



Post Office Box 282
Accokeek, Maryland 20607

**Written Testimony Submitted for the Record to the
Senate**

Education, Health, and Environmental Affairs Committee

Prince George's County - Public Ethics - Definition of Application PG 416-21 (HB 980)

March 29, 2021

OPPOSE

I oppose HB 980 - "Prince George's County - Public Ethics - Definition of Application PG 416-21."

HB 980 would alter the definition of a land use application to exclude participation in adopting and approving a countywide zoning map amendment, where the intent is to implement an approved general plan by repealing and replacing all zoning categories applicable to land in Prince George's County. If enacted, HB 980 would exempt countywide zoning map amendments from all the ethics requirements under the State's land use law, especially the provisions applicable to Prince George's County.

The purpose of zoning is to allow local and national authorities to regulate and control land and property markets to ensure complementary uses. Zoning can provide the opportunity to stimulate or slow down development. Zoning is also used to prevent new development from interfering with existing uses or to preserve the character of a community. Zoning laws are created for the purpose of protecting the health, safety and general welfare of the people as relates to land use. To achieve this purpose, zoning laws regulate the impacts of land use that may not be in the best interests of the people, generally including:

- Protecting the value and enjoyment of properties by separating incompatible land uses and minimizing their potentially negative impacts upon each other
- Protecting the value and enjoyment of properties by allowing a property its most appropriate land use given its location and surrounding uses
- Providing for the orderly development of a county, including making provisions for land uses in the best interests of its citizens, and
- Providing adequate public infrastructure, e.g., roads, water and sewers.

Under current law, an application for a land use decision is subject to public notice and hearing, along with ethics requirements to ensure a fair process for the public. Specifically, the Prince George's County provisions:

- Prohibits payments to any candidate for or member of the County Council from an individual or business entity with an interest in or connection to a land use application
- Requires disclosure of one-sided (“ex parte”) communications between council members or the county executive and an individual or business entity with an interest in or connection to a land use application

County lore says the current prohibitions were enacted because of the wrongdoing of a former county executive. However, legislative history indicates the law has been in place since 1957. The public ethics law was repealed from the “Rules of Interpretation Article” and recodified under the "General Provisions Article” in 2014. If the myth were fact, it only further supports my opposition to HB 980.

Under State law and County ordinance, the county council approves or disapproves land use applications. *See* Md. General Provisions Code § 5-834 et seq.; Md. Land Use Code § 20-604 et al. According to § 27-1900 of Part 19, Prince George’s County, Maryland Ordinances,

...the District Council¹ must approve a process to prepare, publish, consider, and approve, via a comprehensive zoning process authorized by law, the zoning classifications embodied in its replacement County Zoning Ordinance, as to all properties within that portion of the Maryland-Washington Regional District within Prince George's County, Maryland. To this end, specific purposes of the CMA are:

- (1) To apply zoning categories contained in Prince George's County's new Zoning Ordinance to all real property in Prince George's County;
- (2) To provide for a comprehensive and systematic rezoning procedure that bridges the gap between the abrogation date of this Zoning Ordinance and the effective date of the new Zoning Ordinance;
- (3) To limit piecemeal rezoning;
- (4) To notify landowners, municipalities, special governed taxing districts, developers, civic associations, agencies, and other County stakeholders of the zoning changes impacting real property;
- (5) To provide the necessary foundation the new Zoning Ordinance requires before it can become effective; and
- (6) To efficiently and effectively rezone all property in the County in all Planning Areas comprehensively and systematically, in a timely manner, and in accordance with all applicable State and local laws.

Enacting HB 980 would ignore the risk of bribery and public corruption involving land use applications. Currently, Prince George’s County does not require environmental impact statements, urban development studies, or infrastructure reviews when permits are issued for new

¹ The District Council is the same as the County Council for the purposes of HB 980.

developments. HB 980 will only exacerbate the continuing problems of food deserts and deficient infrastructure to support the growing County population. If county council members are legally allowed to accept payments from developers, they might be compelled to return approvals in favor of donors that conflict with what is in the best interest of County residents.

Additionally, while the primary concern addressed with HB 980 is the prohibition of payments in countywide zoning map amendments, the required disclosure of ex parte communications is also implicated by HB 980. If enacted, the bill would permit private meetings and communications between county council members and interested parties. To avoid even the appearance of impropriety, this must not be.

During the 2020 legislative session, § 5-833 was amended relative to the county executive. HB 282 (2020) removed a prohibition against an individual or business entity with an interest in, or specified connection to, land that is the subject of an application for a land use decision in Prince George's County from making a campaign contribution to the county executive, or a slate that includes the county executive, during the pendency of the application. See Md. Laws 2020, ch. 151, § 1. While I did not agree with HB 282 (2020), the county executive sits in a different position from the county council; the county executive does not have a legislative function. Even though the county executive might be improperly motivated to intervene in land use matters, the ultimate approval authority belongs to the county council. Additionally, the county executive's suggestion or influence might be overcome by the recommendation of the Prince George's County Planning Board, Maryland-National Capital Park and Planning Commission, or residents.

I understand the Coalition for Smarter Growth (CSG) supports HB 980 because the County's "ethics law has tripped up the Countywide Zoning Map Amendment."² The mission of CSG is "to promote walkable, inclusive, and transit-oriented communities, and the land use and transportation policies and investments needed to make those communities flourish."³ CSG, a self-declared "growth organization," is a division of the Piedmont Environmental Council (PEC), a 501(c)(3) nonprofit organization based in Warrenton, Virginia. The PEC is largely funded by the Piedmont Environmental Foundation.⁴ Mark Ohrstrom is the president of the Piedmont Environmental Foundation and the key principal of Larkspur Services Incorporated.⁵ Larkspur Services, a Virginia foreign corporation, provides management consulting and financial advisory services.⁶ According to OpenSecrets.org, Larkspur Services is a major donor to the Democratic

² CSG Testimony in Support of PG 416-21: Finish the Countywide Rezoning

³ <https://www.smartergrowth.net/about/>

⁴ <https://www.piedmontfoundation.org/>

⁵ https://www.dnb.com/business-directory/company-profiles.larkspur_services_inc.218ad70f2e2bbb01868e4d201969619b.html

⁶ <https://www.bloomberg.com/profile/company/0280914Z:US>

Party.⁷ Mark Ohrstrom and Karen Ohrstrom have reportedly made large donations to political candidates also.⁸

The reason behind CGS's support of HB 980 is unclear. CGS argues amending the ethics law will hasten the countywide zoning map amendment process. However, the supporter's connection to "big money" and campaign donors should be enough to give legislators pause. The countywide zoning map amendment process has been delayed six years because elected officials in Prince George's County have already run afoul of the law. HB 980 would in effect give them a "get out jail free card." It is unfortunate that the County's elected officials have placed themselves and residents in this position. However, ignorance of the law is not defense in the face of prosecution, and should not now be forgiven to the detriment of innocent taxpayers and constituents. "Local deference" should not be used to absolve politicians for the sake of purported legislative expedience. We must hold elected officials accountable for their actions, especially when those actions are unethical and contrary to the best interest of residents and the public good.

Relieving the members of the Prince George's County Council of their ethical responsibility will not serve the best interest of County residents. I urge the Committee to return an unfavorable report of HB 980.

Respectfully Submitted,



Moissette I. Sweat, Esquire

⁷ <https://www.opensecrets.org/orgs/larkspur-management/totals?id=D000035254>

⁸ <https://www.opensecrets.org/political-action-committees-pacs/C00136200/donors/2006>