

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2023 Legislative Session

Reference No.: CB-012-2023

Draft No.: 2

Committee: PLANNING, HOUSING AND ECONOMIC DEVELOPMENT

Date: 1/9/2023

Action: FAV

REPORT:

Committee Vote: Favorable, 5-0 (In favor: Council Members Ivey, Blegay, Dernoga, Olson, and Oriadha)

The Planning, Housing and Economic Development (PHED) Committee convened on January 9, 2023, to consider CB-12-2023. The PHED Committee Director summarized the purpose of the legislation and informed the Committee of written comments received on referral. This bill amends the current Zoning Ordinance to limit authority for certain development applications in the County using the prior Ordinance.

The Planning Board voted to oppose the bill as drafted as explained in a January 6, 2023, letter to the Council Chairman as follows:

Policy Analysis:

The prior Zoning Ordinance contained numerous site-specific text amendments. CB-12-2023 proposes to eliminate the ability of new applicants to utilize eighteen such site-specific text amendments, notwithstanding the grandfathering period granted to other applicants under Section 27-1900 of the new Zoning Ordinance. Section 27-1900 permits the filing of new development applications using the regulations of the prior Zoning Ordinance for the development of projects for a transitional period of two years until April 1, 2024.

The Planning Board and the Planning Department have generally opposed site-specific text amendments because they reduce the uniformity and consistency of treatment that are core purposes of any zoning ordinance. The bill, as drafted, lacks clarity on the process used to determine the text amendments impacted by the legislation. The proposed legislation also does not state which types of development applications would be ineligible to proceed under CB-12-2023 (DR-2) using the prior Zoning Ordinance. In addition, at the time of enactment of the new Zoning Ordinance, many such text amendments had been approved and property owners may have been in the process of designing projects in reliance on those text amendments. One of the purposes of the transitional and grandfathering provisions of the new Zoning Ordinance was to give these property owners a reasonable period of time to apply under the prior ordinance, while at the same time repealing site-specific text amendments so that they would no longer be available after the grandfathering period.

Section 27-1900 established a two-year "grandfathering" period in which new applications

utilizing the provisions of the prior Zoning Ordinance could be submitted and accepted. The two-year period was a policy choice by the Council that sought to balance property owners' near-term development plans with the goal of eventually eliminating site-specific text amendments. Reducing that two-year period is likewise a policy decision for the Council.

The Planning Board recommends that the bill be amended to clarify the process on how text amendments discussed in this legislation were chosen, explain the types of development applications that are ineligible to file under the prior ordinance, and amend the bill to reflect the correct draft of each bill affected by this legislation.

Impacted Property:

The legislation will affect all development applications permitted under CB-8-2021(DR-2), CB-23-2021(DR-3), CB-50-2021(DR-3), CB-55-2021 (DR-2), CB-81-2021 (DR-2), CB-83-2021 (DR-2), CB-106-2021(DR-2), CB-40-2020 (DR-2), CB-41-2020, CB-54-2020 (DR-2), CB-69-2020 (DR-2), CB-10-2019 (DR-2), CB-13-2019, CB-18-2019, CB-19-2019 (DR-2), CB-45-2019 (DR-2), CB-60-2019 (DR-2), CB-88-2018 (DR-3), and CB-89-2018 (DR-3), that have yet to be filed and accepted and/or constructed under the prior Zoning Ordinance.

The Chief Zoning Hearing Examiner submitted a January 3, 2023, memorandum to the PHED Committee Director with the following suggested technical revisions:

- On page 2, line 28, delete “such” since its use implies that “potential unintended consequences” were discussed in the preceding lines and they were not.
- On page 4, line 9, insert “Sec. 27-1900” in front of “Development Pursuant to Prior Ordinance”.
- On page 4, line 10, insert “Applicability” after “Sec. 27-1903.”
- On page 4, line 27, the existing paragraph “e”, concerning grandfathering, should be inserted for clarity as to what is being added or revised.
- On page 4, line 28, delete, “and/or constructed” as it may lead to confusion, and because anything constructed pursuant to the 2019 edition of the Zoning Ordinance cannot be “ineligible” under the 2019 Edition of the Zoning Ordinance.
- On page 4, line 28, insert a date after “already filed and accepted”.

The City of Bowie submitted a January 4, 2023, letter to PHED Committee Chair Ivey recommending the Committee’s favorable vote on CB-12-2023. The Maryland Building Industry Association submitted a January 4, 2023, letter to the PHED Committee Chair with written testimony in opposition to CB-12-2023. William M. Shipp, Attorney for Swann Road Investors, LLC, submitted a January 4, 2023, letter to PHED Committee Chair Ivey requesting that CB-12-2023 be amended to delete any reference to CB-55-2021 and its proposed repeal. Thomas Haller, representing Armory Place, LLC, submitted a January 4, 2023, letter to the PHED Committee Chair requesting that CB-12-2023 be amended to remove CB-83-2021 from the effect of the legislation. Alternatively, Armory Place would request that the legislation be amended to allow the Detailed Site Plan to be accepted and processed. Norman Rivera submitted an eComment requesting that CB-60-2019 be removed from CB-12-2023.

Angie Rodgers, Deputy Chief Administrative Officer for Economic Development, addressed the Committee explaining the County Executive’s position in opposition to CB-12-2023 as also expressed in the Executive’s January 6, 2023, letter to Council Chairman Dernoga.

Based on testimony received, Council Chair Dernoga, co-sponsor of the legislation, indicated his intent to be flexible in finding solutions for specific projects affected by the limitations provided in CB-12-2023. After discussion, the Committee voted favorable on the legislation as drafted.