

PAUL <u>JOHN</u> CISAR, et al.	*	IN THE
Plaintiffs,	*	CIRCUIT COURT
v.	*	FOR
F.O. MITCHELL & BRO, et al.	*	HARFORD COUNTY
Defendants.	*	
	*	Case No.: C-12-CV-22-000888
* * * * *		

**DEFENDANT F.O. MITCHELL & BRO.’S OPPOSITION TO
PLAINTIFFS’ RULE 2-505 MOTION FOR REMOVAL**

F.O. Mitchell & Bro. (“Mitchell”), by and through their undersigned counsel, Robert S. Lynch, Esquire, David S. Lynch, Esquire, and Stark and Keenan, P.A., oppose Plaintiffs’ Rule 2-505 Motion for Removal (“Motion for Removal”), stating the following:

1. Plaintiffs originally filed this action in the Circuit Court for Anne Arundel County, Maryland in June 2022. The matter invokes the Court’s equity jurisdiction and involves questions related to the Harford County Zoning Code. Additionally, Harford County is the single venue applicable to all Defendants (and Plaintiffs), and Harford County is the jurisdiction where the Subject Property is located.

2. Defendants moved to dismiss Plaintiffs’ Original Complaint for improper venue and other non-jurisdictional issues. In the alternative, Defendants

moved to transfer the matter to the Circuit Court for Harford County based on a theory of *forum non conveniens*.

3. On December 19, 2022, the Circuit Court for Anne Arundel County granted the motions to dismiss in part and transferred the matter to Circuit Court for Harford County, reserving ruling on the non-jurisdictional issues raised in the various motions to dismiss filed by Defendants.

4. Plaintiffs did not appeal the transfer order from Anne Arundel County despite the well-settled rule in Maryland that “[a]n order transferring a case from one circuit to another, for proper venue or for more convenient forum, and thereby terminating the litigation in the transferring court, is a final judgment and thus immediately appealable.” *Payton-Henderson v. Evans*, 180 Md. App. 267, 281 (2008) (quoting *Brewster v. Woodhaven Building and Dev., Inc.*, 360 Md. 602, 615-616 (2000)). Plaintiffs waived their right to appeal and should not be permitted to continue venue shopping.

5. On February 1, 2023, Plaintiffs filed an Amended Complaint in this Court and now seek to remove their case to yet another jurisdiction.

6. Maryland Rule 2-505(a)(1) requires the party seeking to remove a case to another jurisdiction to accompany their Motion with an affidavit alleging why the party cannot receive a fair trial: “... any party may file a motion for removal **accompanied by an affidavit** alleging that the party cannot receive a fair and

impartial trial in the county in which the action is pending.” *Id.* (emphasis supplied). Plaintiffs failed to file an accompanying affidavit with their Motion for Removal, which is required by Md. Rule 2-505. For that reason alone, this Court should deny Plaintiffs’ Motion for Removal.

7. Additionally, this Court should deny Plaintiffs’ Motion for Removal because no right of removal exists in equity cases like the one before this Court. Indeed, the Supreme Court of Maryland has opined “[t]hat there is no right of removal in equity suits is, we think, firmly settled.” *Olson v. Love*, 234 Md. 503, 504 (1964) (citing *Cooke v. Cooke*, 41 Md. 362 (1875)).

8. Moreover, in the event that Plaintiffs are entitled to a jury trial, Plaintiffs’ spurious allegations that Defendants have “attempt[ed] to influence the potential jury pool in this matter, and the local passions and potential prejudice relating to this matter” (Motion for Removal, ¶14), is directly undercut by Plaintiffs’ own misleading efforts to thwart development on the Perryman Peninsula. *See* <https://protectperryman.com/> (last accessed March 9, 2023) (a copy of the front page of Plaintiff 3P’s webpage is attached as Exhibit 1 herein). For example, throughout their webpage, Plaintiff 3P refers to the proposed warehouse development project on the Subject Property as an “illegal freight terminal,” despite the fact that under the Harford County Zoning Code, the proposed development is a warehouse development, not a freight terminal. 3P’s webpage also highlights the fact that the

Harford County Executive, Robert Cassilly, on February 14, 2023, caused the Harford County Council to introduce a Council Bill seeking a moratorium on all warehouse development in Harford County. (See Harford County Council Bill No. 23-005, attached as “Exhibit 2”). Plaintiff 3P’s webpage urges citizens to support Bill No. 23-005 based on false information related to the proposed warehouse project.

9. Also, prior to the filing of Plaintiffs’ lawsuit, on April 19, 2022, the Harford County Council unanimously adopted Bill No. 22-003, which was a warehouse moratorium bill known as the “Perryman Peninsula Moratorium” and designed to halt the proposed warehouse development project on the Subject Property.¹ To be clear, every Councilmember, representing every citizen from every voting district in Harford County, voted in favor of Bill No. 22-003. The current County Executive, who represents all of Harford County’s citizens, is seeking, through Bill No. 23-005, to directly impair the development of the proposed warehouse development at the Subject Property. Plaintiffs’ argument that “Harford County has pushed industrial projects towards the Perryman Peninsula to avoid controversy with non-Perryman Harford County residents” is without basis. (Motion for Removal, ¶9). Likewise, their illogical leap that “what is preferable to a non-Perryman jury-member is likely to be detrimental to Plaintiffs” is unsupported

¹ Former County Executive Barry Glassman vetoed Bill No. 22-003 on May 2, 2022.

by fact. There is no reasonable ground to find that Plaintiffs cannot receive a fair and impartial trial in Harford County. This Court should deny Plaintiffs' Motion for Removal.

WHEREFORE, for all of the reasons set forth herein, Mitchell respectfully urges this Honorable Court to deny Plaintiffs' Motion for Removal.

Respectfully submitted,

/s/

Robert S. Lynch, Esquire
AIS# 8212010279
David S. Lynch, Esquire
AIS# 0812170228
Stark and Keenan, P.A.
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Bel Air, Maryland 21014
(410) 879-2222
rlynch@starkandkeen.com
dlynch@starkandkeen.com
Attorneys for Defendant Mitchell

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 9th day of March, 2023, that a copy of the foregoing F.O. Mitchell & Bro.'s Opposition to Plaintiffs' Rule 2-505 Motion for Removal was served on all parties registered for services via MDEC e-filing

/s/

David S. Lynch, Esquire
AIS# 0812170228



GIVE



Harford County Protect Our Rural Roots

Support County Executive Bob Cassilly's
EMERGENCY
WAREHOUSE MORATORIUM
BILL 23-005

Send Your Support to the Council Now

WAREHOUSE MORATORIUM

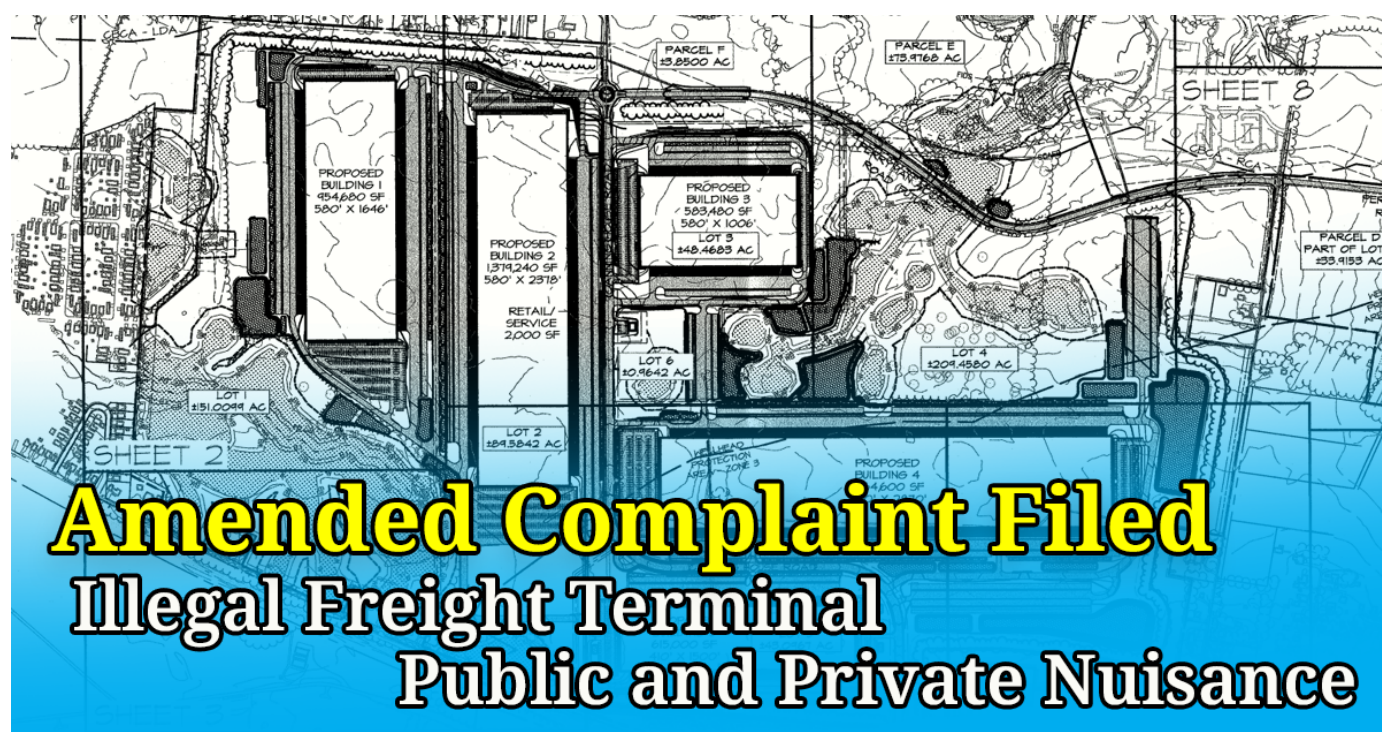
[READ MORATORIUM BILL](#)[SUBMIT YOUR SUPPORT](#)[VIEW SPEAKING TIPS](#)[ATTEND HEARING ON 3/14/2023](#)[JOIN US TO](#)[EXHIBIT 1](#)



3P Protect Perryman Peninsula Lawsuit Updates

On February 1, 2023, 3P Protect Perryman Peninsula, LLC. along with 5 other plaintiffs filed an amended complaint in the Circuit Court for Harford County against Chesapeake Real Estate Group LLC and 4 other defendants.

LATEST LITIGATION NEWS



3P'S

Major Concerns



Traffic and Safety

The existing traffic and safety issues on the Peninsula will be exponentially increased, especially with the proposed single property entrance on a rural residential road that is the only access to large number of residence. [Learn more »](#)



Environment and Drinking Water

The hydrologic conditions, and proximity to wetlands and the Bush River, make the proposed development unsuitable for the site. The clean drinking water of 30% (80,000 residents) of Harford County who get their water from the Perryman wellhead could be compromised. [Learn more »](#)



Quality of Life

Traffic, aesthetics, noise, and light impacts will significantly and permanently degrade the historic communities surrounding the proposed development. [Learn more »](#)



Zoning

Zoning designation and application of the zoning for this proposed development is inappropriate. [Learn more »](#)

LATEST NEWS



raises \$1,500 to Protect Perryman Peninsula

July 21, 2022

Complaint Filed

Harford County

L

22 Jackson Mezan, 16, presented Greg LaCour of 3P with a [...]

1, 2023, 3P Protect P

We are very encouragec

2 COMMENTS

UPCOMING EVENTS

1000 NEW FREIGHT DISTRIBUTION JOBS DOESN'T CUT IT

Hear why the freight distribution jobs being promoted by the 5.2 million square foot Mitchell Farm “improvement” project are not worth the amount of negative impacts to our infrastructure and environment in Harford

County.



Environmental Risk vs. Job Reward

Lauren Anderson details how 1000 proposed jobs over a 5.2 million sq. ft. freight distribution project doesn't produce much "bang for the buck". The project will produce 1 hourly waged job per 5,200 sq foot of freight distribution space.

Water Pollution Concerns Over Perryman Wellheads

Freight Distribution Job Saturation

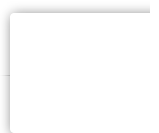
Ron Studinski speaking at the Mar 1, 2023 Harford County Council meeting on how the freight distribution development proposed at the Mitchell farm in Perryman could have damaging effects on the nearby Perryman wellhead that provides water to 30% of the the county's residents. Angie Lane describes first hand that the freight distribution industry can not currently fill all the open jobs. Almost half of the freight distribution employees come from outside the County.

[LEARN MORE](#)



LI Zoning Doesn't Fit Freight Distribution

Glenn Gillis explains at the Feb 1, 2022 Harford County Council meeting why the planned activity at the freight distribution development proposed for the Mitchell farm in Perryman is not permitted in LI zoning.

[LEARN MORE](#)

Inadequate Infrastructure for Freight Distribution

Brendan Patton speaking at the Feb 8, 2022 Harford County Council meeting on the threat to safety and EMT response times that will result from the building of more freight distribution facilities on the Perryman Peninsula without infrastructure improvement.

[LEARN MORE](#)

Quality of Life Impacts

Kate McDonald speaking at the Mar 1, 2022 Harford County Council meeting on the disparate impact of the freight distribution development proposed at the Mitchell farm in Perryman and

requesting that county leadership adhere to their oath to protect the health and safety of all county.

LEARN MORE



MINUTEMEN/WOMEN VIDEOS

Members of the 3P community have attended Harford County Council meetings since November 2021.

[SEE MORE VIDEOS!](#)

LATEST NEWS

02
Mar

[Perryman Traffic and Safety Town Hall Meeting Draws Over 90 People](#)



02
Feb

Amended Complaint Filed Against the Freight Terminal at Mitchell Farm

2 Comments

01
Feb

Harford County Executive Bob Cassilly Introduces Moratorium Legislation on Mega-Warehouses

03
Jan

3P Response to MDOT SHA Regarding Traffic Impact Study for Mitchell Freight Center

1 Comment

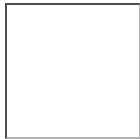
UPCOMING EVENTS



MAR 14 2023

HARFORD COUNTY PUBLIC HEARING – PASSING OF BILL 23-005 MORATORIUM-WAREHOUSE

Harford County Council Chambers



MAR 19 2023

PRAYER VIGIL REPEATING EVENT

Perryman/Canning House

ABOUT US

Protect Perryman Peninsula, LLC is dedicated to protecting the rural town and community of Perryman from turning into a freight distribution district.

3P Protect Perryman Peninsula, LLC

PO Box 221

Perryman, MD 21130



RECEIVE OUR NEWSLETTERS



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COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 23-005

Introduced by Council President Vincenti at the request of the County Executive

Legislative Day No. 23-005 Date: February 14, 2023

AN EMERGENCY ACT to create a six-month moratorium on the issuance of any approvals or permits for any development of any warehousing and wholesaling, processing, distribution and local delivery facilities on property zoned Village Business District - VB, General Business District - B3, Commercial Industrial District - CI, Light Industrial District - LI and General Industrial District - GI in Harford County so that Harford County Government can study and reconsider its zoning and development regulations with respect to such facilities.

By the Council, February 14, 2023

Introduced, read first time, ordered posted and public hearing scheduled:

on: March 14, 2023

at: 6:00 PM

By Order: *Mylicia A. Dixon*, Council Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on _____, and concluded on _____.

_____, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

BILL NO. 23-005

1 WHEREAS, there is concern about the development of large warehouse facilities on the
2 remaining undeveloped property zoned Village Business District - VB, General Business District
3 - B3, Commercial Industrial District - CI, Light Industrial District - LI and General Industrial
4 District - GI in Harford County; and

5 WHEREAS, there is concern about warehousing being combined with wholesaling,
6 processing, distribution and local delivery in the Table of permitted uses in the Zoning Code; and

7 WHEREAS, large warehouse facilities ideally require connectivity with arterial roads via
8 major collector roads to properly service such facilities without significantly and detrimentally
9 impacting existing residential roads and community uses; and

10 WHEREAS, the nature and impact of modern warehousing facilities is significantly
11 different than the Zoning Code could have anticipated for warehousing uses that are permitted by
12 right; and

13 WHEREAS, large warehouse facilities provide little in the way of jobs and meaningful
14 economic growth and development for the local communities where such facilities are located;
15 and

16 WHEREAS, the owners of large warehouse facilities have been known to curtail the use
17 of such facilities after development as such owners do not have significant economic ties to the
18 locality where such facilities are located; and

19 WHEREAS, the remaining undeveloped properties zoned VB, B3, CI, LI and GI,
20 whether located in the Interstate 95 – Route 40 corridor or elsewhere in the County are a
21 valuable resource for meaningful economic development within Harford County; and

22 WHEREAS, the 2016 Master Plan calls for the development of a corridor capacity
23 management and preservation review that coordinates land use and transportation decisions that
24 has not been satisfactorily concluded; and

25 WHEREAS, there are additional public health, safety and welfare concerns with respect
26 to large warehouse complexes located on the Perryman peninsula, which contains large parcels

of undeveloped property zoned CI and LI, including:

- A. The 2016 Master Plan identifies the need for traffic safety and congestion relief studies to inform decision making and identify practical alternatives for improving conditions and the development of a corridor capacity management and preservation program, neither of which has been completed; and
- B. The peninsula contains a large aquifer complex that supplies potable drinking water for the County and consideration is required as to how large expanses of impervious surface will impact the recharge of such aquifer complex; and
- C. Whereas the peninsula is home to the Bush River watershed, and large expanses of impervious surface may adversely impact this Chesapeake Bay tributary watershed; and
- D. The primary access road to the peninsula has insufficient transportation capacity to service existing development and the traffic associated with large warehouse development; and

WHEREAS, the citizens of Harford County have been petitioning and requesting their Harford County elected officials to reconsider its zoning and development laws with respect to large warehouse facilities;

WHEREAS, the Harford Country Council introduced and unanimously adopted Bill No. 22-003, which provided for a moratorium on development of buildings for either a business or industrial use on the Perryman Peninsula, which was vetoed by County executive Glassman; and

WHEREAS, Harford County government desires to comprehensively study and reconsider how the development of warehousing and wholesaling, processing, distribution and local delivery facilities impact existing infrastructure and enhance the economic development of the County; and

WHEREAS, Harford County government desires to reconsider its zoning and development laws and regulations with respect to the development of warehouse facilities within Harford County;

1 WHEREAS, this moratorium does not apply to other principally permitted uses where
2 warehousing and wholesaling, processing, distribution and local delivery is an accessory to the
3 principal use of the property;

4 NOW THEREFORE,

5 Section 1. Be It Enacted by The County Council of Harford County, Maryland that there be
6 and hereby is a temporary moratorium on the issuance of any approvals or permits for any
7 development of any warehousing and wholesaling, processing, distribution and local delivery
8 facilities so that Harford County Government can study and reconsider its zoning and
9 development regulations with respect to such facilities.

10 Section 2. And Be It Further Enacted that this Bill is adopted as emergency legislation to meet
11 emergencies affecting public health, safety and/or welfare. The exigencies that support adoption as
12 emergency legislation include, in addition to the factors set forth in the recitals, the following:

13 A. The compatibility of large warehouse development projects in various phases of planning
14 has been a topic of intense public debate for over one year and remains unresolved. In fairness to all
15 stakeholders, the applicable regulatory regime should be studied and adjustments should be made so
16 that development, transportation, historical, environmental, economic and community needs are
17 balanced in a manner that best serves the health, safety and welfare interests of the citizens of the
18 County.

19 B. Such projects will have immediate and long-term effects and impacts to transportation
20 safety along the existing road network impacted by such projects.

21 C. Such projects will have immediate and long-term quality-of-life impacts on existing
22 residential communities and businesses along the Interstate Route 95 and Route 40 corridor
23 and in other locations where there are undeveloped properties in VB, B3, CI, LI or GI
24 zoning districts. Additionally, such incompatible development could have economic and
25 quality-of-life or loss-of-welfare impacts on such communities and existing businesses.

1 D. Such projects in the Interstate Route 95 and Route 40 corridor will have immediate and
2 long-term quality of life impacts on the military community and businesses on and
3 servicing military projects on the Aberdeen Proving Ground, which has been a long-term
4 partner with the County and has impacted economic and community development within
5 the County for generations. Additionally, such incompatible development could have
6 economic and quality of life loss/welfare impacts on such military community and County
7 businesses that service military endeavors housed on the Aberdeen Proving Ground.


8 E. Inappropriate development of warehousing and wholesaling, processing, distribution and
9 local delivery facilities could detrimentally impact the Chesapeake Bay watershed and have
10 other detrimental immediate and long-term environmental impacts.

11 Section 3. And Be It Further Enacted that, as emergency legislation, this Act shall take effect
12 on the date it becomes law.

13 Section 4. And Be It Further Enacted that in the event the emergency nature of this Act is
14 effectually challenged, this Act shall take effect 60 calendar days from the date it becomes law.

EFFECTIVE:

*The Council Administrator does hereby certify that
seven (7) copies of this Bill are immediately available for
distribution to the public and the press.*



Council Administrator

HARFORD COUNTY BILL NO. 22-003 (As Amended)

Brief Title (Perryman Peninsula Moratorium)

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

Mylena A. Dixon
Council Administrator

Date 4/19/22

ENROLLED

Robert Vincent
Council President

Date 4/19/22

BY THE COUNCIL

Read the third time.

Passed: LSD 22-013

Failed of Passage: _____

By Order

Mylena A. Dixon
Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 20th day of April, 2022 at 3:00 p.m.

Mylena A. Dixon
Council Administrator



BY THE EXECUTIVE

COUNTY EXECUTIVE

APPROVED: Date _____

BY THE COUNCIL

In accordance with Article III, Section 311 of the Harford County Charter, I hereby veto Bill No. 22-003 (As amended).

05/02/2022
Date

[Signature]
County Executive



COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND

PATRICK S. VINCENTI
President

ANDRE V. JOHNSON
District A

CHAD R. SHRODES
District D

JOSEPH M. WOODS
District B

ROBERT S. WAGNER
District E

TONY "G" GIANGIORDANO
District C

CURTIS L. BEULAH
District F

May 2, 2022

County Executive Barry Glassman vetoed Bill 22-003 As Amended (Perryman Peninsula Moratorium) on May 2, 2022. The veto message is attached to this journal entry pursuant to Section 311 of the Harford County Charter.


Council Administrator




BARRY GLASSMAN

HARFORD COUNTY EXECUTIVE

MEMORANDUM

TO: Patrick S. Vincenti, Harford County Council President
Members of the Harford County Council

FROM: Barry Glassman, Harford County Executive 

RE: Bill 22-003 – Perryman Peninsula Moratorium

I am returning herewith Bill 22-003, as amended, to which I have exercised my authority to veto pursuant to Section 311 of the Harford County Charter.

One of the primary duties as County Executive is to uphold the laws of Harford County. Harford County Council Bill 22-003, as amended, threatens the rights of all Harford County property owners. My responsibility is to enforce the provisions of County laws as well as follow the predictable process adopted in the County's development review regulations for all applicants regardless of their location or status. Council Bill 22-003, as amended, clearly violates these general terms but also is flawed legally.

Upon advice of my Law Department, I believe Council Bill 22-003, as amended, instituting a temporary moratorium on the approval of site plans and the issuance of building permits for new commercial or industrial buildings in the Perryman Peninsula to be illegal for several reasons.

The Harford County Charter Section 218 (d) provides that a bill if amended shall not be enacted until it is reprinted or reproduced as amended. The County Council adopted 16 amendments to Bill 22-003. Two of these amendments provided that there was a map attached to the Bill delineating the boundaries of the Perryman Peninsula subject to the temporary moratorium. The Bill that was certified and enrolled by the County Council President as the text as finally passed by the County Council and submitted to me for signature did not contain the map delineating the boundaries of the Perryman Peninsula. Bill 22-003, as amended and enrolled, is not the amended bill adopted by the County Council on April 19, 2022. Therefore, the Bill, as enrolled, does not comply with Charter Section 218 (d). A statute can only be valid when passed in accordance with the mandatory manner prescribed by the instrument giving authority to adopt such statute and failure to do so renders the statute null and void. *See, Legg v. Mayor, Counsellor & Aldermen of Annapolis*, 42 Md. 203 at 221. Bill 22-003, as amended, was not enacted in accordance with the mandatory provisions of the Charter and is therefore null and void.

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THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST

MEMORANDUM

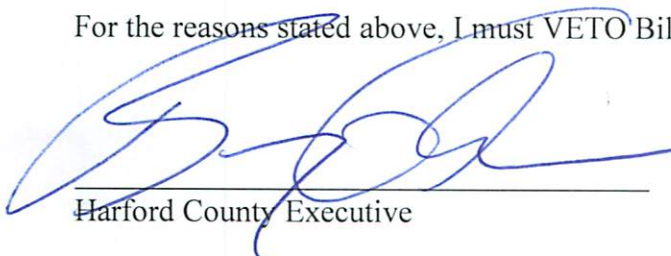
Page 2

Bill 22-003, as amended, requires one representative from each of the following Executive Branch departments: Department of Planning and Zoning, Department of Community and Economic Development and the Department of Public Works, to serve on the Council's study group. The Harford County Charter Section 401 provides that all agencies of the County government are subject to the direction, supervision and control of the County Executive. The Legislature does not have the authority to adopt legislation requiring these departments to provide to the Legislature employees of the Executive Branch to assist the County Council in performing its legislative functions. Any attempt by the County Council to force executive branch employees to assist the Council in drafting legislation amounts to interference with the Executive Branch. The Charter makes clear that the County Executive and the Director of Administration (Harford County Charter Section 312) have the duty and responsibility for directing, supervising and controlling the agencies of the Executive Branch. To ensure that the Legislative Branch does not interfere with the County Executive's authority to supervise and control the agencies of the Executive Branch, Harford County Charter Section 216 prohibits the County Council and its members from giving orders to any subordinate of the County Executive. Bill 22-003, as amended, requiring subordinates of the County Executive to serve on a Council created board is a violation of the separation of powers required under the Charter. *See, Hormes v. Baltimore County*, 225 Md. 371 at 375 (1961) and *Anne Arundel County v. Bowen*, 258 Md. 713 (1970).

Bill 22-003, as amended, provides that following the date the Bill becomes law the County Council shall appoint a Perryman Peninsula study group. The Bill, under Section 3, provides that the Act takes effect 60 calendar days from the date it becomes law. The Harford County Charter Section 219 provides that any law shall take effect 60 calendar days after the date it becomes law unless by its terms it takes effect at a later date. According to Section 219, the only type of legislation that takes effect on the date it becomes law is emergency legislation or a law appropriating funds for a current expense. Bill 22-003, as amended, is not an emergency act and does not appropriate funds, and therefore the Charter prohibits any provision of Bill 22-003, as amended, from taking effect prior to 60 calendar days after the date it became law. Therefore, the County Council may not appoint the study group until the Bill becomes effective.

Finally, instituting a temporary moratorium to study issues such as acreage, building size, traffic and environmental impacts is illegal in light of the fact that the current law requires all of those issues to be reviewed and addressed prior to approval of a development project. The LI District was established in 1997, and the maximum building coverage and impervious surface coverage permitted in the LI has been the same since the inception of the LI District. The County Council erroneously states that more massive industrial buildings are permitted today in the Perryman Peninsula. The truth is that the building size and lot coverage permitted on a LI zoned lot is the same today as it was in 1997.

For the reasons stated above, I must VETO Bill 22-003, as amended.



Harford County Executive

05/02/2022
Date

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 22-003 (As Amended)

Introduced by _____ Council Member Beulah _____

Legislative Day No. 22-007 _____ Date February 15, 2022 _____

AN ACT to establish a temporary moratorium on the approval of site plans and issuance of building permits for the construction of any new buildings within the boundaries of the Perryman Peninsula; to establish the duration of the moratorium; to prohibit the County from accepting certain applications or issuing certain permits; to establish a committee to evaluate the impact of any new construction on the safety of the Perryman wells, the safety of vehicle access, and the impact upon the waterways; to make recommendations to improve the existing regulations and statutes; and generally relating to a temporary moratorium regarding construction on the Perryman Peninsula.

By the Council, February 15, 2022 _____

Introduced, read first time, ordered posted and public hearing scheduled:

on: March 15, 2022 _____

at: 6:00 PM _____

By Order: *Mylin A. Dixon* _____, Council Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on March 15, 2022, and concluded on March 15, 2022.

Mylin A. Dixon _____, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter deleted from existing law. Underlining indicates language added to Bill by amendment. Language lined through indicates matter stricken out of Bill by amendment.

**BILL NO. 22-003
AS AMENDED**

1 WHEREAS, the Perryman Peninsula contains a mixture of residential and industrial buildings;
2 and

3 WHEREAS, the Perryman Peninsula also contains a large aquifer complex that supplies a
4 significant amount of the water supply for the County; and

5 WHEREAS, the Perryman Peninsula contains environmentally sensitive areas and in the
6 northeastern portion of the peninsula lies the banks of the Bush River; and

7 WHEREAS, the Bush River watershed is contained in all but the eastern most portion of the
8 peninsula and all of the Deep Spring Branch also known as Bush Creek, Sod Run and a large portion
9 of the Cranberry Run sub watersheds are also located there, and

10 WHEREAS, the Perryman Peninsula is served by only one primary access road which has
11 become insufficient to permit efficient transportation to serve the needs of the current residents and
12 businesses; and

13 WHEREAS, one contributing factor in the current traffic congestion is the continued
14 development of the Perryman Peninsula without solving the existing deleterious and dangerous
15 roadway conditions; and

16 WHEREAS, the Harford County 2016 Master Plan provides for the development of a corridor
17 capacity management and preservation program that coordinates land use and transportation decisions;
18 and

19 WHEREAS, the 2016 Master Plan further states that safety and congestion relief studies should
20 be conducted to inform decision making and identifying practical alternatives for improving
21 conditions; and

22 WHEREAS, the 2016 Master Plan provides a goal to allow for efficient movement of freight
23 and agricultural equipment and states that the completion of the Michaelsville Road connection for

BILL NO. 22-003
AS AMENDED

truck traffic in Perryman for a direct connection to MD 715 will help accomplish this goal; and

WHEREAS, since the implementation of the 2016 Master Plan no additional primary alternative access road has either been completed or begun construction; and

WHEREAS, in 1996, the Perryman Well Head Protection Study was conducted and, as a result, the Perryman Wellfield Protection District was legislatively adopted; and

WHEREAS, since the adoption of the Perryman Wellfield Protection District and the adoption of the 2016 Master Plan there has been development of warehouses and distribution centers which heretofore did not exist; and

WHEREAS, while the construction of these centers provides an economic benefit to the County, there has been no study or preparation for the arrival of them in our community as a whole and the Perryman Peninsula in particular; and

WHEREAS, the placement of more massive industrial buildings on the Perryman Peninsula without any consideration of the protection of the viability and safety of the current occupants of the peninsula and the continued protection of the of the County's water supply and environmentally sensitive areas is misguided.

NOW THEREFORE,

Section 1. Be It Enacted By the County Council of Harford County, Maryland that:

A. Purpose. The provisions of this Act are designed to temporarily prohibit the approval of site plans and issuance of building permits for the construction ~~and expansion~~ of any new ~~structures~~ BUILDINGS FOR EITHER A BUSINESS OR INDUSTRIAL USE on the ~~Perryman Peninsula~~ PENINSULA, AS DELINEATED ON THE ATTACHED MAP, in order to provide for the orderly safe and environmentally sound development and provide for the peace, safety, and good order of the public.

**BILL NO. 22-003
AS AMENDED**

B. There is hereby established a temporary moratorium on the approval of site plans and issuance of building permits for the construction of new ~~commercial, industrial or residential~~ COMMERCIAL OR INDUSTRIAL buildings within the Perryman Peninsula. THIS MORATORIUM SHALL NOT APPLY TO THE IMPROVEMENT OR EXPANSION OF ANY EXISTING INDUSTRIAL OR COMMERCIAL BUILDING OR STRUCTURE.

C. The moratorium shall be in effect for 150 calendar days from the ~~date this Act becomes law~~ EFFECTIVE DATE OF THIS ACT and shall expire at that ~~time unless further extended.~~ TIME.

D. During the period of the moratorium, applications for final site and building plan ~~approval, building permits, and other permits and approvals related to the construction or expansion of any new commercial, industrial, or residential~~ APPROVAL OR BUILDING PERMITS RELATED TO THE CONSTRUCTION OF ANY NEW COMMERCIAL OR INDUSTRIAL building shall not be accepted or issued by the County. PROVIDED, HOWEVER, THAT THIS MORATORIUM DOES NOT PRECLUDE THE CONTINUED PROCESSING OF ANY SUBMITTED, AMENDED, OR SUPPLEMENTED APPLICATION, SHORT OF FINAL BUILDING PERMIT OR FINAL SITE PLAN ISSUANCE, INCLUDING, WITHOUT LIMITATION, ANY APPLICATION REFERENCED IN THE JANUARY 19, 2022 DEVELOPMENT ADVISORY COMMITTEE MINUTES.

E. The moratorium shall not apply to:

- 1) Any existing operating or occupied ~~commercial, industrial, or residential~~ COMMERCIAL OR INDUSTRIAL building; or

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2) The lawful use of any ~~commercial, industrial, or residential~~ COMMERCIAL
OR INDUSTRIAL building which has received all necessary permits and approvals from the County but has not yet commenced operation or occupancy.

F. The moratorium shall be applicable to all property located on the Perryman Peninsula.

G. ~~During the period of the moratorium,~~ FOLLOWING THE DATE THIS BILL BECOMES
LAW, the County Council shall appoint a Perryman Peninsula study group consisting of 15 members, which consist of 2 Council Members, a representative of the Harford County Sherriff's Office, a member of the emergency services, 2 members with environmental expertise, a representative of the Harford County Department of Planning and Zoning, ~~a representative of the Harford County Department of Inspections, Licensing, and Permits,~~ 1 TRAFFIC ENGINEER, a representative of the Harford County Department of Community and Economic Development, a representative of the Harford County Department of Public Works, 2 residents of the Perryman Peninsula, 3 representatives of the business community with at least 1 located on the Perryman Peninsula.

H. The Perryman Peninsula study group shall study the placement, construction, minimum acreage, maximum building size, any necessary restriction on the operation of future commercial and industrial buildings, the impact on environmentally sensitive areas and the Perryman Wellfields, necessary road access required to continue to develop the peninsula and any other issue related to development on the Perryman Peninsula which the group determines to be relevant.

I. The Perryman Peninsula Study Group shall present to the County Council its report, including any recommendations, within 80 days of the date this Act ~~becomes law.~~ TAKES EFFECT.

**BILL NO. 22-003
AS AMENDED**

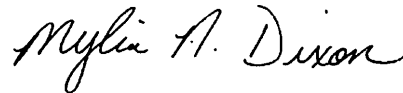
1 SECTION 2. THE ATTACHED MAP IS INCORPORATED INTO THIS ACT AND
2 DELINEATES THE BOUNDARIES OF THE PERRYMAN PENINSULA WHICH IS
3 SUBJECT TO THE TEMPORARY MORITORIUM.

4 ~~Section 2.~~ SECTION 3. And Be It Further Enacted that this Act shall take effect 60 calendar
5 days from the date it becomes law.

6

EFFECTIVE:

*The Council Administrator does hereby certify that
seven (7) copies of this Bill are immediately available for
distribution to the public and the press.*



Council Administrator

