

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1266

(Montgomery County Delegation and Prince George's County Delegation)

Environment and Transportation

Education, Energy, and the Environment

Task Force to Study Land Use Issues in Prince George's County - Establishment
MC/PG 117-25

This bill establishes a Task Force to Study Land Use Issues in Prince George's County. The Maryland Department of Planning (MDP) must provide staff for the task force. By December 1, 2026, the task force must report its findings and recommendations to the Prince George's County Executive, the Prince George's County Council, the General Assembly, and the members of the Prince George's County Delegation to the General Assembly. **The bill terminates December 31, 2026.**

Fiscal Summary

State Effect: General fund expenditures increase by \$68,900 in FY 2026 and \$39,200 in FY 2027. Revenues are not affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	68,900	39,200	0	0	0
Net Effect	(\$68,900)	(\$39,200)	\$0	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not expected to materially affect local finances.

Small Business Effect: None.

Analysis

Bill Summary:

The task force must study:

- the current role of the Prince George's County Planning Board in the exercise of its powers enumerated in § 20-202 of the Land Use Article;
- to what extent, if any, the planning board should retain exclusive jurisdiction over the powers enumerated in § 20-202 and whether the district council (defined below) should have jurisdiction to review and issue final decisions regarding any of those powers;
- whether any changes should be made to the list of persons that have standing to (1) seek judicial review of a final decision of the district council under § 22-407(a) of the Land Use Article and (2) appeal to the Appellate Court of Maryland a final judgment of the circuit court under § 22-407(f) of the Land Use Article;
- whether any changes should be made to the standing requirements to make a request to the district council for review of a decision of a zoning hearing examiner or the planning board as described in § 25-212 of the Land Use Article;
- the adequacy of the current procedures described in § 25-213 of the Land Use Article regarding what actions the district council may take when hearing a zoning matter that has been appealed from a decision of a zoning hearing examiner;
- the expiration processes, if any, for approvals (defined below) and whether any changes should be made to those processes; and
- whether the district council should or should not, for purposes of permitting the construction of multifamily residential dwellings, be able to amend the text or map of the zoning law or the zoning classification of property that is currently used as, or in its immediate former use was used as, an airport.

The task force must make recommendations on whether any changes should be made, including legislatively, to address the issues studied.

In studying the issues specified above regarding the planning board's current role in the exercise of its powers enumerated in § 20-202, and the jurisdiction of the board and the district council regarding those powers, the task force must consider the Supreme Court of Maryland holding in *County Council of Prince George's County v. Zimmer Development Company*, 444 Md. 490 (2015) and its impact on Prince George's County.

"Approval" includes (1) an action by the planning board, the district council, or the Prince George's County Department of Permitting, Inspections, and Enforcement on an application for a zoning special exception, a zoning variance, or a conditional zoning use;

(2) a development or subdivision approval required to be obtained from the planning board or district council, including a site plan approval, a development plan approval, or any other development or subdivision approval authorized or required by the Land Use Article or local law; or (3) any other approval by or agreement with the planning board or district council that is associated with an application for development or subdivision approval.

“District council” means, for Prince George’s County, the county council sitting as the district council of the county with respect to the portion of the Maryland-Washington Regional District (described below) in the county.

A member of the task force may not receive compensation but is entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget.

Current Law:

Division II of the Land Use Article

Division II of the Land Use Article establishes the Maryland-National Capital Park and Planning Commission (M-NCPPC) (made up of the Montgomery County and Prince George’s County planning boards) and governs planning and zoning within the Maryland-Washington Regional District (§ 20-101), which consists of (1) the entire area of Montgomery County, subject to certain limitations (relating to certain municipalities not subject to the planning and zoning authority of the county, unless by agreement, and other municipalities that have certain, limited planning and zoning authority) and (2) the entire area of Prince George’s County, except for the City of Laurel as it existed on July 1, 2013.

The county councils of Montgomery and Prince George’s counties are the district councils for that portion of the regional district located within the respective counties. The district councils have the authority to adopt and amend the zoning law and any map for the portion of the regional district within the counties.

Jurisdiction/Authority of the Prince George’s County Planning Board and District Council

Planning Board

Section 20-202

Under § 20-202 (within Division II), a planning board is responsible for planning, subdivision, and zoning functions that are primarily local in scope, and must exercise, within the county planning board’s jurisdiction, the following powers: (1) planning; (2) zoning; (3) subdivision; (4) assignment of street names and house numbers; and (5) any

related matter. These functions do not include the regional planning functions of M-NCPPC affecting the regional district as a whole.

In addition, under § 20-202, a planning board has exclusive jurisdiction over (1) local functions, including the administration of subdivision regulations, the preparation and adoption of recommendations to the district council with respect to zoning map amendments, and the assignment of street names and house numbers in the regional district and (2) specified mandatory referrals made by the county planning board's respective county government or any unit of the county government.

Under § 20-207, a planning board may also be assigned other local functions, as needed, by resolution of M-NCPPC with the approval of the respective county council.

Prince George's County Zoning Ordinance

Under the Prince George's County Zoning Ordinance, the planning board is given various authority and responsibilities, including (1) reviewing and making recommendations to the district council on comprehensive plans (countywide or other broad plans) and zoning map amendments and (2) reviewing and deciding on detailed site plans (a detailed plan for a development that allows for evaluation of whether the development meets applicable requirements/standards).

(The current county zoning ordinance took effect April 1, 2022. Under the previous ordinance, the planning board also decided on comprehensive design plans and specific design plans (referred to in the *Zimmer* case referenced in the bill and described below), which were submitted for development in comprehensive design zones. Comprehensive design zones were not continued under the new ordinance other than as legacy comprehensive design zones in order to recognize those zones for development approved under them prior to April 1, 2022.)

District Council

Sections 25-212 and 25-213

As mentioned above, the district councils have authority to adopt and amend the zoning law and any map for the portion of the regional district within the counties.

With respect to the Prince George's County district council's jurisdiction in relation to planning board decisions, Chapter 365 of 2015 established, under § 25-212 (within Division II), that a person may make a request to the district council for the review of a decision of the planning board or the zoning hearing examiner only if (1) the person is aggrieved and appeared at the hearing before the planning board or zoning hearing

examiner in person, by an attorney, or in writing and (2) the review is expressly authorized under Division II.

The extent of any such express authorizations under Division II appears to be limited. One such authorization, however, is an authorization under § 25-210 for the district council to review a final decision of the planning board to approve or disapprove a detailed site plan. A party of record may appeal to the district council a final decision by the county planning board to approve or disapprove a site plan.

Chapter 365 also established, under § 25-213, that when the district council is hearing a zoning matter that has been appealed from a decision of a zoning hearing examiner, the district council (1) may remand the zoning matter back to the zoning hearing examiner only one time and (2) must specify that the zoning hearing examiner take action within 30 days after the matter is remanded and relevant information is received from the applicant or the district council.

Prince George's County Zoning Ordinance

Under the Prince George's County Zoning Ordinance, the district council is given various authority and responsibilities, including to (1) make the final decision on comprehensive plans and zoning map amendments and (2) hear and decide appeals on, elect to review, and decide on, among other things, detailed site plans.

The zoning ordinance establishes an Office of the Zoning Hearing Examiner and authorizes the district council to appoint one or more hearing examiners to conduct hearings and make recommendations or decisions in specified zoning cases.

Zimmer Case

The Supreme Court of Maryland, in *Zimmer*, held that the Prince George's County district council possessed only appellate jurisdiction to review the planning board's decisions regarding a comprehensive design plan and specific design plan and was only authorized to reverse the board's decision if it was not supported by substantial evidence or was arbitrary, capricious, or otherwise illegal. In addition, the court held that the district council was not authorized, after remanding issues to the planning board, to consider issues other than the remanded issues when it reviewed the planning board's subsequent decision. 444 Md. at 584 (2015).

Judicial Review of a Final Decision of the District Council

In Prince George's County, judicial review by the circuit court of any final decision of the district council may be requested by any person or entity that is aggrieved by the decision

and is (1) a municipality, governed special taxing district, or person in the county; (2) a civic or homeowners association representing property owners affected by the final decision; (3) the owner of the property that is the subject of the decision; or (4) the applicant.

A final judgment of the circuit court may be appealed to the Appellate Court of Maryland by the district council, the applicant, or any aggrieved party to the circuit court proceedings.

Each member of the district council is entitled to vote on whether the district council will appeal to the Appellate Court of Maryland regardless of whether the member participated in the hearing on the matter or in the decision.

Expiration of Development Approvals and Permits

Under the Prince George's County Zoning Ordinance, development approvals and permits expire as provided in review procedures for each specific type of development approval or permit. An approved detailed site plan, for example, is valid for six years.

If no expiration period is provided for the specific type of development approval or permit, and if no expiration period is imposed as part of the approval by the decision-making body or official, the development approval or permit expires if a use and occupancy permit authorizing the approved development is not obtained within two years after the effective date of approval.

A one-year extension of the expiration time period for a specific development approval or permit may be granted by the decision-making body or person that granted the approval or permit upon the applicant's written request for the extension before the expiration date, and a showing of good cause.

Multifamily Residential Development on Specified Airport Property

The Maryland Supreme Court, in *Prince George's County Council v. Concerned Citizens of Prince George's County*, held that a text amendment to the zoning law that allowed for development of townhouses and higher density development in order to encourage development of certain airport property did not violate a requirement under Division II that zoning laws be uniform for each class or kind of development throughout a district or zone. The court found that the ordinance was adopted to further a valid public purpose and did not discriminate against similarly situated properties. 485 Md. 150, 162, 199-200 (2023).

State Expenditures: General fund expenditures increase by \$68,857 in fiscal 2026 and \$39,240 in fiscal 2027, which accounts for the bill's October 1, 2025 effective date and December 31, 2026, termination date. This estimate reflects the cost for MDP to hire

one contractual employee, to staff the task force, for the duration of the bill through December 2026. MDP indicates that it cannot absorb the responsibility for staffing the task force with its existing staff. The estimate includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

	<u>FY 2026</u>	<u>FY 2027</u>
Position (New)	1.0	0.0
Salary and Fringe Benefits	\$61,488	\$38,682
Operating Expenses	<u>7,369</u>	<u>558</u>
Total State Expenditures	\$68,857	\$39,240

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Any expense reimbursements for task force members are assumed to be minimal and absorbable within existing budgeted resources.

In addition to the contractual employee, MDP indicates it needs approximately \$200,000 in consultant services to staff the task force: (1) approximately \$100,000 in consultant services to ensure the work of the task force does not impede other MDP responsibilities and deliverables; and (2) \$100,000 for legal consultant services to provide legal research and analysis relating to the issues studied by the task force. The Department of Legislative Services, however, advises it is not clear that these additional resources are needed to implement the bill and, as a result, has only included the costs associated with the contractual employee as costs of the bill. The contractual employee – devoted to staffing the task force full time – along with any limited time existing staff have available to assist the task force, should be sufficient to meet MDP's staffing responsibility under the bill. Any additional general fund expenditures, for legal consultant services, are assumed to only occur to the extent the task force chooses, at its discretion, to undertake legal research and analysis that cannot otherwise be handled through a request for advice from the Office of the Attorney General.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Prince George's County; Maryland-National Capital Park and Planning Commission; City of Laurel; Judiciary (Administrative Office of the Courts); Maryland Department of Planning; Montgomery County Public Schools; Department of Legislative Services

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