



# Prince George's County, Maryland

## Inter-Office Memorandum

### Office of Law

#### LEGISLATIVE COMMENT

**DATE:** November 17, 2024

**TO:** Jennifer A. Jenkins, Council Administrator

**THRU:** Rhonda L. Weaver, County Attorney

**FROM:** Sean G. Dixon, Deputy County Attorney

**RE:** CR-096-2024

The Office of Law has reviewed the above referenced resolution as it was presented on October 29, 2024, and discussed before the County Council's Committee of the Whole on November 12, 2024. This resolution designates the National View site as an urban renewal area for the rehabilitation and redevelopment of the blighted area. The Office of Law concludes that the County Council possesses the legal authority to classify the site as an urban renewal area, consistent with the Town of Forest Heights' Resolution 84-23, which similarly designates the site. Upon making this determination, the County Council will have the authority to approve the proposed PILOT incentive presented under CR-097-2024. Additionally, the Office of Law opines that any legal challenge to the Council's action would likely be unsuccessful. Maryland courts generally defer to legislative determinations when the legislative body has followed applicable procedural requirements.

The following bullet points provide the relevant background information:

- HB 825 of 2023, Chapter 209 of the Laws of Maryland, granted the Town of Forest Heights in Prince George's County the authority to exercise urban renewal powers in areas zoned for commercial use for blight clearance and redevelopment under Article III, Section 61 of the Maryland Constitution.
- The Town of Forest Heights Resolution 83-23 designated the National View site, it identified as blighted, as an urban renewal area within the Town of Forest Heights.
- The Town of Forest Heights Resolution 84-23 approved an urban renewal project and an urban renewal plan for the National View Site within the Town of Forest Heights.

- Section 7-516 of the Tax-Property Article of the Annotated Code of Maryland (“PILOT Law”) permits certain projects situated in “designated focus areas” to qualify for a PILOT, subject to County Council approval and compliance with other requirements. The PILOT Law defines a designated focus area as either (1) a qualifying transit-oriented development; (2) a qualifying revitalization tax credit district; or (3) “an urban renewal area as designated by the governing body of Prince George’s County.” *See* Section 7-516(a)(2) of the PILOT Law.
- The Town of Forest Heights Council found that the urban renewal plan would afford maximum opportunity, consistent with the needs of the municipality, for the rehabilitation or redevelopment of the designated urban renewal area by private enterprise. The PILOT Law which enhances this redevelopment opportunity requires the County Council, not the municipality alone, to designate the urban renewal area.
- Section 2-254 et seq of the Prince George’s County Code (“County Code”) establishes the County’s authority and procedures to exercise urban renewal powers including the designation of urban renewal areas and the approval of urban renewal projects and plans.
- Section 2-254 (a)(5) of the County Code defines an urban renewal area as “a slum area or a blighted area or a combination thereof which the County designates as appropriate for an urban renewal project.”
- Section 2-254 (a)(1) of the County Code defines a blighted area as “an area in which a majority of buildings have declined in productivity by reason of obsolescence, depreciation or other causes to an extent they no longer justify fundamental repairs and adequate maintenance.” (emphasis added)

### Analysis

As mentioned above, CR-096-2024 does not aim to mirror the Town’s action by having the County Council approve the area as an urban renewal project or plan, which would imbue powers for eminent domain or other forms of takings or displacement. Instead, its purpose is to designate the National View site only as an urban renewal area for the purpose of rehabilitation and redevelopment of the blighted area, consistent with the Town’s wishes. The definition of a blighted area, under County law, does not set specific quantitative criteria for the number of buildings; rather, it requires that a majority of buildings exhibit certain deteriorated conditions. Accordingly, as the governing body, the County Council may designate National View as an urban renewal area provided a majority of the buildings have declined in productivity by reason of obsolescence, depreciation or other causes to an extent they no longer justify fundamental repairs and adequate maintenance.