



THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission

POSITION STATEMENT

Bill: SB 197/HB 243 Land Use – Comprehensive and General Plans – Alterations of Elements

Position: Informational

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Dear Chair Brian Feldman,

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

What this Bill Does. This bill will require changes in our planning process and add staff time and effort. The timing impacts on the Planning Department’s ability to deliver comprehensive plans that meet these requirements may conflict with stakeholder expectations for quick plan turnaround.

SUGGESTED RECOMMENDATIONS

Page 4. of the bill calls for development regulations that “shall encourage” (1) flexible development regulations to promote innovative and cost-saving site design, (2) implement the planning principles, and (3) protect the environment. Within the areas designated for growth, the plans shall further (1) promote economic development through the use of innovative techniques; and (2) provide for the streamlined review applications for development, including permit review and subdivision plat review.

Both goals are already incorporated in the current Prince George's County Zoning Ordinance and Subdivision Regulations. It is, however, important to note that a comprehensive plan cannot actually "provide for" streamlined review, because review mechanisms are codified in local law. The local laws must be amended if streamlined review is desired.

Page 6, Lines 12-15. are problematic in that establishing "special regulations" that "may be necessary to ensure development in accordance with the principles and standards of the comprehensive plan" seems to contradict a basic tenet of zoning law which disfavors special, property-specific regulations. To any extent such may prove needed in the future, we must ensure as a County that such recommendations are limited to guidance for future changes to the local laws of the County or that it invokes the process for planned developments in the County.

It is also important to note that the "Maryland Land Preservation and Recreation Plan" is more directly pertinent to the Department of Parks and Recreation's comprehensive park and recreation master plan, which is quite different from master plans prepared by the Planning Department. These plans have different purposes, functions and are used quite differently in practice.

Page 6, Lines 23-30 and Page 7, Lines 1-10. The bill states that plans should identify the "most appropriate and desirable patterns for the general location, character, service areas, and extent of public and semipublic buildings, land, and facilities" as pertains specifically to "places of worship." We believe there is far too much potential here to run afoul of the Religious Land Use and Institutionalized Persons Act (RLUIPA), a federal law which protects religious institutions from substantial governmental burdens caused by land use regulations.

Page 11, Lines 16-17. The bill requires plans to "include an estimate for the use of any proposed improvement" is a relocation of existing language but the proposed language is unclear whether the requirement refers to how proposed improvements will be used or if it means the COST of proposed improvements. The *use* of facilities is innate with the designation of that facility; how many people are projected to use it varies depending on a variety of factors and is not as easy to forecast for non-automotive modes of travel as it is for motor vehicles.

Cost analyses for the construction of buildings and infrastructure are very time-sensitive and they are often out-of-date between the time they are drafted and the time a plan is approved. They also establish unrealistic expectations of costs that escalate over the years due to inflation and other macroeconomic factors. Should estimates of the costs of proposed infrastructure improvements be the expectation, this requirement will result in a significant staff cost in time and resources.

Page 12, Lines 28-29. It is unclear how a comprehensive plan could provide for “the elimination of substandard dwelling conditions.” Agreement on the definition of “substandard dwelling conditions” followed by a thorough analysis and possible inspection of tens of thousands of homes, would require significant new staff and resources at the County level.

Page 13, Lines 28-29 and Page 14, Lines 1-2. The requirement to include an assessment of fair housing to ensure that the County is affirmatively furthering fair housing for current and future residents will likely require additional staff expertise, leading to additional costs.

Likewise, it is unclear if the specific expertise exists in the Planning Department regarding economic sector and job analysis and the ability to “determine whether available jobs align with local labor force characteristics, community patterns, and wages paid.” Additional resources and expertise with labor and economics may be necessary.

As to the Resilience Element, additional resources and expertise would be needed. The County has a plan that touches on systems resiliency but not comprehensive resiliency. Given the importance of resiliency and systemic changes necessary to deal with climate change, this is an area where substantial additional resources may be required.

Page 20 Lines 3-7. This element is extremely challenging to implement as mandated at the comprehensive plan level. For example, requiring local governments to “plan, design, and program new or revitalized public spaces to strengthen community cohesion while contributing to public health, connecting people with cultural heritage, conserving natural resources, improving resiliency, and strengthening the local economy.” In a County such as Prince George’s consisting of 500 square miles, planning public spaces through comprehensive plans is quite difficult.

Bill Duplication. Section 3-102 and subsequent new Sections are largely duplicative of Section 1-406 and subsequent new Sections. Pages 25-48 essentially duplicate Pages 3-24 and the same could be said of Pages 25-48. The opportunity exists with SB0197 to eliminate, rather than perpetuate, redundant provisions. However, there is one significant difference between these two large sections: only Pages 25-52 reference a “Municipal Growth subelement.”

Page 25, Lines 1-2. The bill is unclear when a Municipal Growth subelement is required in a comprehensive plan. “The plan for a municipal corporation that exercises zoning authority shall include a municipal growth element.” This is confusing in practice, because while the City of Laurel is the only municipality in Prince George’s County that possesses independent planning and zoning authority, several other municipalities in the County exercise limited, delegated zoning authority over certain zoning entitlements/applications.

This confusion is compounded by subsequent references to municipalities because those references are much more general – literally, just “municipal corporation” without qualifiers such as “that exercise zoning authority.” Does this mean the 20+ municipalities in Prince George’s County that do not exercise *any* zoning authority necessitate the creation and incorporation of a Municipal Growth element?

Some of the language in existing Section 3-206 on Pages 51-52 seems to reinforce the intent of the bill’s that the Municipal Growth subelement should be exclusively required of municipalities with independent planning and zoning authority. If this is indeed the intent, staff **recommends** a revision to clarify this point at every location where the term “municipal corporation” is used to clearly state “municipal corporation that exercises independent planning and zoning authority.”