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May 23, 2019

The Honorable Todd M. Turner  
Chair  
Prince George's County Council  
County Administration Building  
14741 Governor Oden Bowie Drive  
Upper Marlboro, Maryland 20772

Re: CB-22-2019, CB-23-2019, CB-24-2019 and  
CB-25-2019

Dear Chairman Turner:

Thank you for providing the Planning Board an opportunity to review and comment on proposed District Council legislation. During the May 23, 2019 Planning Board meeting, the following position was adopted in accordance with the planning staff's recommendation on the proposed legislation. A **Planning Board Analysis of the bill is attached for your consideration and a brief excerpt from the report is provided below:**

*CB-22-2019 amends Section 27-419 (Bedroom percentages.) by removing the bedroom percentage requirements from the Zoning Ordinance.*

**Planning Board Recommendation: Support with Amendments**

(See Attachment 1 for full analysis)

The original intent for mandating bedroom percentages is no longer clear to the Planning Board. Data indicates multifamily dwellings generate fewer school pupils than single-family detached and townhouse dwellings, and current trends demonstrate moderate multifamily development is weighted towards a smaller number of bedrooms than may have been the case decades ago.

Further, restricting the number of bedrooms in the manner required by Section 27-419 may be contrary to the County's affordable housing goals as contained in the Comprehensive Housing Strategy. Finally, Section 27-419 has created many non-conforming uses over time, contributing to administrative complexity with no discernable public purposes.

The County Council's adopted Zoning Ordinance removes the requirements mandating bedroom percentages. Therefore, CB-22-2019 brings the ordinance that remains currently in force closer to the Council's adopted ordinance. The bill will serve as a useful stopgap provision until the new, modernized ordinance takes effect.

**The Planning Board recommends deletion of all remaining references to bedroom percentages in other sections of the current Zoning Ordinance.**

*CB-23-2019 amends Section 27-107.01 (Definitions.) by adding a new definition for “graduate student housing”.*

**Planning Board Recommendation: Support with Amendments**

(See Attachment 2 for full analysis)

It is not clear from the legislative summary of CB-23-2019 why a new use is needed in the current Zoning Ordinance. The proposed definition of “graduate student housing” is a multifamily dwelling by a different name. In addition, it is not clear which zones would permit the use and permits could not be issued because the use would not be permitted in any zones as the bill is currently drafted.

The “graduate student housing” use defined under CB-23-2019 could fall under the “dwelling multifamily” use as well as the “private dormitory” use in the adopted Zoning Ordinance. CB-23-2019 is neutral on the Council’s adopted ordinance. The definition does not add anything that would be necessary to incorporate into the adopted ordinance, nor does it degrade the adopted ordinance in any way.

The Planning Board recommends amending Section 27-441 (Uses Permitted in Residential Zones.) to add the proposed use to the use table to permit or prohibit the use in the different residential zones.

The bill should be revised to add a proposed footnote to state the “certain circumstances” where the “graduate student housing” would be permitted. Defining a use but not providing for it in the use tables makes the definition moot because no permit will be issued for the new use.

*CB-24-2019 amends Section 27-113.04 (Property conveyed by the State for the University of Maryland.) by incorporating a new exemption from the requirement to place land conveyed by the State of University of Maryland to a private entity into the Reserved Open Space (R-O-S) Zone until the District Council approves a subsequent Zoning Map Amendment for the property, or to require the private purchaser to file a Zoning Map Amendment application before recording the deed of conveyance (see Section 27-113.04(b)). Specifically, CB-24-2019 would exempt land including parcels zoned Multifamily High Density Residential (R-10), Multifamily Medium Density Residential (R-18), and One-Family Detached Residential (R-55) at the time of conveyance (or within two (2) years prior to) the conveyance.*

**Planning Board Recommendation: Support with Amendments**

(See Attachment 3 for full analysis)

This bill would constitute the fourth time an exemption is needed for property conveyed by the State for the University of Maryland to a private entity. Section 27-113 (Property conveyed by the United States of America or by the State of Maryland.) requires that land be immediately placed in the Reserved Open Space (R-O-S) Zone upon conveyance to a private entity, and is the default requirement for property conveyed by the State of Maryland, which has also been incorporated as part of Section 27-113.04(b).

**The bill as drafted will affect properties located to the southwest of the University of Maryland Campus, south of Campus Drive and west of Mowatt Lane.**

**The Planning Board recommends the District Council consider comprehensively revising Section 27-113.04 (Property conveyed by the State for the University of Maryland.) to exempt property conveyed by the State to the University of Maryland from the requirement established by Sections 27-113 and incorporated in 27-113.04(b). Section 27-113.04 requires property to be placed in the Reserved Open Space (R-O-S) Zone until a subsequent Zoning Map Amendment is approved by the District Council. A more wholesale revision of Section 27-113.04 would also further the goals of the adopted Zoning Ordinance regarding streamlining.**

**The Planning Board believes there is a downside to not treating the conveyed property with more flexibility. The ongoing development partnerships and demonstrated intent by the University to work with the City of College Park and Prince George's County to redevelop land constitutes an economic development opportunity proximate to Metro stations and Purple Line stations and is a very different situation than other state-owned property conveyances throughout the County.**

**If the District Council does not comprehensively revise Section 27-113.04, perhaps on page 2, line 12, add the word "or" in front of the words "R-55 Zone". The language would read "R-10, R-18 or R-55". This change would not require the zones to be adjacent to meet the requirements of the bill and would add additional flexibility for University-owned property conveyed to private entities.**

*CB-25-2019 amends Section 27-441 (Uses Permitted in Residential Zones.) by adding a proposed footnote under "Townhouse all others" in the One-Family Detached Residential (R-55) Zone and "Dwelling, multifamily, in general" in the Multifamily High Density Residential (R-10) Zone.*

**Planning Board Recommendation: Support with Amendments**

(See Attachment 4 for full analysis)

**Under the current Zoning Ordinance "Townhouse all others" are only permitted subject to several footnotes.**

**CB-25-2019 is contrary to the intent of the Council's adopted ordinance. Townhouses are prohibited in the Residential, Single-family-65 (RSF-65) Zone, which will replace the R-55 Zone. Permitting townhouses in the RSF Zone would contradict the purpose statements for the zone.**

**Multifamily dwellings are permitted in the Residential, Multifamily-48 (RMF-48) Zone, which will replace the R-10 Zone. The regulations of proposed footnote 176 would add complexity to the adopted Zoning Ordinance through the incorporation of locational criteria.**

**This bill as drafted will affect properties located to the southwest of the University of Maryland Campus, south of Campus Drive and west of Mowatt Lane.**

**The Planning Board recommends deleting the “dwelling, multifamily” use from this bill. There would be no need for the use in this bill if CB-23-2019 is revised to incorporate the “graduate student housing” use under the Residential Table of Uses, as the Planning Board understands the bills are linked to the same properties. Therefore, if the District Council intends to adopt CB-25-2019, the Planning Board recommends the bill be limited to amending the “Townhouse, all others” use within the R-55 Zone only.**

**On page 3 footnote 176 (A) should be amended. The language could raise significant unintended consequences. While the property subject to this bill may currently be zoned both R-55 and R-10, the property may be subdivided prior to submittal of a DSP and prior to permit issuance. It is possible that if the “dwelling, multifamily” use is not removed from the bill, the use could be limited to land solely within the R-10 Zone. Additionally, it is possible that the “townhouse, all others” use could be limited to land solely with the R-55 Zone.**

**Under letter (C) the language should be deleted and replaced with language requiring development regulations. The bill establishes the development regulations at the time of DSP review. This process defeats the entire purpose of zoning and denies the District Council and/or the Planning Board the ability to apply any objective standards to the development.**

As always, Planning Department staff members are available to work with the Council and your legislative staff on any pertinent legislative matters. Please let us know if we may be of further assistance.

Should you have questions, please do not hesitate to contact the Office of the Planning Director at 301-952-3595. Thank you, again, for your consideration.

Sincerely,



Elizabeth M. Hewlett  
Chairman

Attachments

## **CB-22-2019– Planning Board Analysis (Attachment 1)**

CB-22-2019 amends Section 27-419 (Bedroom percentages.) by removing the bedroom percentage requirements from the Zoning Ordinance.

**The Planning Board has the following comments, suggestions and amendments for consideration by the District Council:**

### **Policy Analysis:**

It should be noted there are numerous policy impacts that should be considered in enacting CB-22-2019. The original intent for mandating bedroom percentages is no longer clear to the Planning Board. Data indicates multifamily dwellings generate fewer school pupils than single-family detached and townhouse dwellings, and current trends demonstrate modern multifamily development is weighted toward a smaller number of bedrooms than may have been the case decades ago.

Further, restricting the number of bedrooms in the manner required by Section 27-419 may be contrary to the County's affordable housing goals as contained in the Comprehensive Housing Strategy. Finally, Section 27-419 has created many non-conforming uses over time, contributing to administrative complexity with no discernable public purpose.

The deletion of bedroom percentages from the current Zoning Ordinance will result in some number of existing nonconforming uses becoming legal uses. Some previously developed multifamily buildings are currently nonconforming solely because they do not meet the current bedroom percentage requirements. The adopted Zoning Ordinance anticipated this impact; the District Council should know this transition will occur with the enactment of this bill.

### **New Zoning Ordinance:**

The County Council's adopted Zoning Ordinance removes the requirements mandating bedroom percentages. Therefore, CB-22-2019 brings the ordinance that remains currently in force closer to the Council's adopted ordinance. The bill will serve as a useful stopgap provision until the new, modernized ordinance takes effect.

### **Proposed Amendments:**

The Planning Board recommends deletion of all remaining references to bedroom percentages in other sections of the current Zoning Ordinance. There are a number of sections that are not deleted under CB-22-2019. Those sections include but are not limited to 27-125.02, 27-25.01, 27-441, 27-461 and 27-473.

In addition, bedroom percentage requirements are referenced in the Multifamily Low Density Residential (R-30), Multifamily Low Density Residential-Condominium (R-30C), Multifamily Medium Density Residential (R-18), Multifamily Medium Density-Condominium (R-18C), Multifamily High Density Residential-Efficiency (R-10A), Multifamily High Density Residential (R-10), and the Multifamily High-Rise Residential (R-H) Zones and associated use tables.

**CB-22-2019 – Planning Board Analysis (Attachment 1)**

Page 2

There are Special Exception (SE) requirements under Sections 27-351 (Dwelling units within building containing commercial uses.) and 27-382 (Multifamily dwelling; bedroom percentage increase.) which either require bedroom percentages to be met or permit increases to bedroom percentages in multifamily dwellings. These requirements will become moot with the enactment of CB-22-2019 and should be deleted. Any SEs approved solely for increases in bedroom percentages pursuant to Section 27-382 will become permitted uses by right, and the associated SE(s) will vanish when CB-22-2019 is enacted.

Following discussion, the Planning Board voted to support CB-22-2019 with amendment(s).

## **CB-23-2019– Planning Board Analysis (Attachment 2)**

CB-23-2019 amends Section 27-107.01 (Definitions.) by adding a new definition for "graduate student housing". The use is defined as a residential multifamily development, within one mile of the campus center of a university offering courses towards a master's or doctoral degree that follows the completion of a bachelor's degree of academic studies, to accommodate matriculated in post-baccalaureate studies, to include a variety of single-occupancy studio, and/or one, two, three, four bedroom residential apartment units.

**The Planning Board has the following comments, suggestions and amendments for consideration by the District Council:**

### **Policy Analysis:**

It is not clear from the legislative summary of CB-23-2019 why a new use is needed in the current Zoning Ordinance. The proposed definition for "graduate student housing" is a multifamily dwelling by a different name. In addition, it is not clear which zones would permit the use and permits could not be issued because the use would not be permitted in any zones as the bill is currently drafted.

### **New Zoning Ordinance:**

The County Council's adopted Zoning Ordinance defines a new use entitled "private dormitory" which is defined as:

"A building not owned or operated by a college or university that contains bedrooms primarily for students attending a college or university. Bedrooms may be arranged around a common area with a kitchen which is shared by individuals renting the bedrooms, or along a hall which provides access to a common kitchen space. Bedrooms shall be rented on an annual basis or for an academic semester or summer term. Private dormitories are typically four stories or more in height. Accessory uses may include fitness facilities, pools, parking areas, and similar facilities. A boarding or rooming house is not a private dormitory, nor is rental of single-family homes to students."

The "graduate student housing" use defined under CB-23-2019 could fall under the "dwelling multifamily" use as well as the "private dormitory" use in the adopted Zoning Ordinance. CB-23-2019 is neutral on the Council's adopted ordinance. The definition does not add anything that would be necessary to incorporate into the adopted ordinance, nor does it degrade the adopted ordinance in any way.

### **Proposed Amendments:**

The Planning Board recommends amending Section 27-441 (Uses Permitted in Residential Zones.) to add the proposed use to the use table to permit or prohibit the use in the different residential zones. This change would clear up the disconnect between the background information and the bill. The background information as drafted indicates CB-23-2019 "will provide for the use, subject to certain circumstances."

The bill should be revised to add a proposed footnote to state the "certain circumstances" where the "graduate student housing" would be permitted. Defining a use but not providing for it in the use tables makes the definition moot because no permit will be issued for the new use.

**CB-23-2019 – Planning Board Analysis (Attachment 2)**

Page 2

Perhaps the language on page 2, lines 7 through 10 could be added to the footnote. The language seems to be a standard rather than a definition.

Next, there should be a word added either before or behind the word "matriculated". The sentence is awkward as currently drafted.

Following discussion, the Planning Board voted to support CB-23-2019 with amendment(s).



### **CB-24-2019– Planning Board Analysis (Attachment 3)**

CB-24-2019 amends Section 27-113.04 (Property conveyed by the State for the University of Maryland.) by incorporating a new exemption from the requirement to place land conveyed by the State for the University of Maryland to a private entity into the Reserved Open Space (R-O-S) Zone until the District Council approves a subsequent Zoning Map Amendment for the property, or to require the private purchaser to file a Zoning Map Amendment application before recording the deed of conveyance (see Section 27-113.04(b)). Specifically, CB-24-2019 would exempt land including parcels zoned Multifamily High Density Residential (R-10), Multifamily Medium Density Residential (R-18), and One-Family Detached Residential (R-55) at the time of conveyance (or within two (2) years prior to) the conveyance.

**The Planning Board has the following comments, suggestions and amendments for consideration by the District Council:**

#### **Policy Analysis:**

This bill would constitute the fourth time an exemption is needed for property conveyed by the State for the University of Maryland to a private entity. Section 27-113 (Property conveyed by the United States of America or by the State of Maryland.) requires that land be immediately placed in the Reserved Open Space (R-O-S) Zone upon conveyance to a private entity, and is the default requirement for property conveyed by the State of Maryland, which has also been incorporated as part of Section 27-113.04(b).

There are numerous partnerships with the University of Maryland Foundation, City of College Park, and other entities to redevelop lands that are to be conveyed by the University to private entities.

Many of the University of Maryland owned properties are located in the vicinity of College Park and would already be exempt from Section 27-113.04(b) since they are located within the Central US 1 Corridor Development District Overlay Zone or the College Park-Riverdale Park Transit District Overlay Zone and are either zoned Mixed-Use Infill (M-U-I) or Mixed Use – Transportation Oriented (M-X-T).

However, not all of these properties are located in the overlay zones or otherwise fit the current exemption criteria. Properties such as the land that may be subject to CB-24-2019 represent additional locations where such conveyances could occur to redevelop land. Therefore, the Planning Board believes it is very likely that future conveyances will require additional bills to permit further exemptions.

#### **New Zoning Ordinance:**

Should the Council feel the provisions of CB-24-2019 (if adopted) need to be carried forward to the adopted Zoning Ordinance, the specificity of the proposed exemption clause will add to the complexity of the Council's adopted Zoning Ordinance. The language moves the County away from the goals of the adopted Zoning Ordinance to streamline the development process of the County.

#### **Impacted Properties:**

The bill as drafted will affect properties located to the southwest of the University of Maryland Campus, south of Campus Drive and west of Mowatt Lane.

**Proposed Amendments:**

The Planning Board recommends the District Council consider comprehensively revising Section 27-113.04 (Property conveyed by the State for the University of Maryland.) to exempt property conveyed by the State to the University of Maryland from the requirement established by Sections 27-113 and incorporated in 27-113.04(b). Section 27-113.04 requires property to be placed in the Reserved Open Space (R-O-S) Zone until a subsequent Zoning Map Amendment is approved by the District Council. A more wholesale revision of Section 27-113.04 would also further the goals of the adopted Zoning Ordinance regarding streamlining.

The Planning Board believes there is a downside to not treating the conveyed property with more flexibility. The ongoing development partnerships and demonstrated intent by the University to work with the City of College Park and Prince George's County to redevelop land constitutes an economic development opportunity proximate to Metro stations and Purple Line stations and is a very different situation than other state-owned property conveyances throughout the County.

If the District Council does not comprehensively revise Section 27-113.04, perhaps on page 2, line 12 add the word "or" in front of the words "R-55 Zone". The language would read "R-10, R-18 or R-55". This change would not require the zones to be adjacent to meet the requirements of the bill and would add additional flexibility for University-owned property conveyed to private entities.

Following discussion, the Planning Board voted to support CB-24-2019 with amendment(s).

## **CB-25-2019– Planning Board Analysis (Attachment 4)**

CB-25-2019 amends Section 27-441 (Uses Permitted in Residential Zones.) by adding a proposed footnote under "Townhouse all others" in the One- Family Detached Residential (R-55) Zone and "Dwelling, multifamily, in general" in the Multifamily High Density Residential (R-10) Zone. Footnote 176 permits the uses by right provided (A) the property for the proposed use is located in both the R-55 and R-10 Zones; (B) the use will be located on a property within one-half (1/2) mile of a proposed Purple Line Light Rail Station; (C) the use is subject to a Detailed Site Plan approval process in accordance with Part 3, Division 9, of this Subtitle. Regulations concerning net lot area, lot coverage, frontage, setbacks, density, landscaping and other development requirements including bedroom percentages shall not apply. These dimensional (bulk) requirements shall be as determined by the Planning Board or District Council at the time the Detailed Site Plan is approved.

**The Planning Board has the following comments, suggestions and amendments for consideration by the District Council:**

### **Policy Analysis:**

Under the current Zoning Ordinance "Townhouse all others" are only permitted subject to several footnotes. The purposes of the R-55 Zone are: (A) To provide for and encourage variation in the size, shape, and width of one-family detached residential subdivision lots, in order to better utilize the natural terrain; (B) to facilitate the planning of higher density one-family residential developments with small lots and dwellings of various sizes and styles; (C) To encourage the preservation of trees and open spaces; and (D) to prevent soil erosion and stream valley flooding. This use is not an appropriate use for this zone.

### **New Zoning Ordinance:**

CB-25-2019 is contrary to the intent of the Council's adopted ordinance. Townhouses are prohibited in the Residential, Single Family-65 (RSF-65) Zone, which will replace the R-55 Zone. Permitting townhouses in the RSF-65 Zone would contradict the purpose statements for the zone.

Multifamily dwellings are permitted in the Residential, Multifamily-48 (RMF-48) Zone, which will replace the R-10 Zone. The regulations of proposed footnote 176 would add complexity to the adopted Zoning Ordinance through the incorporation of locational criteria. The requirement for Detailed Site Plan (DSP) review would be in-place in the adopted ordinance since it is likely a new multifamily building will exceed the 10-unit threshold to trigger a DSP. Regulations for the zone(s) and Part 6: Development Standards of the adopted ordinance will apply to any proposed development pursuant to CB-25-2019 regardless of whether a site plan is required.

### **Impacted Properties:**

The bill as drafted will affect properties located to the southwest of the University of Maryland Campus, south of Campus Drive and west of Mowatt Lane.

**Proposed Amendments:**

The Planning Board recommends deleting the "dwelling, multifamily" use from this bill. There would be no need for the use in this bill if CB-23-2019 is revised to incorporate the "graduate student housing" use under the Residential Table of Uses, as the Planning Board understands the bills are linked to the same properties. Therefore, if the District Council intends to adopt CB-25-2019, the Planning Board recommends the bill be limited to amending the "Townhouse, all others" use within the R-55 Zone only.

On page 3 footnote 176 (A) should be amended. The language could raise significant unintended consequences. While the property subject to this bill may currently be zoned both R-55 and R-10, the property may be subdivided prior to submittal of a DSP and prior to permit issuance. It is possible that if the "dwelling, multifamily" use is not removed from the bill, the use could be limited to land solely within the R-10 Zone. Additionally, it is possible that the "townhouse, all others" use could be limited to land solely within the R-55 Zone. This could mean that permits could not be issued under the requirements proposed by this bill because the multifamily dwelling would no longer be located on land zoned R-55 and the townhouse dwellings would no longer be located on land zoned R-10.

Under letter (C) the language should be deleted and replaced with language requiring development regulations. The bill establishes the development regulations at the time of DSP review. This process defeats the entire purpose of zoning and denies the District Council and/or the Planning Board the ability to apply any objective standards to the development.

Following discussion, the Planning Board voted to support CB-25-2019 with amendment(s).