

# **HB1364\_Carr\_FAV**

Uploaded by: AL Carr

Position: FAV

## Gagnon, Trish

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**From:** Al Carr <alfred.carr@gmail.com>  
**Sent:** Thursday, March 21, 2024 10:01 AM  
**To:** AA\_ENT  
**Subject:** FAVORABLE testimony for HB1364 (People's Counsel for Land Use)

Dear Chair Korman and members of the Environment and Transportation Committee,

I am asking you for a FAVORABLE report on HB1364, as introduced and without amendments.

Montgomery County has a People's Counsel codified in County law but County Councils have refused to fund it since 2010. The current and previous County Executives both support funding a People's Counsel. There is no evidence that such a position prevents housing from being built.

HB1364 offers a way around an intractable disagreement between 2 branches of County government by requiring that this position be funded.

Citizens of Maryland's largest jurisdiction deserve a People's Counsel just like citizens of Prince George's. Howard, Baltimore and Harford Counties also have people's counsel positions.

The amendments adopted in the Montgomery County Delegation HARM rather than help racial equity and social justice as demonstrated by the OLO analysis of Council President Friedson's similar bill 18-23.

Montgomery County Delegates: here is why it is in YOUR interest that a People's Counsel for Land use be funded and not weakened in any way. In my experience as a Delegate, there were many examples of constituents contacting my office on land use matters. They did not want to stop housing but they needed assistance or answers and they weren't able to get it through the normal channels of Planning Board, Planning Staff, County Council or County agencies.

For example, in Kensington Estates (Knowles Avenue corridor) people's safety, property and housing was being threatened by increased flooding. Their pleas through normal channels fell on deaf ears. Only after they contacted state legislators and began pulling manholes was it revealed that the Planning Board and Department of Permitting Services had been approving projects based on false information in MCDOT's database of stormwater infrastructure. And our Housing Agency (HOC) had illegally paved over a community green space and constructed a parking lot which exacerbated the problem.

A People's Counsel for land use might have greatly helped and allowed me and my staff to better focus on matters of statewide importance.

Sincerely,

Al Carr  
3904 Washington St  
Kensington, MD 20895

**HB1364\_MCA\_FAV**

Uploaded by: Caroline Taylor

Position: FAV

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[kristina@mocoalliance.org](mailto:kristina@mocoalliance.org)

## Testimony: Montgomery Countryside Alliance Position Favorable Without Amendment HB 1364 March 21, 2024

Dear Members of the House Environment & Transportation Committee,

For the record our position is favorable without amendment to HB 1364:

<https://www.mocoalliance.org/news/we-need-an-office-of-the-peoples-counsel>

Reads in part:

The perils of weakening the OPC are detailed in a [memo from 2017 from then County Executive Ike Leggett to the Council](#) which reads in part

"When I was on the Council, I initially proposed a fully functioning Office of People's Counsel. As originally drafted, the office was intended to function as a legal resource, employing an experienced attorney who would represent residents in land use proceedings to promote full and fair presentation of issues and to assure sound land use decisions"

### **OPC as Tool to Block Affordable Housing?**

The Coalition for Smarter Growth (CSG) has sent an action alert alleging that "The People's Counsel was used in the past to obstruct affordable housing production" and thus should not be reinstated. The alert does not give examples, MCA has reached out to CSG to understand these claims, and we have not yet gotten a response. Our message:

*Can you provide instances where the MC OPC was used to block affordable housing as is asserted?*

*Our perspective is strikingly different. In the absence of an OPC, MCA has been fielding requests, countywide, for assistance by communities. None of these requests have been aimed at blocking affordable housing. Some recent examples:*

*Communities seeking guidance to address airport expansion, significant deforestation, conditional use application for large scale commercial development in sensitive watershed in area of small affordable houses served by groundwater wells, county airport's continued use of leaded fuels, a historic freeman community dealing with illegal operation of commercial business...*

*An OPC would be far better placed to provide the legal guidance in these instances.*

*And, to be clear, we cannot recall past instances where this resource was engaged to block affordable housing. So we seek your clarification regarding the assertions made in your action alert.*



No response has been received to date to our inquiry above.

Baltimore County, Harford, Howard, and Prince George's all benefit from a People's Counsel. Residents in Maryland's largest jurisdiction deserve one too.

Respectfully,

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Taylor".

Caroline Taylor  
Executive Director

**HB1364\_Gannon\_FAV**

Uploaded by: Cheryl Gannon

Position: FAV

HB 1364

**Maryland–National Capital Park and Planning Commission – Montgomery County  
People’s Counsel for Land Use Planning**

Testimony submitted by **Cheryl Gannon, resident Silver Spring MD**

Thank you for the opportunity to submit testimony in support of Senator Kramer’s bill to establish a People’s Counsel for residents of Montgomery County. Land use and Planning for both Montgomery and Prince George’s Counties falls under the jurisdiction of the MNCPPC (the Commission)—a state created and chartered bi-county agency. Under a memorandum of agreement with the Commission, Prince George’s County receives annual funding from the state to support a People’s Counsel for Zoning and Land Use for Prince George’s residents. Title 25 of the state land use statute outlines various functions of the Prince George’s County People’s Counsel and makes clear that the MNCPPC is a state agency. Yet, Montgomery County residents are not afforded the same services that the state provides to Prince George’s residents. This disparity in treatment of residents of each county must be resolved and the state should step in and establish a People’s Counsel and funding for the residents of Montgomery County. Senator Kramer’s bill accomplishes these important goals, and his bill mirrors the existing county statute with respect to the powers of the People’s Counsel.

In a move that can only be described as retaliatory, the House delegation stripped out the most important parts of Senator Kramer’s bill and inserted a very weak information clearinghouse in its place. The resulting House bill is *weaker than the existing unfunded county statute* and if enacted, leaves Montgomery County residents in a worse position than before. It begs the question as to who asked the state delegation to shred the existing county statute and remove important resident protections? These harmful amendments must be rejected, and I urge you to support Senator Kramer’s bill as introduced.

It is worth noting that in addition to Prince George’s County, there is a People’s Counsel for zoning in Baltimore County, Howard County and Harford County. Yet, Montgomery County, the largest in the state, has failed to maintain the program for its own residents.

There were many egregious misstatements of fact made during the delegation committee discussions. For example, it was said the county needs affordable housing and a People’s Counsel will get in the way of that. In fact, a Council OLO report noted that more than half the time, the People’s Counsel for Montgomery County, (when we had one) sided with petitioners and not residents. The county statute that the Kramer bill reflects gives no authority to a People’s Counsel to stop anything. The People’s Counsel can take positions and advocate at hearings, but the decision makers remain the same—the Planning Board and the Council. The county statute and Senator Kramer’s bill both prohibit the People’s Counsel from representing any individual party.

The Coalition for Smarter Growth has mailed alerts telling residents to oppose the People’s Counsel because “too often it has been used to stop affordable housing.” This is an egregious falsehood. The CSG lobbyist has been asked several times to identify even one instance when a People’s Counsel stopped affordable housing and is unable to do so. Unfortunately, these misstatements of fact were accepted and repeated by delegates on the Economic Development Committee. It is ironic that the CSG parent organization, Piedmont Environmental Council, often opposes housing and other developments in their home territory in Virginia, with the assistance of counsel, but believes that is only the residents of Montgomery County that don’t deserve advice and assistance.

The People's Counsel statute in Montgomery County, which has been unfunded for 15 years, was a proposal advanced by former County Executive Ike Leggett when he was on the Council. In fact, he advocated for a stronger statute than what is currently in place.

It is fair to say that Mr. Leggett managed to move development projects forward with an Office of the People's Counsel in place.

The land use process is complex. Residents need an experience land use attorney to explain the process, the laws and help residents to know where and when to express their positions. Developers have attorneys, the Planning Board has attorneys, the MNCPPC has attorneys, and the Council has attorneys. It is only the residents that are expected to go to work every day, take care of families and then spend hours trying to understand and participate in a complex and difficult process without expert help. Fairness would be restored by enacting Senator Kramer's bill as introduced and rejecting the harmful House amendments.

Cheryl Gannon  
1507 Noyes Dr  
Silver Spring, MD 20910



# **HB1364\_Metchis\_FAV**

Uploaded by: Karen Metchis

Position: FAV



# CLIMATE COALITION

## Montgomery County, MD

### **Office of the Peoples' Counsel – Support HB 1364 - No Amendments.**

March 21, 2024

Dear Chair Korman and Members of the House Environment and Transportation Committee,

The Climate Coalition Montgomery County supports full funding for the Office of the People's Counsel. We ask you to support HB 1364 that would further codify this crucial independent office in state law. We oppose amendments that would weaken this Office, for reasons cited below.

We need the Office of the People's Counsel (OPC) to be funded and staffed, because wise land use decisions are fundamental to the success of Montgomery County's Climate Action Plan. The OPC was previously funded by the County Council and had a two-person staff between 1999 and 2008. The OPC, which enjoyed widespread positive support according to the 2008 report by the Office of Legislative Oversight (based on interviews with over 50 people who interacted with the OPC), participated in 267 land use proceedings from 2002-2007, and provided technical assistance in over 18,000 instances during that time-frame.

So, the record shows that OPC played a significant, positive role in technical assistance and in its unique ability to highlight aspects of the public interest in land use proceedings. Although opponents of the OPC claim that this Office was used in the past to block affordable housing programs, we have not seen any evidence that supports this claim. We support housing justice programs and view the OPC as enabling constructive community participation towards decent housing for all residents.

Examples of land use decisions affecting Montgomery County's climate response include: site plans, master plans, and special zoning exceptions that determine how much forest is protected and how much more pavement is allowed in a given area; proposals that affect the stock of existing affordable housing and the availability of urban land to affordable housing developers; and Zoning Text Amendments that affect availability of land to farmers in Montgomery's Agricultural Reserve.

Citizen participation in local land use decisions is very challenging even for well-resourced civic groups that have the funds to hire their own lawyers. For groups lacking such funds, with no staff at the Office of the People's Counsel to assist them in navigating Montgomery's maze, they are often out in the cold, unable to participate effectively in the multiple hearings required for land use and zoning proceedings. When grassroots citizens lack the guidance of the OPC, they are more likely to be chilled out of and harmed by government decisionmaking that directly affects them; in this ever-widening situation, the public interest is silenced and subverted.

Climate disruption will accelerate in the coming years, requiring Montgomery County residents to adapt to heat waves, flash floods, and drinking water pollution by toxic algae blooms. Forest protection, and protecting existing affordable housing while building more affordable housing that is energy-efficient and transit-served, are examples of land use and zoning decisions that help us to more-



## CLIMATE COALITION Montgomery County, MD

safely and -equitably adapt to climate disruption. Helping historically under-resourced Black, Indigenous, and People of Color communities to constructively participate in County land use and zoning decisions through the Office of the People's Counsel, is at its essence a climate justice policy.

### **We request your support for HB 1364 and we oppose any amendments.**

Effective participation by individual citizens and civic groups in our local government decisions is aided by the Office of the People's Counsel. In the years since the OPC was de-funded, residents' participation in land use and zoning decisions has been more difficult – and more rare – in the absence of the expert guidance provided by the OPC. We support the budget request by C.E. Marc Elrich for full funding for the OPC.

Misconceptions about the OPC have been reported that require correction with the facts. One misconception is that the OPC only served a small number of elite citizens – in fact it provided 47 mediation sessions between developer-applicants and a range of citizens and civic groups. Another misconception is that the OPC obstructed government-developer relations and usurped other agencies; to the contrary, the OPC through its independent expertise for the public interest, frequently helped all parties to reach compromise solutions more quickly than would have otherwise happened.

**We do not support proposals to replace the effective Office of the People's Counsel with a duplicative Public Relations branch of county government.** The “Community Zoning and Land Use Resource Officer” as a public information source, would be duplicating the public information resources already available on line, and in-person at some agencies including the Planning Board. We don't need another government information/ PR branch. As noted by resident Cheryl Gannon, “There were 17 witnesses who sent written testimony for the April 18, 2023 public hearing on Councilmember Friedson's bill 18-23: 16 were in opposition and one was in support of Council Bill 18-23.”

No witness at the April 2023 County Council hearing, argued that a People's Counsel would have helped prevent the development of housing. To the contrary, we as climate justice activists support stepped-up County efforts to provide affordable housing at a scale to meet the need, in transit-served, walkable urban neighborhoods. The OPC will help to ensure that we achieve this goal and our other climate goals, through wiser land use decisions informed by expert guidance to the grassroots, and an independent voice for the public interest.

Thank you for considering our views.

Sincerely,

Karen Metchis for  
Climate Coalition Montgomery County

# **HB1364\_Cepaitis\_FAV**

Uploaded by: Sandra Cepaitis

Position: FAV



# CLIMATE COALITION

## Montgomery County, MD

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Thank you for considering our views.

Sincerely,

Karen Metchis for  
Climate Coalition Montgomery County

# **HB1364\_M-NCPPC\_INFO**

Uploaded by: Jordan Baucum Colbert

Position: INFO



## **POSITION STATEMENT**

**Bill:** HB 1364 Maryland – National Capital Park and Planning Commission – Montgomery County – People’s Counsel for Land Use Planning (PG/MC 112-24)

**Position:** Informational

**Date:** March 21, 2024

**Contact:** Debra Borden, General Counsel

Jordan Baucum Colbert, Government Affairs Liaison

The Maryland National Capital Park and Planning Commission (M-NCPPC or “the Commission”) is submitting this information. This bill was recently amended by the Montgomery County Delegation. The amended version of this bill still raises several logistical concerns regarding reporting structure, supervision, benefits, retirement system, administrative support system and duties. Therefore, the Commission respectfully requests that the Environment and Transportation Committee consider this information and include it in the record.

**What this Bill Does.** This bill as amended requires the Montgomery County Council (County Council) to appoint a People’s Counsel for Land Use Planning establishing the qualifications and responsibilities of the People’s Counsel. This bill also requires the County Council to approve adequate funding for this position within the M-NCPPC’s budget. Additionally, this bill also seeks to establish qualifications and responsibilities for the People’s Counsel.

**We Value Meaningful Community Engagement During the Planning Process but This Position as Proposed May Cause More Confusion than Clarity.** Although the County Council appoints and can remove this person, they are funded through the Commission’s budget but they may or may not be a Commission employee. Further, it is not clear where this person would physically sit, whose electronic system would they be on, who would provide administrative support, who hosts their web page and outreach efforts, who conducts performance reviews, whose retirement or other benefits system would they subscribe to, do they impact our budget levels, etc.?

For these reasons, the Commission requests more information.