

## **Testimony of Sue Present on Bill 18-23 April 18, 2023 Public Hearing**

Good afternoon President Glass and Members of the Council. My name is Sue Present.

I oppose Bill 18-23. Its Community Zoning and Land Use Resource Office (Resource Office) is a Trojan horse that preserves the advantages enjoyed by developers and other powerful interests. This bill kneecaps the [County Executive's budget proposal for the much-needed restoration and funding of the Office of the People's Counsel \(OPC\)](#). And it eliminates the OPC from the County Code, supplanting the OPC with a Resource Office where key OPC functions have been neutered.

Quoting the Code ([Sec. 2-150 \(a\)](#)), "an independent People's Counsel can protect the public interest and promote a full and fair presentation of relevant issues in administrative proceedings in order to achieve balanced records upon which sound land use decisions can be made. In addition, a People's Counsel who provides technical assistance to citizens and citizen organizations will encourage effective participation in, and increase public understanding of and confidence in, the County land use process."

Councilmembers, our land use rules and regulations are complex. Attorneys, especially those who specialize in practicing before the County's decision-making bodies, tend to have the upper hand. Certainly, providing the people with technical support for land use and zoning processes is important. But that's only one prong of what's needed.

Our increasingly majority-minority county has a substantial immigrant population. And the number of households where the language spoken at home is other than English has been trending upward since 2010, the year that the OPC was defunded. Our demographic trends underscore the growing need for a People's Counsel that would advocate for the public interest and make appearances in proceedings, to help level the playing field for neighbors and neighborhoods, and promote equity and fairness in the land use and zoning processes.\*

You might not be aware that, for example, unless represented by counsel, affected residents are routinely excluded from pre-hearing proceedings. And affected residents, when not represented by counsel, are generally barred from filing pre-hearing motions to raise material issues of public interest. The People's Counsel participates in proceedings to protect the public interest and ensures balance in the record to promote full and fair presentation of relevant issues; the Resource Officer does not.

The Zoning Text Amendment (ZTA) procedures ([Zoning Ordinance, Appx. B, Part I., Sec.2](#)) require that the People's Counsel must be among those Zoning Text Amendment Advisers who are consulted before Council Staff drafts its report to the Council

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\* Demographic data produced from the American Community Survey(s) and the U.S. Census are available online at [Montgomery County Planning Department, M-NCPPC](#)

regarding any proposed ZTA. This is yet another function that is beyond the scope of the Resource Officer. Had there been a People's Counsel in the past decade-plus, their advice likely would have flagged many, many of the adopted ZTAs, citing provisions adverse to the public interest. I speculate, for example, that a People's Counsel would have warned against the passage of [ZTA 18-02](#) and [ZTA 19-07](#). Among other defects, language in these ZTAs and their legislative histories (mis)led the public to believe that utility poles and government-owned streetlight poles would be regulated as telecommunications towers when replaced with like poles for and with wireless antennas, when, in fact, utility poles and government-owned streetlight poles are exempt from zoning regulations. But, even earlier, I expect that a People's Counsel would have raised concerns about [ZTA 16-12](#), which migrated all building permit references in the zoning ordinance to Chapter 8 of the Code (Buildings). ZTA 16-12 has arguably decreased the public's understanding of zoning and ZTA's powers and limitations by eliminating clarifying information from the zoning ordinance, including the text that clarified that utility poles and government-owned streetlight poles are exempt, which could have prevented the ongoing confusion that ZTAs 18-02 and 19-07 have caused.

The bill before you keeps the fat cats fat and throws neighbors and neighborhoods under the bus. Please vote Bill 18-23 down and vote to restore and fully fund the Office of the People's Counsel, as requested in the County Executive's budget. Thank you.