

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2023 Legislative Session

Reference No.: CB-013-2023

Draft No.: 1

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-13-2023. The PHED Committee Director summarized the purpose of the legislation and informed the Committee of written comments received on referral. This bill amends the Zoning Ordinance to repeal a previously enacted amendment to the local zoning laws and restores the provisions in the new Zoning Ordinance as they existed prior to the enactment of CB-69-2022 concerning M-X-T (Mixed Use-Transportation) Zone transition which authorized properties that were in the M-X-T Zone prior to the effective date of the new Zoning Ordinance to elect to conform to the requirement of the CGO (Commercial, General Office) Zone.

The Planning Board supports the bill as explained in a January 6, 2023, letter to the Council Chairman with the following analysis:

“Policy Analysis:

The Planning Board voted to oppose CB-69-2022, which added Section 27-1705 to the transitional and grandfathering provisions of the current Zoning Ordinance to permit former M-X-T zoned properties outside a Transit-Oriented/Activity Center or Neighborhood Conservation Overlay Zone to develop as if it had been assigned the CGO Zone instead of whatever zone was assigned to such property by the Countywide Map Amendment (CMA).

The legislation raised substantial policy implications and amounted to de facto changes in zoning that were not contemplated in the CMA and did not result from comprehensive or piecemeal rezoning procedures. These de facto rezonings occurred outside the normal procedures for rezoning available via the procedures of a Sectional Map Amendment, Zoning Map Amendment, or Planned Development (PD) Zoning Map Amendment.

The new Zoning Ordinance and Official Zoning Map took effect on April 1, 2022. The Planning Board believes that more than three months is needed to fully evaluate the effectiveness of the new zones, the new Zoning Ordinance, and the zones applied to property through the CMA technical rezoning exercise.

The Planning Board believed it was premature to propose a bill of such significance and broad

impact as CB-69-2022, particularly given the generous grandfathering and transitional provisions of the new Zoning Ordinance and Subdivision Regulations which were the result of much collaboration among the Council, development community, and other key stakeholders – including Section 27-1900, which allows all projects to develop as if they had their former zone for a period of two years, until April 1, 2024, and to use the former zone for subsequent approvals in the same entitlement chain.

It should be noted that the County Council spent a long time developing the new Zoning Ordinance policies and debating a potential Legacy M-X-T (LMXT) Zone and that Council concluded that the M-X-T Zone had outlived its utility, had failed to live up to its initial intent and purposes, and such LMXT Zone was unnecessary.

It is also important to remind County stakeholders, including the Council, that the debate informing the creation and approval of the Council's Approved Guide to New Zones, which was used as the framework for all CMA technical rezoning actions, was quite explicit in recognizing there was no one single zone that replaced the M-X-T or M-U-I Zones in the new Zoning Ordinance – meaning there was no one single new zone that was “most similar” to the former M-X-T or M-U-I Zones. Part 2 of the Council's Approved Guide was created and explicitly intended to address this recognition and resulted in seven potential zoning outcomes for former M-X-T or M-U-I properties located outside designated centers.

CB-13-2023 allows properties to develop as recommended by the CMA, or to use the transitional provisions to develop under their prior zone, if applicable.”

The Town of Riverdale Park submitted a December 29, 2022, letter to Council Chair Dernoga in support of CB-13-2023. The City of Bowie submitted a January 4, 2023, letter to PHED Committee Chair Ivey recommending the Committee's favorable vote on CB-13-2023. Edward Gibbs and Thomas Haller, Law Offices of Gibbs and Haller, submitted a January 6, 2023, letter to PHED Committee Chair Ivey expressing opposition to CB-13-2023.

Angie Rodgers, Deputy Chief Administrative Officer for Economic Development, and Jared McCarthy, Deputy Chief Administrative Officer for Government Operations, addressed the Committee explaining the County Executive's position in opposition to CB-13-2023 as also expressed in the Executive's January 6, 2023, letter to Council Chairman Dernoga.

After public testimony, the Committee voted favorable on the legislation as drafted.