



POSITION STATEMENT

Bill: [SB 325](#)/ HB 538 Land Use - Permitting - Development Rights (Maryland Housing Certainty Act)

Position: Support with Amendments

Date: February 17, 2026

Contact: Debra Borden, General Counsel

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Dear Chair Brian Feldman,

The Maryland-National Capital Park and Planning Commission (“M-NCPPC” or the “Commission”) has voted to support this bill with amendments. For these reasons, M-NCPPC offers conditional support for SB 325.

What this Bill Does. This bill requires approval of a housing development project application by a local regulatory authority or the Maryland–National Capital Park and Planning Commission to be governed only by certain laws and regulations in effect at the time of submission of a substantially complete application. This bill also grants the proponent of an approved housing development project certain vested rights related to use and development for a certain time period. It also prohibits the collection of certain development excise taxes and development impact fees before a housing development project is completed.

M-NCPPC General Comments. M-NCPPC appreciates Governor Moore’s continued focus on addressing Maryland’s housing crisis. SB 325 / HB 538 reflects a growing recognition that the State must expand opportunities for affordable housing and reduce regulatory barriers that limit supply. M-NCPPC strongly supports efforts that meaningfully improve the development review

process to ultimately increase housing supply, availability and affordability for Maryland residents. For these reasons, M-NCPPC offers conditional support for SB 325 / HB 538. We recommend amendments that:

- Consider 20 days for initial application determination of completeness and 30 days before it is deemed complete.
- Provide flexibility so that local timelines, deadlines, and review windows which are more stringent or meet minimum requirements are allowed to continue and remain intact.
- Eliminate the use of the term “vesting” to avoid constitutional and other legal issues. Other terms can be used to arrive at an equivalent outcome.
- Extend the effective date to July 1, 2027, due to the need to update zoning ordinances and development review processes. The pending election year moratorium on zoning text amendments would suggest the need for additional time for statewide implementation.

M-NCPPC stands ready to work with the bill sponsors, the General Assembly, and partner jurisdictions to refine this legislation so that it advances Maryland’s housing goals while maintaining the planning tools necessary to support complete, connected, and resilient communities.

Bill Amendments to Consider

Generally, we can support this Bill with amendments that would help clarify and protect the process and the rights of local governments and applicants alike.

1. The definition of “Substantially Complete Application” could lead to much uncertainty and confusion for staff, applicants, and members of the community, particularly since a substantially complete application may not be sufficiently complete to begin the regulatory review process. To avoid this confusion, we recommend aligning the bill with acceptance of an application as complete.

Local jurisdictions, including Montgomery and Prince George’s Counties, have extensive application checklists that set forth the requirements an application must satisfy before it can be accepted for processing, and acceptance is the trigger for regulatory review processes. A complete application that meets the acceptance criteria is the only method for a jurisdiction to effectively and efficiently process regulatory applications. Even the lack of seemingly “nonsubstantive” materials, could make it impossible to review an application and slow down the process later.

- **Recommended Amendments:**
 - Define “Complete Application” as a “development project application with all materials and information required for processing and substantive review or acceptance as determined by the local regulatory authority or the Commission.”
 - Thereafter, throughout the bill, replace “Substantially Complete Application” with “Complete Application.”
2. The local regulatory authority or the Commission should have at least 20 days, as opposed to 15 days, to make the first determination of completeness. Thereafter, if the local regulatory authority or the Commission is not able to make a determination of completeness within 30 days, as opposed to 20 days, the bill would automatically give the application the full protections of the bill (page 6, lines 28-32).

Although these deadlines are normally achieved, because the consequence is so significant, the time should be extended to allow for unforeseen circumstances. Some localities have shorter periods of their own, but without such consequences. In addition, a failure to meet the deadline should not abrogate the applicant’s responsibility to provide the local regulatory authority or the Commission with all the materials necessary to process the application.

Recommended Amendments:

- Amend **Page** **6,** **Lines** **16-17:**
 “Within ~~2015~~ days after receipt of a housing development project application, a local regulatory authority or the . . .”
- Amend **Page** **6,** **Lines** **28-32:**
 “If a local regulatory authority or the Commission fails to notify an applicant of its initial determination regarding the completeness of a housing development application within ~~3020~~ days after receipt of the application, the application is deemed to be a complete application for purposes of this section **only and the applicant is still required to provide all information required by the local regulatory authority or the Commission prior to processing of the application.**”

3. The language regarding multiple stages of a project should be clarified to eliminate confusions with phases of a singular development plan. Apparently, the intent of paragraph (A)(4) is that if a project needs a subdivision plan and a site plan, if the subdivision plan is filed first and accepted as complete, the subsequent site plan would be protected. In

addition, we do not want to confuse this section with paragraph (C) which talks about phases of development projects.

Recommended Amendment:

- Amend **Page 7, Lines 1-7:**

“(4) (I) When a local regulatory authority or the Commission **requires** ~~provides for the approval of~~ **more than one type of housing development project application in order to construct** a housing development project ~~in multiple stages,~~ the date of **the first complete application submission** ~~a complete or substantially complete~~ under paragraph (1) of this subsection **shall be the date used to determine the applicable development and zoning standards as required by subsection (B) of this section.** ~~of the first complete or substantially complete application submission for any process that may culminate in the final approval of the application.~~

4. The vesting paragraphs on page 7 could be confusing with regard to what it means to have “all required approvals” (is this referring to all discretionary approvals, or does this include ministerial approvals like plats and building permits, etc.?), and what it means to be vested in a “development.” Also, such language could unintentionally extend the life of an approval that may have expired pursuant to local regulations. Use of the term “vested” invokes property rights as determined by decades of Maryland caselaw that could lead to claims of regulatory takings and potential damages. If the intent is to allow use of the rules and regulations at the time of filing, then the bill should say that. We should also make clear that stormwater management, fire safety, building code, etc. requirements can be imposed to protect public health, safety and welfare, not just immediate threats to public safety.

Recommended Amendment:

- Amend **Page 7, Lines 12-17:**

“(B) After a housing development project has received all required **final** approvals **necessary to obtain a building permit,** the **local regulatory authority, the Commission or the State may not, for a period of 5 years, impose new development or zoning standards on the housing development project.** ~~proponent of the project shall have a vested right to that authorized use and development for the longer of:~~

(1) 5 years; or

(2) a period determined by the local regulatory authority or the Commission.”

- Amend **Page 7, Lines 21-32**, and **Page 8, Lines 1-2**:

“(D) This section may not be construed to:

- (1) prevent the expiration of an approval of a housing development project application in accordance with the laws or regulations governing a local regulatory authority or the Commission; or
- (2) limit the ability of a local regulatory authority or the Commission to: (i) require approvals or permits for each phase . . . ;
(ii) enforce ~~health and safety~~ laws or regulations that are necessary to address **public health, safety and welfare** ~~immediate threats to public safety;”~~

5. The effective date should be extended to account for the election-year zoning moratorium that takes effect October 31, 2026 due to the statewide local election cycle. If zoning text amendments are needed, they could not be acted upon until January of 2027, so more time would likely be needed by most jurisdictions.

Recommended Amendment:

- Amend **Page 9, Lines 29-30**:
“Section 2. And be it further enacted that this Act shall take effect **July 1, 2027** ~~October 1, 2026.~~”

A Sample Application Checklist is provided below for illustrative purposes.



SITE PLAN INTAKE CHECKLIST FOR APPLICANTS



What is proposed?

Plan Name: Dwelling Units: Commercial SF:
Plan Number: Use: Size:

APPLICATION

- Upload all files with the naming conventions found in [this document](#)
- Applicant must fill out and sign [Application Form](#)
- If Applicant is not property owner, provide signed owner authorization

SIGN TEMPLATE AND LOCATION PLAN

- Fill out and provide sign template linked [here](#)
- Include a project description including use, square footage, and proposed activity
- Include [Sign Location Plan](#) showing at least one sign location for every 500 feet of property frontage
- Do not post sign until instructed by Intake Staff

PRE-SUBMISSION MEETING INFO

- Applicants must hold a pre-submission community meeting within 90 days of application submission
- Provide a signed [affidavit](#) attesting to the time, date, and location of the pre-submission community meeting
- Include a copy of the [invitation letter](#) and [typed list of invitees](#)
- Include a typed list of meeting attendees and a

STATEMENT OF JUSTIFICATION

- Include a thorough description of the proposal
- Include [written description of how project complies with the findings](#) required in section 59-7.3.4.E.2 of the new code or section 59-D-3.4.c of the old code

CERTIFICATE OF COMPLIANCE

- Fill out and sign [certificate of compliance](#)

NOTICE LIST

- [Generate notice list](#) of HOAs and Civic Associations within one mile of subject property
- Add to the notice list all confronting and adjoining property contact information
- Add to the notice list any and all parties of interest from presubmission community meeting
- Provide notice list in the form of an Excel sheet

NOTICE LETTER

- Fill out [notice letter template](#) with correct plan number and plan name
- Include project description (same as on sign)

FOREST CONSERVATION DOCUMENTS

- Provide an approved [NRI/FSD](#) or [Forest Conservation Exemption Plan](#)

copy of the sign-in sheet, including addresses of anyone wishing to be a party of record

- Upload [Forest Conservation Plan Exemption Letter](#)
- Include a copy of the [meeting minutes](#) with the name and contact info of the preparer
- Add all parties of record and requesting notice to the Notice List

PREVIOUS APPROVALS

- Provide and upload any and all previous approvals, including Record Plats, Preliminary Plans, Sketch Plans, and/or Concept Plans. Also include any and all previously approved amendments.

AMENDMENTS

- All amendments must receive an Amendment Checklist provided and signed by Montgomery Planning. Amendment Checklists must not be more than 90 days old at time of Application submission
- Major Amendments must abide by the same standards as a new site plan and provide all items in this Checklist
- If not a Major Amendment, provide all documents as requested in the Amendment Checklist

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APPLICATION DRAWINGS

Provide the following standard drawing components on ALL plan sheets:

- Graphic scale
North arrow
Name of plan and plan number
Revision block
Plan preparer contact info
Applicant's name
Vicinity map
Legend
Approval stamp placeholder (4"x3")
Engineer certificate
Developer's Certificate
Building footprints
Ground-floor layouts, including entrances
Grading/topography w/ labels
Property lines
Limits of disturbance

SITE PLAN

- Provide a cover sheet with sheet index including all plan sheets and development program
Provide a blank second page for future approvals
Provide a DPS pre-construction note on all pages

Site Plan drawings should show the following details:

- Uses in square feet/units
Building heights
Open spaces
Stormwater management facilities
Layout and dimensions of:
Roads/points of access
Bike facilities/parking/storage
Sidewalks/trails/paths
Parking
Loading

Provide the following information for adjacent properties within 100 feet:

- Zoning
Building outline
Height
Use
Topography

Fill out and provide the following data tables:

- Project data table including all zoning information
Parking table
Recreational Facilities Table
MPDU, TDR, BLT, or Workforce, if applicable

If split-zoned, clearly delineate zoning boundary.

If multiple phases, include phasing plan.

LANDSCAPING PLAN

Landscaping Plan drawings should show all proposed plantings and hardscaping

- Provide a planting list/table
Provide planting details/specifications

LIGHTING PLAN

Lighting Plan drawings should show all proposed lighting fixtures/details

- Provide a list/table of lighting fixtures/elements
Provide lighting details/specifications
Provide a photometric plan
Provide streetlighting analysis in accordance with the Streetlighting and Illuminance Information document for all public and private rights-of-way

ARCHITECTURAL PLAN

- Provide detailed architectural elevations of the proposed buildings
Provide detailed floorplans of all proposed buildings

FOREST CONSERVATION PLAN

Separately submit a Forest Conservation Plan, or upload an approved Forest Conservation Plan Exemption

OTHER AGENCIES

Dept. of Permitting Services - Stormwater Management

- Pay and upload receipt for DPS-SWM review
Provide Stormwater Management Plan
Provide Stormwater Management Approval letter

Dept. of Permitting Services - Fire Department Access

- Provide Fire Department Access plan

Washington Suburban Sanitary Commission (WSSC)

- Pay and upload receipt for WSSC review

APPLICANT STATEMENT OF COMPLETION

I, [redacted], the Applicant, attest to the fact that all items outlined in this document have been provided and constitute a complete and accurate Application. I have also uploaded this checklist as part of my submission.

Signature: _____

Therefore, we urge this committee to vote favorably with amendments on this bill.