

## **Oppose House Bill 980**

### **Protect Maryland's Public Ethics Law**

#### **Defend Transparency, Accountability and Protections Against Special-Interest Influence in Zoning and Land Use**

Testimony Opposing House Bill 980 (PG 416)

Prince George's County – Public Ethics – Definition of Application

House Environment and Transportation Committee

Hearing Date: March 12, 2021

Sponsor: Prince George's County Delegation

Position: OPPOSE

Community Research is a Prince George's County-based nonprofit organization dedicated to promoting sustainability, protecting communities, public health and the environment, and promoting good government.

We respectfully urge the Committee to issue an Unfavorable report on House Bill 980. Over the years, the General Assembly has built into the Maryland's Public Ethics Law a range of common-sense measures that aim to ensure the credibility, fairness and credibility of zoning and land use decisions. Those provisions generally are not unduly onerous, and at a time when too many people too little faith in government, it is essential that the General Assembly avoid further undermining that faith.

We are deeply concerned that the County Council apparently failed to understand how the Public Ethics Law applies to the County-wide Zoning Map Amendment process and then brought this legislation to the Delegation so late in the process.

To maintain and restore the public's faith, Prince George's County and Maryland need more transparency and accountability, not less. We need more protections against the undue influence sought by deep-pocketed developers and other special interests, not fewer.

#### **Concerns About House Bill 980's Impacts**

HB 980 would weaken the Prince George's a Public Ethics Law by wiping out a range of common-sense requirements and prohibitions as they relate to the County-wide Zoning Map Amendment and rezoning applications filed in relation to it. HB 980 would allow developers and the County Council to do on a county-wide level what the Public Ethics Law rightly prohibits on a project-specific level. Because the prohibitions and requirements imposed by the Ethics Law apply to the 36 months before an application is filed and during the pendency of the application, and because HB 980 would exempt what would otherwise be violations during that period and through HB 980's sunset, this bill may simply wipe out those common-sense protections for a span for more than four years.

HB 980 would weaken the Public Ethics Law in the following ways:

1. It would allow developers (meaning applicants and their agents) seeking more intensive zoning on specific properties to make and/or solicit otherwise prohibited campaign contributions to County Council members and to non-incumbent candidates for County Council.
2. It would allow Council Members who will make zoning decisions to receive otherwise prohibited contributions from developers seeking more intense zoning.
3. It would exempt developers and Council Members from the current requirement to disclose those contributions through simple Ethics Affidavits
4. It would allow Council Members to vote on zoning requests filed by developers that have given those Council Members campaign contributions, in some cases thousands of dollars.
5. It may also exempt developers and Council Members from the current requirement to disclose *ex parte* communications through simple Ethics Affidavits.
6. It would allow developers seeking to intensify zoning to use the County-wide Zoning Map Amendment process to evade the normal administrative process that applies to zoning applications. That normal process generally requires hearings before either the county Zoning Hearing Examiner or the county Planning Board then before the District Council. It also requires the Planning Department to consult with other agencies then develop a Technical Staff Report, which the Planning Board must then publish on its web site prior to hearing that case. HB 980 would eliminate that basic due process for any rezoning application submitted as part of the CZMA process.

As a result, if the General Assembly approves HB 980, the current CZMA process could become a massive Trojan Horse that developers can use to intensify zoning on many properties with the normal public scrutiny, due process, transparency, accountability, or opportunity for public comment.

We understand that the Clerk of the County Council has received more than 800 Ethics Affidavits from applicants and/or agents related to the CZMA. These affidavits undoubtedly cover hundreds of properties and applications. Despite clear and justified concern by the public, the Council has chosen not to publish these affidavits and applications.

### **Concerns About the County's Lack of Transparency**

We are deeply concerned that the process followed by the County Council and the County Delegation has lacked basic and essential transparency even though the Council and the Delegation seek to weaken the Public Ethics Law by eliminating provisions that require transparency and that are meant to diminish the undue influence of developer contributions on county zoning and land use decisions. Those decisions can have long-term impacts on communities, the environment, the economy and public resources.

Rather than clearly explaining to the public that ethical concerns have compelled the Council to postpone its joining hearing on the County-wide Zoning Map Amendment (CZMA), the Council has published only vague, uninformative statements, and has failed to publish relevant public records.

That lack of basic transparency and basic respect for public's right to know cripples the public's ability and the General Assembly's ability to understand the potential impacts of HB 980-2021. It also undermines the credibility of this legislative process and the Council's efforts to advance County-wide Zoning Map Amendment.

Before the Committee acts on HB 980-2021, it should insist that the County Council take the following common-sense actions:

1. Publish the following public records for review and download from the Council's website:
  - a. All Ethics Affidavits filed by applicant, agents and council members relevant to the County-wide Zoning Map Amendment (CMA).
  - b. All applications – or at a minimum the application forms and associated financial disclosure forms – to which those Ethics Affidavits apply.
  - c. All Ethics Affidavits filed by County Council members relevant to campaign contributions and/or ex parte communications with applicants or their agents.
  - d. A map of the properties potentially affected by those applications; and
  - e. Any review, analysis or comments developed by county staff regarding the above CMA and the above affidavits and applications.
2. Directly notify, via email and other means, community associations, watershed organizations and other parties that the County has published those publication records, provide clear information on where to find them, and provide a clear statement explaining their relevance.
3. After publishing that notice, allow the public and the General Assembly Delegation at least fourteen days to review those public records.

The County Council could have and should have provided this basic transparency months ago. It should provide it now, and the General Assembly should require it to.