



THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission

Bill: HB 1517 Land Use - Qualified Project - Retaliatory Downzoning

Position: Informational

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Dear Chair Marc Korman,

The Maryland-National Capital Park and Planning Commission (M-NCPPC or “the Commission”) has not voted on this bill. However, staff have offered an informational

What this Bill Does. Establishing that a "qualified project" is a certain residential project that has been subject to retaliatory downzoning; requiring a local jurisdiction to allow the density of a certain qualified project to exceed the density otherwise authorized; and permitting a certain qualified project to consist of certain types of developments with certain density limits under certain circumstances.

Informational Comments

P2, line 9: There is ambiguity on how “targeted by retaliatory downzoning” will be interpreted. In Montgomery County, there are two methods to change the zone: master plans and local map amendment (rezoning) LMAs. Traditionally, master plans in Montgomery County have increased the zoning but, in some cases, properties have remained in the same zoning category, been reduced due to environmental or other circumstances, or modified through an overlay zone that can be more restrictive. Although this calls out “qualified projects”, many master plans have become venues by property owners to become site plan level discussions.

P2, line 15: The deed restrictive units don’t match moderately priced dwelling unit (MPDU) law. We would like to offer suggestions to match the affordable housing provisions in respective counties that have inclusionary zoning. The next section within this bill attempts to address this, however this may still be problematic.

(IV) WITHIN 4 YEARS AFTER PUBLICLY OPPOSING THE PROJECT OR PROPERTY, TAKES LEGISLATIVE OR ADMINISTRATIVE ACTIONS THAT MATERIALLY DELAY, OBSTRUCT, OR BURDEN REDEVELOPMENT OF THE PROPERTY AND ARE DONE IN A MANNER INCONSISTENT WITH OR CONTRARY TO THE WRITTEN RECOMMENDATIONS OF THE LOCAL PLANNING, TRANSPORTATION, OR PUBLIC WORKS DEPARTMENTS.

- This section could be problematic if new policies come into effect like proportionality guidelines, impact fees or other regulations.

(P3 line 22): SHALL HAVE A DENSITY THAT IS THE GREATER OF: 1. A LIMIT THAT EXCEEDS BY 60% THE ALLOWABLE DENSITY IN THAT ZONE FOR USES THAT ARE NOT PART OF A QUALIFIED PROJECT; OR 50% OF THE DENSITY ALLOWED UNDER THE PREVIOUS ZONING; AND (II) MAY CONSIST OF MIXED-USE.

- These could be significant density increases on individual or consolidated properties. I would point out that density has a correlation to height, which might be a more limiting factor regardless of how much additional sf a property owner receives.