

CB 56-2022

Sayers, Margery

From: Christopher J. Alleva <jens151@yahoo.com>
Sent: Tuesday, September 20, 2022 10:08 AM
To: CouncilMail; Royalty, Wendy; Williams, China; Knight, Karen; Gelwicks, Colette; Harris, Michael
Subject: CB 56-2022 Affidavits of Disclosure Testimony of Christopher Alleva
Attachments: CB 56-2022 Testimony.pdf; CB56-2022 with Markup.pdf

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Please find my testimony for CB 56-2022 along with a markup that also shows the three (3) amendments I am advocating.

With every best regard, I am Chris Alleva

September 19, 2022

Howard County Council, Legislative Public Hearing

Testimony of Christopher Alleva in Support of CB 56-2022

On August 18, 2022, I testified to the Planning Board on the FDP Amendment to FDP 50 A. I raised as a preliminary matter that Howard Research and Development Corporation, and their parent corporation, The Howard Hughes Corporation are required to file an affidavit of contribution for Final Development Plan amendments since an FDP has the full force and effect of a Zoning Regulation under section 125.D.6 and therefore an amendment thereto is a Zoning Regulation amendment and subject to Part VIII of the Maryland Public Ethics Law, Special Provisions for Howard County. It is my position that FDP amendments are applications under the definitions and Howard Research and Development and Howard Hughes Corporation meet the definition of applicant.

The Planning Board's legal counsel advised them that these ethics provisions do apply to matters like this before the Planning Board. I recorded my disagreement and resolved to submit the matter to the Ethics Commission for a formal opinion.

Instead, in the interest of transparency, consistency, fairness and full disclosure, and to avoid ambiguities and conflicts in the Ethics Law I am here to support this bill with amendments to clarify that petitions to amend Final Development Plans and Preliminary Development Plans are subject to this law.

AMENDMENT 1.

Clarifies that FDP and PDP amendments are included.

AMENDMENTS TO FINAL DEVELOPMENT PLANS UNDER SECTION 125.F.1 ARE ZONING REGULATION AMENDMENTS PURSUANT TO SECTION 125.D.6; AND AMENDMENTS TO THE PRELIMINARY DEVELOPMENT DEVELOPMENT PLANS UNDER SECTIONS 125.B.6 and 125.J ARE SUBJECT TO AFFIDAVIT DISCLOSURE BY THE APPLICANT. and disclosure by the Applicant.

AMENDMENT 2

Clarifies who constitutes an Applicant

AND; APPLICANT INCLUDES THE "ORIGINAL PETITIONER" AS SET FORTH IN SECTIONS 125.B.6 and 125.F.1 OF THE ZONING REGULATIONS.

AMENDMENT 3

Expressly adds the Planning Board.

Under Section 5–853. Contributions made by applicants, THE PLANNING BOARD SHALL BE ADDED; and THE PLANNING BOARD AMINISTRATIVE SECRETARY OF THE PLANNING BOARD shall: (1) receive filings of affidavits and disclosures; (2) maintain filed affidavits and disclosures as public records available for review by the general public during normal business hours; (3) report violations to the Howard County Ethics Commission; and (4) perform ministerial duties necessary to administer this part. (h) Summary report. — (1) Promptly on receipt, the administrative assistant to the zoning board, OR [and] the administrator of the County Council OR THE AMINSTRATIVE SECRETARY OF THE PLANNING BOARD shall prepare a summary report compiling all affidavits and disclosures filed under this part. (2) The summary report shall be a public.

Below is a list of 23 ZRAs, FDP amendments and PDP amendments where Howard Hughes failed to file Affidavits of Contributions.

**New Town Zoning Regulations Amendments Requiring Affidavits of Contributions
Howard Hughes Corporation and Howard Research and Development Corporation.**

Under 15-848 (prior to 2014)

ZRA 102, CB 29-2009

ZRA 113 CB58-2009

Under 5-852 (enacted 2014)

ZRA 170 CB54-2016

ZRA 177 February 6, 2016

New Town FDP Amendments Requiring Affidavits of Contributions (14)

FDP 50A Oakland Mills July 21, 2022

FDP 89A Long Reach June 17, 2021

FDP 41A Wilde Lake, May 20, 2021

FDP 51 Oakland Mills November 11, 2019

FDP 158 Kings Contrivance July 11, 2019

FDP 95 Town Center February 1, 2018

FDP 100A Hickory Ridge December 14, 2017

FDP 77A Long Reach December 7, 2017

FDP 55 EGU September 28, 2017

FDP 36A, Oakland Ridge I.C. September 19, 2017

FDP 169 Kings Contrivance April 20, 2017

FDP 117 Sieling August 4 and November 3, 2016

FDP 197 Long Reach July 7, 2016

FDP 201 Middle Patuxent September 2, 2014

New Town Zoning Petitions Requiring Affidavits of Contributions

Under 5-852 (enacted 2014) (5)

ZB 1112 (Long Reach)

ZB1113 (Harpers Farm)

ZB 1119M Hickory Ridge 2019

ZB 1120 Enterprise 2019

ZB 1121M Long Reach 2018

Under 15-848 (prior to 2014) (2)

ZB 1096 M Wilde Lake 2012

ZB 1095 M Columbia Overlook PDP Amendment March 2012

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

County Council of Howard County, Maryland

2022 Legislative Session

Legislative Day No. 13

Bill No. 56-2022

Introduced by: Liz Walsh

AN ACT amending the zoning regulation text amendment process by requiring a certain applicant for a zoning regulation text amendment to file a certain affidavit and disclosure; requiring certain applicants to file a certain affidavit or disclosure; requiring a technical staff report to include a list of certain impacted parcels of land under certain circumstances; requiring the Council Administrator to notify certain title owners of certain information and an obligation to file a certain affidavit and disclosure under certain circumstances; requiring the receipt of certain affidavits and disclosures before a bill may be added to the Council's legislative agenda under certain circumstances; and generally relating to zoning regulation text amendments.

Introduced and read first time _____, 2022. Ordered posted and hearing scheduled.

By order _____
Michelle R. Harrod, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2022.

By order _____
Michelle R. Harrod, Administrator

This Bill was read the third time on _____, 2022 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Michelle R. Harrod, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ____ day of _____, 2022 at ____ a.m./p.m.

By order _____
Michelle R. Harrod, Administrator

Approved/Vetoed by the County Executive _____, 2022

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 County
2 Code is hereby amended as follows:

3 By amending:

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

5 Subtitle 1. Zoning.

6 Section 16.208. – Zoning regulation text amendments.

8 HOWARD COUNTY CODE

9 Title 16 – Planning, Zoning and Subdivisions and Land Development Regulations

10 Subtitle 2. Zoning

11 Sec. 16.208. - Zoning regulation text amendments.

12 (a) *Petition.* Any person, the Director of the Department of Planning and Zoning, on behalf of
13 the County but not on behalf of a private [[entity]] ENTITY, the members of the County
14 Council, or any duly appointed county board may petition the County Council for an
15 amendment, repeal, or change to the text of the zoning regulations.

16 (B) *REQUIREMENT FOR AFFIDAVIT OR DISCLOSURE.*

17 (1) IN THIS SUBSECTION:

18 (I) A “PETITION” IS AN “APPLICATION” AS THAT TERM IS DEFINED IN SECTION 5-852(C) OF

19 THE MARYLAND PUBLIC ETHICS LAW; AND
20 *Amendments to Final Development Plans under Section 125.D.6 are Zoning Regulation Amendments and Amendments
to the Preliminary Development Plans are subject to affidavit and disclosure*

(II) “APPLICANT” HAS THE MEANING STATED IN SECTION 5-852(B) OF THE MARYLAND

21 PUBLIC ETHICS LAW. *AND APPLICANT INCLUDES THE "ORIGINAL PETITIONER AS SET FORTH IN
SECTIONS 125.B.6 and 125.F.1 OF THE ZONING REGULATIONS.*

22 (2) IF A ZONING REGULATION TEXT AMENDMENT WOULD IMPACT 12 PARCELS OF LAND OR
23 LESS, EACH OF THOSE PARCELS OF LAND SHALL BE DEEMED TO BE THE SUBJECT OF
24 THE APPLICATION.

25 (3) ALL APPLICANTS SHALL FILE ALL THE AFFIDAVITS AND DISCLOSURES REQUIRED BY
26 SECTION 5-853 OF THE MARYLAND PUBLIC ETHICS LAW.
Amendment 3 In testimony

27 ~~[[b)]]~~ (C) *Copy of petition to Department of Planning and Zoning and Planning Board.* The
28 County Council shall deliver a copy of the proposed zoning regulation text amendment to
29 the Department of Planning and Zoning and to the Planning Board. Subject to subsection (e)

1 of this section, the Department of Planning and Zoning shall prepare and submit a technical
2 staff report to the County Council on the proposed text amendment petition. The Planning
3 Board shall prepare and submit a recommendation to the County Council on the proposed
4 text amendment petition.

5 ~~[[c)]~~ (D) *Posting of property.*

6 (1) Except as provided in paragraph (2), no less than six weeks prior to the date of the
7 Planning Board Meeting on the proposed zoning regulation text amendment, the
8 petitioner shall post information about the Planning Board Meeting for any parcel of
9 land known to be affected by the amendment, repeal, or change that the petitioner
10 owns or has a legal or equitable interest in. The posting shall be conspicuous and
11 visible by the public from the primary access road of such parcels.

12 (2) For a proposed zoning regulation text amendment THAT WOULD AFFECT MORE THAN 12
13 PARCELS OF LAND for which the petitioner is ~~[[the County Executive,]]~~ the Director of
14 the Department of Planning and Zoning, ~~[[or]]~~ a member of the County Council, OR
15 ANY DULY APPOINTED COUNTY BOARD, one sign shall be posted by the Department of
16 Planning and Zoning that is located outside the Howard County Government George
17 Howard Building and is conspicuous and visible by the public no less than six weeks
18 prior to the date of the Planning Board meeting on the proposed zoning regulation text
19 amendment.

20 (3) All zoning regulation text amendments shall be posted to a dedicated web page
21 accessible from the County Government's main homepage.

22 (4) The poster shall include the address of the Department of Planning and Zoning's
23 website.

24 (5) The poster shall:

25 (i) Be double-sided;

26 (ii) Be at least 30 inches by 36 inches in size; and

27 (iii) Include a three digit alphanumeric code, which will be used to identify the case.

28 (6) The Department of Planning and Zoning shall:

- 1 (i) Place the alphanumeric code in at least five-inch lettering in the top left corner of
2 the poster; and
- 3 (ii) Determine the number of posters required and their location.
- 4 (7) The petitioner shall bear the expense of posting.
- 5 (8) The Department of Planning and Zoning shall supply the posters.
- 6 (9) Two weeks prior to the date of the Planning Board meeting, the petitioner shall provide
7 verification of compliance with paragraph (1) of this subsection to the Department of
8 Planning and Zoning.
- 9 (10) The Department of Planning and Zoning shall not submit its technical staff report to
10 the Planning Board or County Council if the Department determines that the Petitioner
11 has not made a good faith effort to comply with posting requirements.
- 12 (11) Within seven days of the conclusion of the Planning Board meeting, the petitioner shall
13 remove the posters.

14 ~~[[d]]~~ (E) *Consideration of proposed text amendment.* When exercising the Zoning Authority of
15 Howard County with respect to the consideration of and decision on a proposed zoning
16 regulation text amendment, the County Council shall proceed in the following manner:

- 17 (1) The County Council shall introduce a bill proposing the adoption of the text
18 amendment as submitted by the petitioner or as amended pursuant to the technical staff
19 report of the Department of Planning and Zoning, or recommendations of the Planning
20 Board or the County Council.
- 21 (2) A bill proposing the adoption of the text amendment shall not be added to the Council's
22 legislative agenda until the County Council has received:
- 23 (i) A final technical staff report and analysis from the Department of Planning and
24 Zoning;
- 25 (ii) A recommendation and report from the Planning Board; and
- 26 (iii) A summary report as required by section 5-853(h) of the Maryland Public Ethics
27 Law, compiling all affidavits and disclosures filed at least 30 days prior and
28 stating whether any applicant as that term is defined in section 5-852(b) of the

1 Maryland Public Ethics Law has made certain campaign contributions to or is
2 currently engaged in business with any member of the County Council or the
3 Howard County Executive.

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

6 ~~[[e)]~~ (F) *Technical staff report*. At a minimum, the technical staff report shall include an
7 analysis of:

- 8 (1) The compatibility, including potential adverse impacts and consequences, of the
9 proposed zoning regulation amendment with the existing and potential land uses of the
10 surrounding areas and within the same zoning district;

- 11 (2) The properties to which the zoning regulation amendment could apply and, if feasible,
12 a map of the impacted properties;

- 13 (3) Conflicts in the Howard County Zoning Regulations as a result of the zoning
14 regulation amendment; ~~[[and]]~~

- 15 (4) The compatibility of the proposed zoning regulation amendment with the policies and
16 objectives, specifically including the environmental policies and objectives, of the
17 Howard County General Plan~~[[.]]~~; AND

- 18 (5) IF THE ZONING REGULATION TEXT AMENDMENT WOULD IMPACT 12 PARCELS OF LAND OR
19 LESS, A LIST OF THOSE IMPACTED PARCELS.

20 (G) (1) IF THE ZONING REGULATION TEXT AMENDMENT WOULD IMPACT 12 PARCELS OF LAND OR
21 LESS, THE COUNCIL ADMINISTRATOR SHALL NOTIFY ANY TITLE OWNERS OF THAT LAND WHO
22 ARE NOT PETITIONERS OF:

- 23 (I) THE PETITION ITSELF; AND

24 (II) ALL APPLICANTS' OBLIGATION TO FILE ALL AFFIDAVITS AND DISCLOSURES REQUIRED
25 BY SECTION 5-853 OF THE MARYLAND PUBLIC ETHICS LAW WITHIN THE SPECIFIED
26 TIMEFRAME.

27 (2) WHERE THE INTENT OF THE APPLICATION IS AN INCREASE IN THE DENSITY OF THE LAND,
28 ALL AFFIDAVITS AND DISCLOSURES REQUIRED BY SECTION 5-853 OF THE MARYLAND PUBLIC

1 ETHICS LAW MUST BE RECEIVED FOR AT LEAST TWO-THIRDS OF THE PARCELS OF LAND IMPACTED
2 BEFORE A BILL PROPOSING THE ADOPTION OF THE TEXT AMENDMENT MAY BE ADDED TO THE
3 COUNCIL'S LEGISLATIVE AGENDA.

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