

Introduced October 5, 2020
Public Hearing October 19, 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

Sealed with the County Seal and presented to the County Executive for approval this 3rd day of November, 2020 at 1:30 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.

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

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 grievance 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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6 Section. 16.204. "Piecemeal map amendments and development plan
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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."

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14 **HOWARD COUNTY CODE**

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18 **Subtitle 2. – Zoning**

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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.

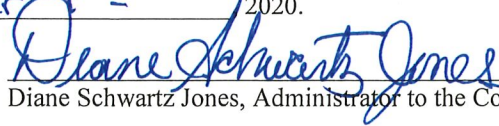
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32

- 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 11 - _____, 2020.



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

Amendment 1 to Council Bill No. 57

BY: Deb Jung

Legislative Day 15

Date: November 2, 2020

Amendment No. 1

1 (Specifies that the Department of Planning and Zoning is not to file a Zoning Regulation
2 Amendment on behalf of private entities and sets criteria for Technical Staff Report analyses.)

3

4 On the title page, in line 1 of the title, after “to”, insert “specify that the Department of Planning
5 and Zoning is only to submit Zoning Regulation Amendment petitions on behalf of the County;”.

6

7 On the title page, in line 2 of the title, after the semi-colon, insert “to establish criteria for
8 Technical Staff Report analyses;”.

9

10 On page 4, in line 17, after “Zoning”, insert “ON BEHALF OF THE COUNTY BUT NOT ON BEHALF OF
11 A PRIVATE ENTITY”.

12

13 On page 4, in line 22, after the period, strike “THE” and insert “SUBJECT TO SUBSECTION (D) OF
14 THIS SECTION, THE”.

15

16 On page 4, in line 24, strike “also”.

17

18 On page 5, in line 7, insert the following:

19 “(D) TECHNICAL STAFF REPORT.”

20 AT A MINIMUM, THE TECHNICAL STAFF REPORT SHALL INCLUDE AN ANALYSIS OF:

ADOPTED November 2, 2020
FAILED
SIGNATURE Diana Schwartz Jones

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(1) THE COMPATIBILITY, INCLUDING POTENTIAL ADVERSE IMPACTS AND CONSEQUENCES, OF THE PROPOSED ZONING REGULATION AMENDMENT WITH THE EXISTING AND POTENTIAL LAND USES OF THE SURROUNDING AREAS AND WITHIN THE SAME ZONING DISTRICT;

(2) THE PROPERTIES TO WHICH THE ZONING REGULATION AMENDMENT COULD APPLY AND , IF FEASIBLE, A MAP OF THE IMPACTED PROPERTIES;

(3) CONFLICTS IN THE HOWARD COUNTY ZONING REGULATIONS AS A RESULT OF THE ZONING REGULATION AMENDMENT; AND

(4) THE COMPATIBILITY OF THE PROPOSED ZONING REGULATION AMENDMENT WITH THE POLICIES AND OBJECTIVES, SPECIFICALLY INCLUDING THE ENVIRONMENTAL POLICIES AND OBJECTIVES, OF THE HOWARD COUNTY GENERAL PLAN.”.

Amendment 1 to Council Bill No. 57

BY: Deb Jung

Legislative Day 15

Date: November 2, 2020

Amendment No. 1

1 *(Specifies that the Department of Planning and Zoning is not to file a Zoning Regulation*
2 *Amendment on behalf of private entities and sets criteria for Technical Staff Report analyses.)*

3

4 On the title page, in line 1 of the title, after “to”, insert “specify that the Department of Planning
5 and Zoning is only to submit Zoning Regulation Amendment petitions on behalf of the County;”.

6

7 On the title page, in line 2 of the title, after the semi-colon, insert “to establish criteria for
8 Technical Staff Report analyses;”.

9

10 On page 4, in line 17, after “Zoning”, insert “ON BEHALF OF THE COUNTY BUT NOT ON BEHALF OF
11 A PRIVATE ENTITY”.

12

13 On page 4, in line 22, after the period, strike “THE” and insert “SUBJECT TO SUBSECTION (D) OF
14 THIS SECTION, THE”.

15

16 On page 4, in line 24, strike “also”.

17

18 On page 5, in line 7, insert the following:

19 “(D) TECHNICAL STAFF REPORT.”

20

AT A MINIMUM, THE TECHNICAL STAFF REPORT SHALL INCLUDE AN ANALYSIS OF:

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- (1) THE COMPATIBILITY, INCLUDING POTENTIAL ADVERSE IMPACTS AND CONSEQUENCES, OF THE PROPOSED ZONING REGULATION AMENDMENT WITH THE EXISTING AND POTENTIAL LAND USES OF THE SURROUNDING AREAS AND WITHIN THE SAME ZONING DISTRICT;
- (2) THE PROPERTIES TO WHICH THE ZONING REGULATION AMENDMENT COULD APPLY AND , IF FEASIBLE, A MAP OF THE IMPACTED PROPERTIES;
- (3) CONFLICTS IN THE HOWARD COUNTY ZONING REGULATIONS AS A RESULT OF THE ZONING REGULATION AMENDMENT; AND
- (4) THE COMPATIBILITY OF THE PROPOSED ZONING REGULATION AMENDMENT WITH THE POLICIES AND OBJECTIVES, SPECIFICALLY INCLUDING THE ENVIRONMENTAL POLICIES AND OBJECTIVES, OF THE HOWARD COUNTY GENERAL PLAN.”.

Office of the County Auditor
Auditor's Analysis

Council Bill No. 57-2020

Introduced: October 5, 2020

Auditor: Maya Cameron

Fiscal Impact:

There is no expected fiscal impact of this legislation.

According to the Department of Planning and Zoning, their current practice of evaluating proposed zoning changes in a Technical Staff Report (TSR) is expected to satisfy the analysis requirement noted in this legislation. Therefore, no additional efforts or costs will be incurred.

Purpose:

The purpose of this legislation is to replace the recommendation requirement with an analysis requirement for the Department of Planning and Zoning's TSRs and all other TSRs.

Other Comments:

Other than the removal of the recommendation, no other changes to the TSR are required.

Office of the County Auditor
Auditor's Analysis

Amendment No. 1
Council Bill No. 57-2020

Amendment Proposed by: Council Chair Deb Jung

Introduced: October 5, 2020

Auditor: Maya Cameron

Fiscal Impact:

We do not foresee a fiscal impact as a result of this amendment.

The Department of Planning and Zoning (DPZ) has indicated that the changes stipulated for the Technical Staff Report can be handled utilizing current staff and do not require additional FTEs (full-time equivalents).

Purpose:

This amendment stipulates that the Department of Planning and Zoning is only to submit Zoning Regulation Amendment petitions on behalf of the County, not private entities. Additionally, the amendment establishes criteria for the Technical Staff Report analyses.

Other Comments:

None.

**HCCA****Howard County Citizens Association***Since 1961...**The Voice Of The People of Howard County*

Date: 19 October 2020

Subject: HCCA Testimony for CB57-2020

We, the Howard County Citizens Association, HCCA want to express our sincere gratitude to both Councilmembers David Yungmann and Deb Jung for introducing and co-sponsoring CB57-2020 to eliminate the "Recommendation" section in the Technical Staff Report, TSR prepared by the Department of Planning and Zoning, DPZ. You not only listened to our suggestion, but acted on it! This is deeply appreciated as it should assist in attempting to better balance the scales of justice.

This Bill should be unanimously passed especially since Amy Gowan; the Director of DPZ is very much in Favor of eliminating the "Recommendation" section. DPZ's role should be as a Regulator not a Facilitator! The adoption of this legislation should bring impartiality to any cases when TSR's are applicable and should enforce independent thinking. This certainly is needed as Planning Board members have stated they use the "Recommendation" section as their major guide. Currently anyone in opposition of a given petition is at a tremendous disadvantage because over the years how many times has DPZ disapproved a Petition. The passage of this Bill will be advantageous because as you know we cannot ask questions to DPZ at Planning Board Hearings, but we can at Zoning Board Hearings. This contradiction needs to be revisited by you and reconsidered by the three who voted against it in CB32-2019.

One thing we don't want to see is that anyone acting as decision makers such as the Planning or Zoning Board should not be permitted to ask anyone testifying for DPZ whether they approve or for that matter Disapprove the Petition before them.

Because of the allotted testimony time we have suggested changes since this Bill addresses areas of the Planning and Zoning Boards as well as questioning DPZ at Hearings, etc. We would like the opportunity to meet with interested Councilpersons to try and bring some needed reform to lead to adopted legislation for needed improvements.

Your vote in FAVOR of CB57-2020 will show your constituents that you believe in a much fairer and independent system of justice for all.

Thank you,
Stu Kohn
HCCA President

James M. (Jack) Guarneri
10224 Little Brick House Court
Ellicott City, MD 21042
Resident Council District 1

E-Mail: jackguarneri@gmail.com/Phone: (301) 844-8930
Testimony for Howard County Council for October 19, 2020

Supporting Council Bill 57-2020

Bottom Line Up Front: CB57-2020 proposes amending the Howard County Code to replace the recommendation requirement with an analysis requirement for the Department of Planning and Zoning's (P&Z) Technical Staff Reports. The analysis being required should be more specific and direct P&Z to phase-in a Cost-Benefit Analysis for testimony on petitions for rezoning and waivers to the Planning and Zoning Boards. This analysis should, at a minimum, assess fiscal impact on County and provide a comprehensive assessment of impact on schools, traffic and environment.

My Experience: I am a 30 year resident of Howard County and a retired Applied Mathematician and Operations Analyst with 40+ years experience in both the U.S. Navy and Johns Hopkins University Applied Physics Laboratory. My specialty was Cost-Benefit Analysis including developing requirements, assessing alternatives, and identifying unintended consequences for Government Decision Makers (Senior Military Officers, elected officials, and senior Civil Service). I am also a founding member and president of the Bicycling Advocates of Howard County and a member of Smarter Growth Alliance for Howard County.

Background: I did not attend a meeting of either the PB or ZB until about 1.5 years ago. I was shocked by the lack of detail that was provided by the Director of P&Z briefing of the Technical Staff Report; it was essentially a checklist assessment of the thresholds in code and whether the petitioner had met or exceeded minimum requirements. I was even more surprised that the assessment ended with a recommendation to approve before any other testimony or analysis was presented. It provided the impression that the primary role of P&Z was facilitating the approval process rather than providing detailed information to County Board Members so that they could assess whether the petition was consistent with the General Plan and identify any potential negative impacts on the County and citizens.

Cost-Benefit Analysis Overview:

- **Benefit Assessment:** The benefits of granting the petition for the County can be assessed either financially or through the projected impact of the proposal on community, residents or segments of the population – examples:

Fiscal benefits to County can include:

- Fees receive/long-term tax revenues projected
- Potential benefits to local businesses and secondary tax revenue.

Impacts of the proposed development on objectives in the General Plan and/or existing County residents – such as:

- Provides affordable housing in an area of County it is needed to help balance socio-economic mix in schools.
- Provides affordable housing/assisted living for low-income seniors.
- Increased businesses that will employ residents and provide more balance to tax base.

- **Cost Assessment** (not just fiscal but the potential impact/unintended consequences on the County and its residents) - examples:

1. **Transportation:** Although the current requirement for a petition to PB/ZB does require a traffic study it is typically performed by petitioner hired consultant and is limited to Adequate Public Facilities Ordinance (APFO) requirement for impact on nearest intersections to the property. In reality traffic is cumulative and affects a much larger area – for example major east/west corridors (Routes 1, 40, 99, and 108) may all experience increased density for miles beyond the property in question. In addition the impact on alternative transportation/complete streets (transit, pedestrians and bicyclists), is not currently assessed. County subject matter experts need to conduct an impact assessment of potential expenditure for transportation improvements that maybe needed if the petition is approved.
2. **Schools:** Although AFPO does call for an assessment of school fill impact it is limited to schools the property is currently zoned for and capped at a 4 year delay in approval. In addition, retirement communities (and over 55 developments) are exempted from the school fill assessment, but it is naïve to think that there is no impact from senior communities, due to prior home resales, on the school system. This can result in a significant number of new students added into our already stressed school system with no or inadequate financial compensation to the County.
3. **Environmental Impacts:** Many waivers requested are to remove trees (in order to increase the number of units or buildable land) or for stormwater mitigation. After the flooding events in Old Ellicott City, and the many flood mitigation and stream restoration projects that Public Works has had to expend limited funds undertaking, a more detailed environmental study by P&Z is needed to assess the cumulative impact of additional development in flood zones that would contribute to environmental problems.
4. **Other Additional Analyses/Data:**
 - **Opportunity Costs:** There is a quote sometimes attributed to Albert Einstein: *“Not everything that counts can be counted, and not everything that can be counted counts.”* There is limited developable property still available in Howard County (estimate from Planning and Zoning is ~9%). The question that the PB/ZB Board needs to ask when considering any rezoning (up zoning) of a development is what other uses could this property be used for that would of greater value to the community and of other citizens in the County.

These uses could include future:

- School
- Library
- Senior Center
- Subsidized affordable housing
- **Tradeoffs:** Amenities or impact mitigation offered by petitioner needs to be balanced against future needs for County facilities, and this should include the cost of procuring sites in the community for needed new facilities.
- **Precedent:** There should be a review of what the impact has been on Howard County (or other counties) of approving similar rezoning or waivers in the past. How closely projected impacts on finances, traffic, schools and environment were actually experienced should be considered. Also the track record of the petitioner in meeting previous promises and obligations to the County should be considered.
- **Tutorials:** Due to the other duties and requirements for PB/ZB members it is foolish to think that a detailed analysis of issues above can be understood without providing some level of tutorial on how analysis/modeling was done and how valid some of the estimates on impact or cost maybe. If Board Members are expected to ask detailed questions and make smart decisions they must have background knowledge that is reinforced on every case brought to them.

Conclusion: The current assessment process used by DPZ for supporting decisions on rezoning and waivers is flawed and does not provide adequate information to the PB or ZB members to allow them to make the best possible decisions. Requiring a more detailed analysis by P&Z is needed, but it must be more specific in order to allow proper implementation by the Director of P&Z. The P&Z recommendation requirement should be removed immediately, and an Amendment should be added to CB57-2020 on additional analyses and a timetable for phase in by DPZ for presentations to the PB and ZB.

The most dangerous phrase in the language is, 'We've always done it this way.'
Rear Admiral Grace Murray Hopper, U.S. Navy

The People's Voice

October 18, 2020

Support of CB 57-

We support removing the recommendation portion of the DPZ's Technical Staff Reports. When the DPZ notes the areas of analysis regarding regulations, criteria, rules, and requirements in these reports, they are already able to opine as to whether or not these things are met or a change is needed in order to meet them. There is not the added necessity to sum it up and give a recommendation as to the final decision to a decision-making body, either in written form with the TSR or as a representative oral recommendation from the DPZ as testimony.

This would help to make it more likely that all decision-makers on County Boards and entities, read through the details of these reports to be fully informed.

County master plans, general plans, or subsets of these efforts, can have DPZ analysis of detailed issues without having recommendation to approve or deny updates, etc. Certainly, with regard to Hearing Examiner, Board of Appeals, Planning and Zoning Board matters, there is no need for DPZ to weigh in on a final decision. Rather, as a County government entity, they should only be providing information and are already given great importance in the proceedings.

Lisa Markovitz

President

The People's Voice is a civic/political organization with over 4000 members in Howard County and over 500 in Montgomery County.



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

County Council regarding CB57-2020 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: _____

Date: 15 Oct 2020

Organization: HCCA

Organization Address: HCCA, Inc, P.O. Box 89, Ellicott City MD 21041

HCCA, Inc, P.O. Box 89, Ellicott City MD 21041

Number of Members: 500

Name of Chair/President: Stu Kohn

This form can be submitted electronically via email to councilmail@howardcountymd.gov no later than 2 hours prior to the start of the Public Hearing.