



POSITION STATEMENT

Bill: HB 819- Montgomery County – Off–Street Parking Requirements Near Mass Transit Stations (MC/PG 106–23)

Position: OPPOSE

Contact: Debra Borden, General Counsel
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Date: March 23, 2023

Dear Chair William C. Smith Jr. and Vice Chair Jeff Waldstreicher,

The Maryland-National Capital Park and Planning Commission (the “Commission”) opposes this bill, but does not oppose the underlying policy of minimizing required parking near transit stations. The Commission respectfully requests the Judicial Proceedings Committee to consider our position and the information below and include it in the record.

What this Bill Does: This bill prohibits the Montgomery County District Council from adopting or enforcing a local law that requires the creation of new off–street parking for a residential development that is located within a certain distance of a present or planned Metro or Purple Line station; and generally relating to requirements for off–street parking for developments in Montgomery County.

Overrides Current Local Land Use Laws: In Montgomery County, land use is subject to local zoning laws that determine how the land can be used and what public facilities and amenities are needed to provide service to the community. The Montgomery County Council, sitting as the District Council (the “Council”), is the final legislative authority on land use matters. The Commission’s Montgomery County Planning Board (“the Planning Board”), along with various Montgomery County Government Executive agencies, implement and enforce zoning conformance. Zoning determines the land use, lot size, building height, and setbacks for property.

Over the years, with the assistance of the Montgomery County Planning Department, the Council has enacted updates to the County’s Zoning Ordinance in an effort to modernize antiquated, redundant zoning regulations, and create new tools to help achieve the County’s goals. The current of Zoning Ordinance regulation is complex, but it is a direct result of years of public debate and technical analysis by planning staff. Therefore, it is important for this Committee to consider that adding layers of ambiguous language and complexity will probably lead to unintended consequences.

Ambiguous Terms: The bill currently indicates “the District Council may not adopt or enforce a local law that requires the creation of new off-street parking or residential development that is located within a 0.25-mile radius of a present or planning metro or purple line station.” If enacted, this bill may

create a gap in interpretation for developers and future projects within the Montgomery County. Since the Planning Board as part of its regulatory decision-making for residential projects may require a certain amount of parking, this bill makes no reference to or clarification on how the new law, if enacted would impact the Planning Board's role. Under current the law, the Planning Board implements the Zoning Ordinance by considering development applications. One of the first steps in the development process involves the subdivision of land which is governed by the County's Subdivision Regulations (Chapter 50 adopted under Section 23- 104 of the land use article). The subdivision process is the province of the Planning Board, so this bill represents a potential conflict between the Subdivision Regulations and the Zoning Ordinance.

Additionally, there are three categories of residential uses in the code, household living, group living, and accessory residential uses. Group residential uses can be senior housing or large residential care facilities. As drafted, this bill applies the term residential uses without delineation, however some residential uses are more comparable to, and resemble closely, commercial enterprises. The other issue is not every Metro/Purple Line Station is similarly situated in terms of off-street parking. The County has a number of stations that are in fact surrounded by residential development, and some that do not have appropriate off-street parking alternatives, at least not currently. Furthermore, some of the County's Transit-Oriented Development (TOD) areas near Metro and Purple Line Stations are already served by Parking Districts. In these areas, developers are charged a parking tax, and in exchange, their projects **are already exempt** from providing minimum off-street parking that is otherwise required. This bill simply takes no notice of these nuances. If this bill passes will the parking tax be enforceable in those areas? None of these issues are addressed in the bill.

Uncertainty is never a good thing for land development. This bill simply takes no notice of the nuances described above. In the absence of an in-depth technical review of the impact of the bill, there's no telling what the consequences will be for the development process in the County.

While the Planning Board and Planning Department have generally supported the policy of minimizing parking requirements near transit, the implementation of this policy should take the myriad of impacts into account and for this reason, these tools are ideally crafted at the local level in consultation with all stakeholders. We are happy to work with the sponsor and the Council to address his specific concerns going forward.