

REVIEW OF BILL 25-0006 "ZONING CODE - MODIFICATIONS" - Joan Floyd

Title 3 Subtitle 2. 3-203. Planning Commission

Page 4 Lines 11-16 - 3-203(b)(7-8):

This amendment incorrectly cites Land Use Article 3-301. Baltimore's comprehensive planning process is governed by Land Use Article Title 1, Subtitle 4, Parts II and III, see *Land Use Article 10-103(b)*.

The Land Use Article does not anticipate that comprehensive rezoning will be conducted yearly. In Baltimore, it would be impractical to conduct a legitimate comprehensive rezoning process on a yearly basis. The Bill even neglects to include procedure(s) for yearly comp rezoning.

Yearly comprehensive rezoning would make unreasonable demands on the resources of both the City government and the affected communities. Where would all the extra funding come from? It would be a wasteful new endeavor. It would also be bad public policy. While neighborhoods struggle and strive to achieve stability, the zoning map would effectively be in a state of flux all year every year, which would be both counterintuitive and counterproductive.

Moreover, Lines 11-14 suggest that the Planning Commission would now be empowered to "conduct" comprehensive rezoning, rather than to "begin" it as is the current policy. Comprehensive rezoning is a City Council action.

Title 5 Subtitle 2. Applications

Page 7 Lines 16-18 - 5-201(b)(2):

The proposed amendments move the phrase "in writing" in a way that is unhelpful.

Line 16: There are no oral applications; there is no difference between an application that is "filed" and an application that is "filed in writing," so this insertion is superfluous.

Line 18: This removal of the phrase "in writing" will make a current situation worse.

Context: Every Liquor Board application from a tenant requires the property owner to sign the application in order to expressly indicate authorization. The tenant has to get the landlord's signature in order to file. The Zoning Board's failure to institute this simple method of assuring owner authorization has caused problems. Removing the phrase "in writing" means there will be neither a property owner signature on a tenant or agent's application, nor a requirement that the applicant produce a written authorization. If the policy is to prevent the Zoning Board from processing an unauthorized application, how is that achieved? How is the Zoning Board to determine that the landlord has "expressly authorized" the tenant's application?

Also Note: This bill leaves the phrase "in writing" as is in 5-201(b)(3) at Line 21.

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Title 5 Subtitle 3. Variances

Pages 8-10 - 5-301 Purpose; 5-308 Approval Standards

Page 8 Lines 2-28 - Opens up most Zoning Code provisions to Variances

Page 9 Lines 18-35 - Loosens the standards for approving Variances

Page 10 Lines 17-32 - Gives misleading and incorrect explanations for the above

If enacted, this amendment would establish the authority to grant Variances to every provision of the Zoning Code, with the exception of Uses and some Signage regulations.

This massive policy change is uncharted territory for Baltimore. When you establish the opportunity for applicants to seek variances from almost every provision or requirement, and you lower the criterion for approval to "exceptional circumstances related to the specific structure or land involved," you create a huge loophole in the Zoning Code.

Notably, the Prince George's County Zoning Ordinance avoids this problem by listing 25 types of regulations from which Variances may not be granted. Bill 25-0006 leaves the field wide open in Baltimore. It does not require much imagination to think up the kinds of Variance requests that will be made.

The Explanatory Note on p. 10 of Bill 25-0006 is not just unhelpful, it is thoroughly misleading:

- Variances would not be limited to "density, bulk, dimensional or area requirements" as suggested by the Explanatory Note. The cited Land Use Article provisions do not apply to Baltimore City zoning. Neither the cited definition of "Variance" at 1-101(s) nor the cited subsection 4-206 applies to Baltimore City, see *Land Use Article 10-103(b)*.
- Our current "uniqueness" standard aligns with case law and is by no means "an outlier among peer counties" as stated in the Explanatory Note. The counties of Anne Arundel, Howard, and Prince George's all expressly require a finding of "uniqueness":

Anne Arundel: Zoning Code 16-305(a)(1) "unique physical conditions" of a lot

Howard: Zoning Regs 130.0.B.2.a.(1) "unique physical conditions" of a lot

PG: Zoning Ordinance 27-3613(d) "uniqueness and peculiarity" of a parcel

This amendment proposes a huge policy change that is being passed off as insignificant and in line with neighboring counties.

Land Use Article 10-404(a)(3) and (b)(1) authorize the Zoning Board to grant "on appeal in specific cases a variance from the terms of a local law." Bill 25-0006 attempts to take full advantage of that broad authority, and does so largely by stealth.

Also: Page 8, Lines 5-7 omit the City Council as an authorizing entity.

Title 5 Subtitle 6. Notices

Page 14 Lines 6-23

The time-honored requirement of publishing hearing notices is depended on, promotes equitability and accessibility, and must not be eliminated. There must be some sort of centralized publishing requirement in order to provide adequate advance public notice.

Title 10 Subtitle 4. Bulk and Yard Regulations

Page 17 Lines 14-20 - 10-403:

Page 22 Lines 10-30 - 10-401:

To achieve the Explanatory Notes' stated goal of preventing use of a "relatively small lot" in a "walk-to" area for a large tenant, the current Maximum Lot Areas should be retained, rather than eliminated, when Maximum Floor Areas are added.

Title 12 Subtitle 4. Transit-Oriented Development Districts

Page 17 Lines 25-28 - 12-405(e):

The term "side streets" should be defined to prevent confusion. The "Lot Line" definitions at Zoning Code 1-309 may not provide sufficient clarity.

Table 11-301 - Industrial Districts - Permitted and Conditional Uses

Page 23 Lines 6-12

Another erroneous and misleading Explanatory Note has been provided to support moving "Accessory Live Entertainment" from Prohibited to Permitted in the IMU-1 zone. Prohibiting this use in this district in 2016 was not "an error." It was a matter of rational public policy, to protect nearby residences from the impacts of live entertainment at bars, restaurants, etc. This is apparent from the following language at Zoning Code 11-203(b):

- (1) 2 types of IMU Districts are established, as follows:
 - (i) one, the IMU-1 District, allows a variety of residential uses, including live-work dwellings; and
 - (ii) the other, the IMU-2 District, prohibits all residential uses.
- (2) The IMU-1 District is generally for industrial buildings that are adjacent to existing residential buildings, typically rowhouses.
- (3) The IMU-2 District is generally for industrial buildings that are adjacent to heavier industry, port uses, highways, or truck routes and not residential areas.

The current Use table is correct for this "accessory" use.