

September 5, 2026

Montgomery County Councilmembers

Re: ZTA 25-11 – Proposed Amendment for “Temporary” Cell Pole Towers

While the language of this zoning amendment appears broad and lacking in specificity, potentially leading to industry abuse and confusion, I am aware that further testimony on these points will be presented. Therefore, I would like to call your attention to matters of regulatory process relating to all zoning text amendments (ZTAs). The process for introducing and considering ZTAs is set out in the County Code.¹ The Council has not adhered to the process in finalizing ZTAs post 2010 as it lacks a staffed Office of the People’s Counsel. ZTAs are also required to address a problem and offer a solution.

Ignoring County Code requirements not only disenfranchises residents but causes uncertainty and instability in the zoning process.

Office of the People’s Council (OPC)

As set out in the County's Code², the OPC is required to provide input on ZTAs, but OPC currently has no staff after being defunded by the Council. As a result, residents' voice in the process has been eliminated. The purpose of the OPC is "promoting a full and fair presentation of relevant issues in administrative proceedings in order to achieve balanced records upon which land use decisions can be made." The OPC is also tasked with providing "technical assistance to citizens and citizens associations [to] encourage effective participation in, and increased public understanding of and confidence in, the County land use process." The OPC has not been funded since 2010 despite written requests and public testimony to do so.

County Executive Elrich has included funding for the OPC in several FY budget recommendations, most recently for the 2026 budget.³

“Office of the People’s Counsel: The County Executive recommends \$261,783 to fund the Office of the People’s Counsel for FY26. The Office of the People’s Counsel has not been funded since FY10.”

The Council, led by Councilmember Friedson, has pushed back on funding the OPC for quite some time. In a May 2, 2022 meeting, the PHED Committee continued not to fund the OPC, citing a desire for more details about the position from the County Executive, even though OPC is a County Council position. Councilmember Friedson proposed Bill 18-23 recommending a much-scaled back office – Land Use Resource Office. A significant difference between the OPC and Mr. Friedson’s proposed "Resource Officer" is that the Resource Officer would not have a codified role in ZTAs nor would that officer be an attorney. An attorney might be in a better position to navigate difficult zoning issues for residents and offer solutions. Councilmember

¹ See https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md_zone2014/0-0-0-64694

² See https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md_zone2014/0-0-0-64694 (noting that required staff consultations for a zoning text amendment must include one staff representative "each from the Montgomery County Planning Board; the Office of the County Attorney; the Office of Zoning and Administrative Hearings; the Department of Permitting Services; the Board of Appeals; the *People's Counsel*; and the Office of the County Executive." [emphasis added])

³ See https://www2.montgomerycountymd.gov/mcgportalapps/Press_Detail.aspx?Item_ID=47001&Dept=1.

Friedson's Bill had already been tested and failed. It was essentially a re-boot of Councilmember Berliner's unsuccessful and unpopular Bill 41-16. Nearly ten years ago, Councilmember Ike Leggett supported strengthening the OPC, opposed 41-16, and opposed a combined OPC and land resource officer as his view was it was duplicative. Instead, Councilmember Leggett suggested the OPC be expanded to do both.⁴

Councilmember Berliner's Bill 41-16 attempted to remove the OPC - he later expressed his regret at this approach. The Attached contains Councilmember Berliner's letter and explanation.

Zoning changes have been and continue to be made without a required voice for community input and discussion. Please staff the OPC. Funds to staff the position are provided for in the budget. Three years should be an adequate time period for Mr. Friedson to learn more about this position.

Purpose of the Amendment

Pursuant to the County Code, ZTAs submitted for introduction must contain:

- (1) a short description of the requested amendment;
- (2) a statement of the problem that the amendment addresses and the reasons for the amendment;
- (3) the effect of the proposed amendment on existing law and procedures;
- (4) any exigency related to the proposed amendment; and
- (5) the new text to be added and existing text to be deleted from the Zoning Ordinance.

ZTA 25-11 does not provide a statement of the problem it addresses and the reasons for the amendment. It does not provide information as to the exigency related to the proposed amendment.

Thank you.

Cyndie Baughman,
Montgomery County Resident

cc: County Executive Marc Elrich

⁴ See (https://apps.montgomerycountymd.gov/ccllims/DownloadFilePage?FileName=1045_1_942_Bill_41-16_Committee_20160930.pdf) (Councilmember Leggett's statements appear on page 18).

Attachment

October 11, 2016

Dear -----,

As someone who takes pride in legislative drafting, I am chagrined to have made a mistake with regard to Bill 41-16 - Community Zoning and Land Use Officer. When I asked for this bill to be drafted, it was not my intention to delete the Office of People's Counsel from our County Code. My sole purpose was provide our Council with an alternative means by which the legitimate needs of our community could be addressed given that we had not funded the Office of People's Counsel for many years. The bill was drafted in the manner it was at the discretion of our Council attorney, but I should have been more discerning as to the unintended consequences of the draft.

To rectify this situation, I have asked and already received from our Council attorney an amendment to the bill, completely separating the Community Resource Officer from the language referring to the Office of People's Counsel. This will preserve the ability of my colleagues or a future council to fund the Office of People's Counsel.

I apologize for the confusion this may have caused and hope that with the amendment that I will ask my colleagues to consider that you will be able to support the creation of the Community Zoning and Land Use Resource Officer. I continue to believe that such an office will be of great benefit to the residents of our county who need assistance understanding the complexities of our land use decisions and process.

Best regards,

Roger