any required public meeting
33 or hearing. If the Hearing Examiner approves a petition subject to an amendment or modification
34 of the petition and the approval is appealed to the Board of Appeals, the Department will prepare
35 and submit to the Board its findings and [[recommendations]] ANALYSIS concerning the

1 amendment or modification in a technical staff report. The technical staff report shall be made
2 available to the Board of Appeals and the general public at least two weeks prior to any required
3 public meeting or hearing.

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

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

11 (10) *Capital program.* Each year the Department of Planning and Zoning shall review the proposed
12 capital program. The Department shall prepare comments and recommendations on the impact
13 of the proposed capital program on the County general plan and the growth of the County and
14 submit these comments and recommendations to the County Executive.

15 (11) *Planning Board.* The Director of Planning and Zoning or the Director's designee shall serve as
16 Executive Secretary of the Planning Board and shall attend all meetings of that board.

17 (12) *Agricultural preservation.* The Department of Planning and Zoning is responsible for the
18 acquisition and stewardship of the agricultural land preservation easements, pursuant to subtitle
19 5 of title 15 of the Howard County Code.

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

24
25 **Subtitle 9. - Planning Board**

26
27 **Section 16.900. - Planning Board.**

28 (a) *General Provisions:* General provisions applicable to this Board are set forth in subtitle 3, "Boards
29 and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County
30 Code.

31 (b) *Number of Members.* The Planning Board shall have five members.

32 (c) *Qualifications.* All members of the Planning Board shall be residents of Howard County.

- 1 (d) *Executive Secretary.* The Director of Planning and Zoning or the Director's designee shall serve as
2 Executive Secretary of the Planning Board and shall attend all meetings of the Board.
- 3 (e) *Meetings.* The Planning Board shall hold regular monthly meetings. Special meetings may be held at
4 any time, at the call of the Chair.
- 5 (f) *Records.* The Planning Board shall keep a record of its findings, recommendations, determinations
6 and decisions. The Planning Board shall keep minutes of its proceedings. The records shall be filed
7 with the Department of Planning and Zoning, which shall maintain them.
- 8 (g) *Outside Assistance.* With the approval of the County Executive, the Planning Board may retain legal
9 counsel or consultants as necessary to carry out its function and duties and responsibilities.
- 10 (h) *Studies.* The Planning Board may initiate studies related to the general duties and responsibilities and
11 functions of the Board. For the purpose of conducting such studies, the Board shall have the assistance
12 of the staff of the Department of Planning and Zoning, as may be provided in the budget.
- 13 (i) *Hearings.* Prior to making recommendations to the County Council on adoption of the general plan,
14 the Planning Board shall hold at least one public hearing at which interested persons shall be afforded
15 a reasonable opportunity to be heard regarding the general plan. In addition, prior to making
16 recommendations to the County Council on adoption of comprehensive zoning, the Planning Board
17 shall hold at least one public hearing at which interested persons shall be afforded a reasonable
18 opportunity to be heard regarding the comprehensive zoning. In both cases, at least 30 days' notice
19 of the time and place of the hearing shall be on the County's website. The Planning Board may hold
20 hearings on any matter pending before it and shall hold hearings upon written request of the County
21 Executive or on resolution of the County Council and as required by law and regulations.
- 22 (j) *Duties and Responsibilities.* The Planning Board shall carry out all duties and responsibilities assigned
23 to it by law.
- 24 (1) *Recommendations on Planning and Zoning:*
- 25 (i) *Recommendations.* The Planning Board shall make recommendations to the County Council
26 and the Zoning Board on all matters relating to:
- 27 The Planning and Zoning of the County, the adoption and amendment of regulations
28 regarding the Planning and Zoning of the County, and amendments to the zoning map or
29 zoning regulations.
- 30 (ii) *Time frame.* The Planning Board shall make its recommendations within a reasonable period
31 of time, but in any event no more than 45 days after it hears the petition unless the Zoning
32 Board or the County Council allow a longer period of time for the Planning Board to make its
33 recommendations.

1 (iii) *Deadline for Planning Board recommendations for planning and zoning legislation to be*
2 *considered by the County Council* . A bill proposing the adoption and amendment of the
3 Comprehensive General Plan, regulations regarding the Planning and Zoning of the County,
4 or the zoning map or zoning regulations shall not be added to the Council's legislative
5 agenda until the County Council has received:

6 a. A final technical staff report and ANALYSIS [[recommendation]] from the Department of
7 Planning and Zoning; and

8 b. A recommendation and report from the Planning Board.

9 (2) *Decision making:*

10 (i) The Planning Board shall make decisions with respect to matters submitted to it pursuant to
11 the laws, rules, regulations, and ordinances of the County.

12 (ii) The Planning Board has authority regarding street naming and house numbering pursuant
13 to subtitle 4, "Street Names and House Numbers" of [this] title 16 of the Howard County
14 Code.

15 (iii) Any person specially aggrieved by any decision of the Planning Board and a party to the
16 proceedings before it may, within 30 days thereof, appeal said decision to the Board of
17 Appeals in accordance with section 501 of the Howard County Charter. For purposes of this
18 section the term "any person specially aggrieved" includes but is not limited to a duly
19 constituted civic, improvement, or community association provided that such association or
20 its members meet the criteria for grievement set forth in subsection 16.103(b) of this title.

21 (3) *Recommendations on capital programs and capital budgets:*

22 (i) *Recommendations.* Each year the Planning Board shall review the proposed capital program
23 and any new or substantially changed capital project, pursuant to law. It shall prepare
24 comments and recommendations on the impact of the proposed capital program on the
25 County general plan and the growth of the County and submit these comments and
26 recommendations to the County Executive, with a copy to the County Council.

27 (ii) *Time frame.* The proposed capital programs for the following fiscal year shall be submitted
28 to the Planning Board at least two months before the County Executive is required to file the
29 County's proposed capital program. The Planning Board shall submit its comments and
30 recommendations within one month of receiving the proposed programs.

31 (4) *General plan guidelines:*

1 (i) *Preparation of guidelines.* Within five years from the adoption of this comprehensive rezoning
2 plan, the Planning Board shall prepare general guidelines to be used by the Department of
3 Planning and Zoning in the preparation and/or revision of the general plan.

4 (ii) *Adoption of guidelines.* The County Council shall adopt the guidelines by resolution prior to
5 the formulation of the general plan utilizing these guidelines.

6 (5) *Other recommendations.* At the directive of the County Executive or by resolution of the County
7 Council, the Planning Board shall review and make recommendations on any matter related to
8 planning.

9

10

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

Introduced October 5, 2020
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2020 Legislative Session

Legislative Day No. **14**

Bill No. 57 -2020

Introduced by: David Yungmann
Co-sponsored by: Deb Jung

AN ACT amending the Howard County Code to replace the recommendation requirement with an analysis requirement for the Department of Planning and Zoning's Technical Staff Reports; and generally relating to Technical Staff Reports.

Introduced and read first time October 5, 2020. Ordered posted and hearing scheduled.

By order *Diane Schwartz Jones*
Diane Schwartz Jones, 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 _____, 2020.

By order _____
Diane Schwartz Jones, Administrator

This Bill was read the third time on _____, 2020 and Passed ____, Passed with amendments ____, Failed ____.

By order _____
Diane Schwartz Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2020 at ___ a.m./p.m.

By order _____
Diane Schwartz Jones, Administrator

Approved/Vetoed by the County Executive _____, 2020

Calvin Ball, County Executive

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3 *By amending:*

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5 *Subtitle 2. "Zoning"*

6 *Section. 16.204. "Piecemeal map amendments and development plan*
7 *approvals."; and*

8 *Section. 16.208. "Zoning regulation text amendments.".*

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

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

11 *Subtitle 9. "Planning Board"*

12 *Section 16.900. "Planning Board."*

13
14 **HOWARD COUNTY CODE**

15
16 **Title 16 - Planning, Zoning and Subdivisions and Land Development Regulations**

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18 **Subtitle 2. – Zoning**

19
20 **Section. 16.204. - Piecemeal map amendments and development plan approvals.**

- 21 (a) *Zoning Board.* The Zoning Board may exercise the Zoning Authority delegated to it by this subtitle to
22 make decisions on piecemeal map amendments and development plans in pursuance of a petition
23 filed in accordance with section 16.205 of this subtitle and shall establish procedures for doing so.
- 24 (b) *Mediation.* The Zoning Board may refer an applicant and other persons affected by a pending
25 application, other than piecemeal map amendment cases based on the change/mistake rule as
26 established by Maryland Case Law, to the Mediation and Conflict Resolution Center, Inc., of Howard
27 County or a conflict resolution or mediation service which has been deemed acceptable by the Board.
28 The purpose of such referral shall be to resolve conflicts between these parties, but the results thereof
29 shall not bind the Board to any result. Any resolution that is agreed upon by both parties shall be
30 subject to findings of the Board required by law. Petition approval may not be granted solely on the
31 basis of mediation resolution.

1 A referral may be made either before or after a public hearing on a pending petition decision, but only
2 after an application is deemed complete. Mediation shall not occur after the Zoning Board votes on a
3 petition. The cost of the mediation service shall be incurred by the petitioner.

4 If no agreement is reached between the parties within 45 days, or at anytime the mediator deems any
5 further meetings futile, the Board shall continue with its proceedings or deliberations on the matter. If both
6 parties agree, mediation may be 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 time, with or without a
8 mediator, in an attempt to resolve their differences. It is the policy of the County to encourage applicants
9 and neighbors to have early discussions on proposed projects so that differences may be resolved prior
10 to the submission of an application.

11 (c) *Public Hearing Required.* The Zoning Board shall hold a public hearing on these piecemeal map
12 amendments and development plan petitions at which parties in interest and citizens shall have an
13 opportunity to be heard. The Zoning Board shall be prohibited from holding meetings which include an
14 opportunity for public testimony on any day on which Rosh Hashanah, Yom Kippur, Eid Ul Fitr or Eid
15 Ul Adha is observed. The Zoning Board shall not take final action on piecemeal map amendments or
16 development plan petitions until after the public hearing.

17 (d) *Advertising.* At least 30 days prior to the initial public hearing on the piecemeal map amendment or
18 development plan petitions, the petitioner, at its own expense, shall advertise the date, time, place and
19 subject matter of the petition in at least two newspapers of general circulation in Howard County.

20 (e) *Posting and Mail Notice:*

21 (1) At least 30 days prior to the initial public hearing on the piecemeal map amendment or
22 development plan petitions, the petitioner shall:

23 (i) Post the property which is the subject of the hearing with the date, time, place and subject
24 matter of the hearing. The sign shall include the address of Department of Planning and
25 Zoning's website. The poster shall be double-sided and at least 30 inches by 36 inches in
26 size. The poster shall include a three digit alphanumeric code, which would be used to
27 identify the case. The alphanumeric code shall be posted by the Department of Planning and
28 Zoning in at least five-inch lettering in the top left corner of the poster. The Department of
29 Planning and Zoning shall determine the number of posters required and their location and
30 the petitioner shall bear the expense of posting. The Department of Planning and Zoning
31 shall supply the posters. The petitioner shall properly erect and maintain the posters; and

32 (ii) Send a certified letter to all persons whose property is adjoining to the property which is the
33 subject of the petition, according to the most recent State taxation and assessment records,

1 notifying those persons of the date, time, place and subject matter of the hearing in
2 accordance with subsection 16.203(c)(7) and of this subtitle.

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

6 (f) *Report of the Planning Board.* Petitions for piecemeal map amendments or development plan
7 approvals shall be submitted to the Planning Board. At least 30 days prior to a Planning Board meeting
8 on any piecemeal map amendment or development plan, the petitioner shall send notice of such
9 meeting to the relevant subscribers on the list maintained by the Department of Planning and Zoning
10 in accordance with subsection 16.145(b)(3). The Zoning Board shall consider the report of the Planning
11 Board on such petitions before the Zoning Board takes final action on them.

12 (g) *Department of Planning and Zoning's Findings and [[Recommendations]] Analysis.* The Department
13 of Planning and Zoning shall transmit its findings and [[recommendations]] ANALYSIS concerning a
14 petition for piecemeal map amendments or development plans in a technical staff report to the
15 Planning Board at least two weeks prior to the public meeting on a petition.

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

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

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

1 (k) *Documentation.*

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

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

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

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

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

15
16 **Section. 16.208. - Zoning regulation text amendments.**

17 (a) *Petition.* Any person, the Director of the Department of Planning and Zoning, the members of the
18 County Council or any duly appointed county board may petition the County Council for an
19 amendment, repeal, or change to the text of the zoning regulations.

20 (b) *Copy of petition to Department of Planning and Zoning and Planning Board; [[Recommendations]].*
21 The County Council shall deliver a copy of the proposed zoning regulation text amendment to the
22 Department of Planning and Zoning and to the Planning Board. The Department of Planning and
23 Zoning shall prepare and submit a technical staff report [[and recommendation]] to the County Council
24 on the proposed text amendment petition. The Planning Board shall also prepare and submit a
25 recommendation to the County Council on the proposed text amendment petition.

26 (c) *Consideration of proposed text amendment.* When exercising the Zoning Authority of Howard County
27 with respect to the consideration of and decision on a proposed zoning regulation text amendment,
28 the County Council shall proceed in the following manner:

29 (1) The County Council shall introduce a bill proposing the adoption of the text amendment as
30 submitted by the petitioner or as amended pursuant to THE TECHNICAL STAFF REPORT
31 [[recommendations]] of the Department of Planning and Zoning, OR RECOMMENDATIONS OF THE
32 Planning Board or the County Council.

- 1 (2) A bill proposing the adoption of the text amendment shall not be added to the Council's legislative
2 agenda until the County Council has received:
- 3 (i) A final technical staff report and [[recommendation]] ANALYSIS from the Department of
4 Planning and Zoning; and
- 5 (ii) A recommendation and report [[form]] FROM the Planning Board.
- 6 (3) The County Council shall vote on the proposed bill according to County Council bill procedures.
7

8 **Subtitle 8. – Department of Planning and Zoning**
9

10 **Section. 16.801. - The Department of Planning and Zoning.**

- 11 (a) *Head.* The Director of Planning and Zoning shall be the head of the Department of Planning and
12 Zoning (formerly known as the Office of Planning and Zoning).
- 13 (b) *Qualifications of Director of Planning and Zoning.* The Director of Planning and Zoning shall be a
14 trained planner with wide and varied experience in the fields of Planning and Zoning. The Director
15 shall have ten years of experience in urban and regional planning and shall have held a position of
16 administrative leadership and responsibility for at least five years.
- 17 (c) *Duties and Responsibilities.* The Department of Planning and Zoning shall comprehensively plan for
18 the growth and development of the County, including but not limited to the functions set forth in this
19 subsection.
- 20 (1) *Comprehensive general plan.* Within five years from the adoption of the comprehensive rezoning
21 plan, the Department of Planning and Zoning shall coordinate the preparation and revision of a
22 general plan for the County, including but not limited to a plan for land use and land conservation
23 and multiyear development plans for transportation, public facilities, water, sewerage, parkland,
24 housing, human services and environmental protection. The general plan shall follow general
25 guidelines promulgated by the Planning Board and adopted by the County Council.
- 26 (2) *Subdivision rules and regulations:*
- 27 (i) *Preparation.* The Department of Planning and Zoning shall prepare and periodically revise
28 procedures governing the subdivision of land and land development.
- 29 (ii) The Department of Planning and Zoning shall prepare recommended language for
30 legislation governing development and the subdivision of land and shall forward this to the
31 County Executive for submission to the County Council.

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

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

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

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

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

12 (i) *Piecemeal map amendments.* The Department of Planning and Zoning shall receive all
13 petitions for piecemeal amendments to the zoning map. The Department shall accept and
14 review these petitions and prepare findings and [[recommendations]] ANALYSIS. The
15 Department shall submit these petitions, [[recommendations and]] findings AND ANALYSIS to
16 the Planning Board for its recommendations after public notice and then to the Zoning Board.
17 The Zoning Board, after public notice, shall hold a public hearing on the proposed
18 reclassification or amendment prior to taking action.

19 (ii) *Text amendments.* The County Council shall receive all petitions for text amendments to the
20 zoning regulations. The County Council shall submit these petitions to the Department of
21 Planning and Zoning FOR STAFF FINDINGS AND ANALYSIS, and to the Planning Board for their
22 review and recommendations.

23 (5) *Deadline for traffic studies and all other technical reports for petitions to be considered by the*
24 *Zoning Board, County Council, and the Planning Board.* Any petitioner seeking approval from the
25 Zoning Board, County Council, or the Planning Board in a public hearing shall submit other
26 technical reports to the Department of Planning and Zoning at least two weeks prior to the
27 Planning Board meeting or hearing concerning the petition. Within two weeks of the public
28 hearing, no additional information shall be accepted by the Department of Planning and Zoning.
29 Any other technical reports submitted during Planning Board or Zoning Board deliberations shall
30 result in the granting of at least a two week postponement for the opposing party, upon request.
31 The Zoning Board, County Council, or Planning Board may request any additional information
32 during its deliberation process and grant the parties at least a two-week postponement, upon
33 request.

- 1 (6) *Deadline for technical staff reports for petitions to be considered by the Zoning Board, County*
2 *Council, and Planning Board.* The Department of Planning and Zoning shall transmit its findings
3 and [[recommendations]] ANALYSIS concerning petitions to be considered by the Zoning Board,
4 County Council, or the Planning Board to the [[Planning Board]] BODY and the general public at
5 least two weeks prior to any required public meeting or hearing. DEPARTMENTAL
6 RECOMMENDATIONS SHALL NOT BE INCLUDED IN THE TECHNICAL STAFF REPORT . Any initial meeting
7 or hearing shall not be scheduled until all questions raised by the Department of Planning and
8 Zoning in their technical staff report are answered by the petitioner, as determined by the
9 Department of Planning and Zoning. Failure to adhere to this provision will result in a
10 postponement in consideration of the report until the next meeting or hearing.
- 11 (7) *Other zoning changes.* The Department of Planning and Zoning shall receive all petitions related
12 to zoning matters, such as conditional uses, variances, and nonconforming uses. The Department
13 shall accept and review these applications and petitions and shall transmit them to the Hearing
14 Examiner for the Board of Appeals. For all petitions related to variances in nonresidential districts,
15 conditional uses, and extension, enlargement, or alteration of nonconforming uses, the
16 Department shall prepare findings and [[recommendations]] ANALYSIS in a technical staff report
17 and shall submit the petitions, findings and [[recommendations]] ANALYSIS to the Hearing
18 Examiner for the Board of Appeals. The technical staff report shall be made available to the
19 Hearing Examiner and the general public at least two weeks prior to any required public meeting
20 or hearing. If the Hearing Examiner approves a petition subject to an amendment or modification
21 of the petition and the approval is appealed to the Board of Appeals, the Department will prepare
22 and submit to the Board its findings and [[recommendations]] ANALYSIS concerning the
23 amendment or modification in a technical staff report. The technical staff report shall be made
24 available to the Board of Appeals and the general public at least two weeks prior to any required
25 public meeting or hearing.
- 26 (8) *Sites for public facilities.* The Department of Planning and Zoning shall assist in the preparation
27 of comprehensive multiyear plans for the siting and development of public facilities, including but
28 not limited to schools, police and fire stations, parks, facilities for the provision of water and the
29 handling of sewage and solid waste, libraries, and government offices.
- 30 (9) *Historic preservation.* The Department of Planning and Zoning shall be responsible for the
31 administration and enforcement of the County's laws and regulations governing historic
32 preservation.
- 33 (10) *Capital program.* Each year the Department of Planning and Zoning shall review the proposed
34 capital program. The Department shall prepare comments and recommendations on the impact

1 of the proposed capital program on the County general plan and the growth of the County and
2 submit these comments and recommendations to the County Executive.

3 (11) *Planning Board.* The Director of Planning and Zoning or the Director's designee shall serve as
4 Executive Secretary of the Planning Board and shall attend all meetings of that board.

5 (12) *Agricultural preservation.* The Department of Planning and Zoning is responsible for the
6 acquisition and stewardship of the agricultural land preservation easements, pursuant to subtitle
7 5 of title 15 of the Howard County Code.

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

12
13 **Subtitle 9. - Planning Board**

14
15 **Section 16.900. - Planning Board.**

16 (a) *General Provisions:* General provisions applicable to this Board are set forth in subtitle 3, "Boards
17 and Commissions," of title 6, "County Executive and the Executive Branch," of the Howard County
18 Code.

19 (b) *Number of Members.* The Planning Board shall have five members.

20 (c) *Qualifications.* All members of the Planning Board shall be residents of Howard County.

21 (d) *Executive Secretary.* The Director of Planning and Zoning or the Director's designee shall serve as
22 Executive Secretary of the Planning Board and shall attend all meetings of the Board.

23 (e) *Meetings.* The Planning Board shall hold regular monthly meetings. Special meetings may be held at
24 any time, at the call of the Chair.

25 (f) *Records.* The Planning Board shall keep a record of its findings, recommendations, determinations
26 and decisions. The Planning Board shall keep minutes of its proceedings. The records shall be filed
27 with the Department of Planning and Zoning, which shall maintain them.

28 (g) *Outside Assistance.* With the approval of the County Executive, the Planning Board may retain legal
29 counsel or consultants as necessary to carry out its function and duties and responsibilities.

1 (h) *Studies.* The Planning Board may initiate studies related to the general duties and responsibilities and
2 functions of the Board. For the purpose of conducting such studies, the Board shall have the assistance
3 of the staff of the Department of Planning and Zoning, as may be provided in the budget.

4 (i) *Hearings.* Prior to making recommendations to the County Council on adoption of the general plan,
5 the Planning Board shall hold at least one public hearing at which interested persons shall be afforded
6 a reasonable opportunity to be heard regarding the general plan. In addition, prior to making
7 recommendations to the County Council on adoption of comprehensive zoning, the Planning Board
8 shall hold at least one public hearing at which interested persons shall be afforded a reasonable
9 opportunity to be heard regarding the comprehensive zoning. In both cases, at least 30 days' notice
10 of the time and place of the hearing shall be on the County's website. The Planning Board may hold
11 hearings on any matter pending before it and shall hold hearings upon written request of the County
12 Executive or on resolution of the County Council and as required by law and regulations.

13 (j) *Duties and Responsibilities.* The Planning Board shall carry out all duties and responsibilities assigned
14 to it by law.

15 (1) *Recommendations on Planning and Zoning:*

16 (i) *Recommendations.* The Planning Board shall make recommendations to the County Council
17 and the Zoning Board on all matters relating to:

18 The Planning and Zoning of the County, the adoption and amendment of regulations
19 regarding the Planning and Zoning of the County, and amendments to the zoning map or
20 zoning regulations.

21 (ii) *Time frame.* The Planning Board shall make its recommendations within a reasonable period
22 of time, but in any event no more than 45 days after it hears the petition unless the Zoning
23 Board or the County Council allow a longer period of time for the Planning Board to make its
24 recommendations.

25 (iii) *Deadline for Planning Board recommendations for planning and zoning legislation to be*
26 *considered by the County Council .* A bill proposing the adoption and amendment of the
27 Comprehensive General Plan, regulations regarding the Planning and Zoning of the County,
28 or the zoning map or zoning regulations shall not be added to the Council's legislative
29 agenda until the County Council has received:

30 a. A final technical staff report and ANALYSIS [[recommendation]] from the Department of
31 Planning and Zoning; and

32 b. A recommendation and report from the Planning Board.

33 (2) *Decision making:*

- 1 (i) The Planning Board shall make decisions with respect to matters submitted to it pursuant to
2 the laws, rules, regulations, and ordinances of the County.
- 3 (ii) The Planning Board has authority regarding street naming and house numbering pursuant
4 to subtitle 4, "Street Names and House Numbers" of [this] title 16 of the Howard County
5 Code.
- 6 (iii) Any person specially aggrieved by any decision of the Planning Board and a party to the
7 proceedings before it may, within 30 days thereof, appeal said decision to the Board of
8 Appeals in accordance with section 501 of the Howard County Charter. For purposes of this
9 section the term "any person specially aggrieved" includes but is not limited to a duly
10 constituted civic, improvement, or community association provided that such association or
11 its members meet the criteria for aggrievement set forth in subsection 16.103(b) of this title.

12 (3) *Recommendations on capital programs and capital budgets:*

- 13 (i) *Recommendations.* Each year the Planning Board shall review the proposed capital program
14 and any new or substantially changed capital project, pursuant to law. It shall prepare
15 comments and recommendations on the impact of the proposed capital program on the
16 County general plan and the growth of the County and submit these comments and
17 recommendations to the County Executive, with a copy to the County Council.
- 18 (ii) *Time frame.* The proposed capital programs for the following fiscal year shall be submitted
19 to the Planning Board at least two months before the County Executive is required to file the
20 County's proposed capital program. The Planning Board shall submit its comments and
21 recommendations within one month of receiving the proposed programs.

22 (4) *General plan guidelines:*

- 23 (i) *Preparation of guidelines.* Within five years from the adoption of this comprehensive rezoning
24 plan, the Planning Board shall prepare general guidelines to be used by the Department of
25 Planning and Zoning in the preparation and/or revision of the general plan.
- 26 (ii) *Adoption of guidelines.* The County Council shall adopt the guidelines by resolution prior to
27 the formulation of the general plan utilizing these guidelines.

28 (5) *Other recommendations.* At the directive of the County Executive or by resolution of the County
29 Council, the Planning Board shall review and make recommendations on any matter related to
30 planning.

31
32

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

BY THE COUNCIL

This Bill, having been approved by the Executive and returned to the Council, stands enacted on November 4 - _____, 2020.

Diane Schwartz Jones
Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, 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 _____, 2020.

Diane Schwartz Jones, Administrator to the County Council