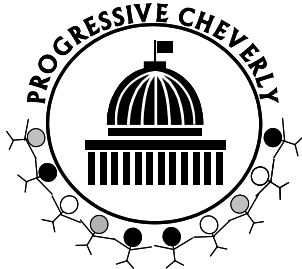


Progressive Cheverly

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Chad Williams
Zoning Rewrite Team, Project Manager
Maryland-National Capital Park and Planning Commission
County Administration Building
14741 Governor Oden Bowie Drive
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Mr. Williams,

Progressive Cheverly submits the following comments regarding Clarion Associates' Evaluation and Recommendations Report for the Zoning and Subdivision Regulations Rewrite in Prince George's County ("the Report").

Progressive Cheverly is a grassroots organization of Cheverly residents committed to citizen advocacy on policy issues of concern to the community. Our comments below reflect our ten-year experience working on a number of zoning and development issues in Prince George's County. For example, from 2005 until 2013, we were involved in opposing the County's grant of a special exception to build a concrete batching plant in the Cedar Heights Industrial area on Sheriff Road. In addition, we have made efforts, with some success, to win concessions in the building of a Wal-Mart in Capital Plaza and are now challenging the expansion of that same Wal-Mart to a Super Wal-Mart. Further, we are concerned about a proposed asphalt crushing and recycling facility on Sheriff Road that has recently applied for a permit from the Maryland Department of Environment ("MDE"). Progressive Cheverly is also involved in other zoning and development proposals related to protecting waterways, including promoting environmentally sound stormwater management practices.

Progressive Cheverly's experience has been that residents often have trouble making their voices heard in the development process, but not necessarily just because of the complexity of

the rules. This problem also stems from a lack of adequate notification, limited access to the development process, and the County's failure to address the community's concerns.

Drawing from our experience, we are focusing on the following three specific areas of concern. First, the new Zoning Ordinance should be made simpler, clearer and more transparent, but not at the expense of the environment or health and welfare of residents. Second, while revising the special exception process could be a real benefit, the Report does not suggest enough to give us the confidence that the final result will be protective of local communities. Finally, the County should expand the Report's suggestions for improving the public participation process by working to amplify the community's voices, give residents a speaking platform, and provide citizens with more timely information. Based on Progressive Cheverly's experience with the zoning process, we offer some suggestions to the County about how the new Zoning Ordinance might solve some of these issues.

This effort to streamline, simplify and modernize the zoning ordinance and increase transparency in the process is long overdue, and if done well, could provide enormous benefits to the various stakeholders in the development process in our county. Consolidating and clarifying special exception processes, including use-specific standards, cleaning up the use tables, making it easier to find standards, issuing interpretive guidance, using clear language, instituting neighborhood compatibility standards, establishing standard public notice and participation procedures, utilizing online notification processes where legally allowed, holding pre-application neighborhood meetings – all could benefit applicants and communities alike.

However, we must emphasize that efficiency benefits always must be weighed against community protection. We oppose excessive streamlining that may jeopardize meaningful citizen participation, community health, or environmental resources. For many of the proposed changes, we can't fully assess the impact until the detailed text is written.

SPECIFIC CONCERNS AND RECOMMENDATIONS

Making the Zoning Ordinance and Regulations More User-Friendly and Streamlined

- **Reducing the number of zones may have unintended, adverse impacts for communities.** The Report suggests significantly reducing the number of zones in order to make the Ordinance less complicated. We are concerned that this could have some adverse community impact. For instance, the Report notes that “the current zone structure includes 73 zones: 33 base zones; 26 floating zones; and 14 overlay zones... [t]he proposed zone structure includes a total of 43 zones: 25 base zones, 7 planned development zones (floating zones), and 11 overlay zones.” In other words, the Report proposes to combine or eliminate 30 zones, 8 base zones 19 floating zones and 3 overlay zones. This can be problematic for communities if the County combines zones in a way that favors a wide range of industrial development near residential areas. Specifically, the Report proposes to combine I-1, I-3, and U-L-I zones into an “employment area” zone. This range of zones potentially allows many types of uses from athletic fields to surface mining. While athletic fields may not adversely affect a community, surface mining could

have a major impact on a community. Thus, we support the Report's proposal that the heavy industrial, or I-2, zone remain a separate zone, but we urge the County not to oversimplify zones that would allow hazardous or disruptive activities to impact neighboring residential communities.

- **Implementing flow charts could under-inform citizens if not designed properly with sufficient information.** Flow charts that contain too little information can mislead the community and cause them to miss opportunities to get information or participate in the County's zoning processes. Therefore, an over-simplified flow chart could shut out citizens from participating if they cause citizens to miss steps in the process.

Concerns with proposed changes to the special exception process

- **Potential adverse impact of reducing number of uses that require a Special Exception.** The special exception process is meant to ensure that a particular use will be appropriate in a specific location and will not bring environmental harm to neighboring areas. Reducing the number of uses that require a Special Exception could increase the number of uses that are incompatible with the unique characteristics of the surrounding area. Moreover, given the extensive recommendations in the Report geared toward ensuring sustainable development, the County should avoid reducing the uses requiring special exceptions in a way that would encourage unsustainable development.
- **Appeals of Zoning Hearing Examiner (ZHE) decisions on special exceptions.** The Report suggests requiring a decision on all special exceptions by the ZHE, and recommends that appeals of the ZHE's decisions go directly to the judicial review stage rather than to the District Council. Our position is that appeals of ZHE decisions should not go directly to the Maryland court system. This would put an unjust financial burden on citizens and community organizations that generally do not have the resources to hire the type of legal assistance needed to navigate the judicial system. Instead, consideration should be given to a County appeals board, independent of the County Council, to hear appeals. The Zoning Ordinance should also allow for mediation between parties and leave judicial review as a last resort.
- **Restrictions on communication with District Council members.** The community's experience is that once a special exception comes before the District Council, all interested parties, including citizens and constituents, are prohibited from speaking with County Council members. While this may appear equitable, citizens and local community organizations often do not hear about zoning and development proposals until later in the approval process and therefore do not know to contact the County Council until it is too late. At a minimum this speaks to the need to enhance communication channels and provide sufficient notice of key deadlines.

Proposed improvements to the special exception process

- **Better definition of neighborhood.** The zoning ordinance should require the applicant for a special exception to define the “neighborhood” to which the analysis in the special exception application will apply in a way that includes nearby residential areas. This helps to ensure that the special exception application, the technical staff report and the ZHE decision considers effects of a development project on the community.
- **Require cumulative impacts analysis.** The County should amend the special exception process to include a cumulative impacts analysis of the proposed new use in conjunction with existing uses in the area. Some communities within the County already cope with high levels of dust, noise and truck traffic and adding certain facilities to such a community only exacerbates the problems. The special exception process is meant to ensure that the proposed use is appropriate for a particular location. In order to adequately analyze whether a proposed use is appropriate, the County must account for the impacts that the proposed use will *add* to the impacts of other facilities in the area.
- **Complying with recommendations of state or county agencies.** If a state or county agency engaged in the special exception process recommends conducting a report to study the effect of a use on nearby communities, the County should not be able to issue the special exception without completing and considering the results of that study. For example, during the special exception process for a proposed use in the industrial area on Sheriff Road, the County Department of Health conducted a survey of residents in the area with asthma. Based on the survey results, the Department of Health recommended that an in-depth study of asthma in the area be completed before the County issues a special exception. That study was never completed and the special exception was granted. If, during the special exception process, a State or County agency with expertise in health or the environment recommends that a particular issue of concern should be studied further, the County should be required to complete and consider that study before the special exception is granted.
- **Integrating environmental justice into the special exception process.** The Zoning Ordinance should use the special exception process to provide protection to low income and minority communities that are vulnerable to environmentally toxic products and activities. While it is significant that the Report discusses protecting compatible neighborhoods from incompatible development, the Report contains no suggestions about environmental justice issues and the problem that communities of lesser economic and political stature enjoy fewer environmental protections. The County should include as part of the special exception process provisions that will explicitly require consideration for environmental justice.
- **Encourage the use of Community Benefits Agreements for significantly-sized development projects, whether or not a special exception is required.** To that end, the ordinance should require, at the pre-application stage, that an applicant engage in discussions with public officials and the local community regarding potential public benefits the applicant could provide as part of the development process, as one way to

offset some of the potential adverse impacts on the local community, especially for in-fill developments, of allowing the development to go forward. Examples might include jobs for local workers or redevelopment of nearby parks or residential areas. The Prince George's Sports and Learning Center, built in conjunction with the Redskins stadium, is another example of a community benefit.

- **Fixing the use tables so that asphalt crushing plants require a special exception.** Finally, in addition to the experiences described in the Introduction, Progressive Cheverly recently discovered that the County approved the use of a new asphalt crushing facility in the Sheriff Road industrial area, even though that facility should have been subject to a special exception. The community was unable to comment on this proposed use because the planning department staff ruled, without any public notification or opportunity for public comment, that the asphalt crushing plant constituted a “recycling plant” in an I-2 zone and was therefore not required to obtain a special exception. We disagree with this determination and urge the County to amend its use tables to explicitly require a special exception for asphalt recycling facilities and facilities that involve rock crushing.

Revising Public Notification, Access, and Participation Provisions

- **Expanding Pre-Application Neighborhood Meetings.** The Report suggests that Pre-Application Neighborhood Meetings only be required for certain kinds of applications, specifically: “Zone map amendments; Planned developments with basic plans; Special exceptions with over 50 residential units and/or 25,000 square feet of nonresidential development; Preliminary plans for major subdivisions; and Major site plans.” This covers a significant number of applications, but given the Report’s goal of simplicity and transparency in the permitting process, the County should require these meetings for all applications, or at least for a broader class of applications. For example, the County could expand the requirement to all special exceptions, instead of just those with the 50 residential units or 25,000 square feet of development.
- **Ensuring adequate public notice.** The Report suggests consolidating all public notice requirements into one subsection in the standard procedures section of the Ordinance, and in doing so suggests that “the required days of advance notice and when public documents will be available should be made consistent.” Notice is extremely important to allowing citizens to access the public participation process since, without notice, citizens would not know when to participate. Because the notice period is only for 15 days, this new electronic filing system could exclude any community members who might not be aware that they should be checking for public hearing notifications. It would also exclude those citizens who do not have the electronic resources necessary to use the online notice system. Thus, notice should be at least 30 days to ensure that notice is received and to accommodate those without access to the internet. But a fuller public discussion on what constitutes an adequate public notice period is needed.
- **Improving the existing automated notification process.** Currently, when a citizen or community group registers to receive notifications related to development in the County, the citizen or group must choose one or two contiguous County Districts for which they

would like to receive notice of development. This is problematic when citizens or organizations, like Progressive Cheverly, are unable to register to receive notifications of development applications for other districts that may not be contiguous, but that are still close and of concern to the citizen or organization. One way to expand this mechanism for notice is to allow a resident to request all notices pertaining to developments within a certain radius (e.g., one mile) of their address. Another issue related to registering for notice is that the County does not confirm a citizen's registration to receive notice after the citizen registers. Since many community members are left doubting whether they have successfully registered, the new Zoning Ordinance should include a provision that requires the County to confirm that a citizen actually registered.

- **More transparent handling of text amendments.** While focusing on the important issue of special exceptions, the report pays little attention to text amendments, which in our experience over the years have too often served as a way to subvert the planning system through obscurely worded language designed to benefit a single entity and pushed through with practically no public notice. From this experience we would argue the ordinance should incorporate language that requires text amendments to the Zoning Ordinance to be subject to adequate public notice. We think there should be a broader discussion about what constitutes adequate public notice. In any case it should be no less than 30 days. The Zoning Ordinance should also require the County to provide an explanation, in plain English, of the intent of the text amendment and of who benefits from the proposed zoning change.
- **Improving the ability to locate information and documents related to development applications.** The Report ignores some of the technological issues already facing the community related to public participation. The County's Development Activity Monitoring System ("DAMS") user interface is meant to easily provide citizens with access to development information. However, the County must improve this system to make it easier to find material. Though most modern search engines like Google are able to guess what a user might be looking for, the search function in DAMS is unforgiving and frustrating for the occasional user. The Zoning Ordinance should address improving DAMS and its search function, especially in light of the Report's focus on modernizing the Zoning Ordinance.

CONCLUSION

There can be no doubt that the current Zoning Ordinance is extremely complicated to navigate for everyone and in many cases does not meet the County's long-term goals. Many of the suggestions in the Report would result in positive economic outcomes for the County including the preference for development in Regional Transit Districts and Local Centers, and fully integrating the many manifestations of sustainable development. However, Progressive Cheverly is concerned that the Report ignores preexisting issues with the special exception process, and fails to significantly improve transparency and the public participation process. We also hope that streamlining development processes does not come at the cost of community and environmental health.

Progressive Cheverly comments on Zoning Rewrite Report

The new Zoning Ordinance should focus on the preservation and improvement of environmental health and civic engagement in Prince George's County communities. With an extensive background in protecting community interests, and after reviewing the suggested changes to the Zoning Ordinance, Progressive Cheverly is concerned that the Report may not adequately address those issues. In support of a healthier and more engaged community, we hope that the Zoning Rewrite Team will carefully consider our comments in the zoning rewrite process.

On behalf of Progressive Cheverly,

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