



Date: 1 March 2023

Subject: **HCCA Testimony Regarding Revised Zoning Board Rules of Procedure**

Good evening. My name is Stu Kohn and testifying on behalf of the Howard County Citizens Association, HCCA.

We are pleased that some of our suggestions have been incorporated into the new revised Zoning Board Rules of Procedure when we previously testified. We pointed out areas of concerns and would like to discuss with you some areas which need your attention to detail. They are as follows as when we testified on 1 June and 17 November. We would like for you to have a conversation on these so we all can possibly obtain clarity in the following areas. We don't want our testimony to become a one-way communication.

Subpoenas - Question - Will Council members Jones, Rigby and Yungmann honor this section since you voted against Subpoenaing in CB55-2022? If you truly believe in Due Process, you will not hesitate! Can we have the courtesy of a response from any of you?

Why is a Subpoena required to be filed 21 days in advance of the hearing? This doesn't make sense as there are cases whereby a key witness will not initially be identified 21 days in advance. Key witnesses to potentially be subpoenaed will not be known until the case is heard. In the Erickson case we didn't know all of us needed the Director of Housing and Parks and Recreation to be heard but was denied. Certainly, all the evidence is required to be heard if you believe in justice.

Mediation - should be completely eliminated unless all parties agree to participate.

Zoning Counsel - Does this include when the case initially is heard by the Hearing Examiners? What criteria will you as Zoning Board Members as to the appearance of the Zoning Counsel in zoning cases? This requires to be completely spelled out in this document as there are areas within this document which infers the Zoning Counsel's appearance is a prevalent body in zoning cases. This needs to be stated in the Rules of Procedure.

202g - Why don't we see this included in the process? This was specifically required by the Request for Quotations (RFQ) under the "Scope of Work" section which stated, It is your obligation to ensure the requested criteria by you is part of the process. The RFQ stated, "The proposed Rules must conform to County Charter Section 202(g). During development of the proposed new Rules of Procedure, the Contractor must meet with

each Council Member and respond to the Member's suggestions and recommendations."

The 202g clause is for any amendment, restatement or revision to the Howard County General Plan, the Howard County Zoning Regulations or Howard County Zoning Maps, other than a reclassification map amendment established under the "change and mistake" principle set out by the Maryland Court of Appeals, is declared to be a legislative act and may be passed only by the Howard County Council by original bill in accordance with the legislative procedure set forth in Section 209 of the Howard County Charter. Such an act shall be subject to executive veto and may be petitioned to referendum by the people of the county pursuant to Section 211 of the Charter.

Terminology - Mandate that zoning terminology should be associated with the definitions as set forth in the American Planning Association dictionary not resort to the standard dictionary.

Sanctions should be declared when anyone including attorneys who display disorderly conduct.

Motions / Preliminary Matters - are immediately decided by the Zoning Board Chair. Not after the case is closed. It should be addressed, and a decision made by the Chair at the beginning of each applicable time the case is heard.

Zoning Board Member Walsh said it best in the Erickson case. "There was no due process, neither rules applicable nor consistently enforced, throughout the interminable hours of hearings – flung in whole, then in part, to a virtual realm. There were no sufficient evidentiary bases for the findings and conclusions here stated – not as a majority originally voted upon, even less so as subsequently modified. I entirely dissent."

Perhaps if the Rules of Procedure are fully adhered to by our decision makers the aforementioned quote will never have to be stated again. One can only hope!

We did not evaluate the Hearing Examiner Rules of Procedure. We strongly and fully support the observations made by Mr. Joel Hurewitz and his evaluation of the Zoning Board Rules of Procedure. Please do not ignore his findings as they need to be incorporated into the rules in order to make both documents meaningful with substance and to ensure all parties fully understand the rules of engagement.

Stu Kohn
HCCA President