

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2023 Legislative Session

Reference No.: CB-068-2023

Draft No.: 2

Committee: PLANNING, HOUSING AND ECONOMIC DEVELOPMENT

Date: 9/26/2023

Action: FAV(A)

REPORT:

Committee Vote, Favorable with Amendments (In favor: Council Members Ivey, Dernoga, Olson, and Oriadha.)

The Planning, Housing and Economic Development (PHED) Committee convened on September 26, 2023, to consider CB-068-2023. As presented on July 5, 2023, DR-1 of the bill proposes amendments to the Zoning Ordinance to limit multifamily residential dwelling uses in the Residential, Multifamily-48 (RMF-48) Zone, specifically, where such development conflicts with an applicable area master plan recommendation for recreational uses.

The Acting PHED Committee Director summarized the legislation for the Committee and informed the Committee of written comments received on referral as to DR-1 of the legislation. Council Member Burroughs, the bill's sponsor, explained to the Committee that the purpose of the bill is to further the efforts to realize the land use and development vision of the 2014 General Plan, *Plan Prince George's 2035*, which directly amended County land use policy to prioritize strategic development at targeted, transit-oriented centers. The sponsor noted that, while the General Plan changed the paradigm for land use vision, the detailed work of aligning area master plans and sector plans has not taken place for numerous areas of the County. As a result, obsolete master plans approved well before the 2014 General Plan are not aligned, and conflict with, current County development policy. The legislation, the sponsor continued, is necessary to reinforce the now-longstanding policies of the current General Plan.

The Planning Board submitted comments in opposition to DR-1 of the bill, stating that

“[t]he Planning Board generally opposes site-specific legislative zoning amendments because they reduce the uniformity and consistent treatment of properties which are the core purposes of any Zoning Ordinance. Furthermore, such amendments benefiting or burdening an individual property owner may possibly violate the State constitution's prohibition against “special laws” or the uniformity requirement of the Land Use Article. Even if CB-68-2023 affected any property in the County, the Board recommends opposition on this basis. From a planning standpoint, it does not make sense and is contrary to the purposes of the RMF-48 Zone to prohibit multifamily development in the County's highest-density residential multifamily zone. If the Council wishes to prevent such development; the property should be rezoned to a zone that does

not allow multifamily dwellings through a minor plan amendment and concurrent Sectional Map Amendment process.”

At the request of the bill’s sponsor, a Proposed DR-2 was prepared to address comments submitted by the Planning Board. Accordingly, the revised draft:

1. Revises the proposed amendments to Section 27-1704 of the Zoning Ordinance, as follows:

(b) Until and unless the period of time under which the development approval or permit remains valid expires, except for a subdivision approval for the development of multifamily dwelling units on an area consisting of less than six (6) acres of land and adjacent on three sides to property with a future land use designation of Residential, Medium Density Land Uses within an applicable area master plan or sector plan approved prior to 2007, which shall not be entitled to proceed to the next steps in the approval process (including any zoning steps that may be necessary) under the prior Subdivision Regulations and Zoning Ordinance, the project may proceed to the next steps in the approval process (including any subdivision steps that may be necessary) and continue to be reviewed and decided under the Zoning Ordinance and Subdivision Regulations under which it was approved. For purposes of this Subsection, a property which has obtained approval of a stormwater management concept plan and a grading permit in accordance with Subtitle 32 of this Code, for which no development approval pursuant to the Zoning Ordinance or Subdivision Regulations is required, may proceed to obtain a building permit under the Zoning Ordinance in effect at the time the Subtitle 32 approvals were obtained.

2. Proposes amended language to Section 27-1903 of the Zoning Ordinance, as follows:

(f) The provisions of this Section shall not be applicable to a project receiving subdivision approval for the development of multifamily dwelling units on an area consisting of less than six (6) acres of land and adjacent on three sides to property with a future land use designation of Residential, Medium Density Land Uses within an applicable area master plan or sector plan approved prior to 2007.

3. Proposed amended new language to Section 27-5102 of the Zoning Ordinance, as follows:

(E) Dwelling, Multifamily RMF-48 Zone

Multifamily dwellings shall not be constructed in the RMF-48 Zone where the land is situated on less than six (6) acres of land and adjacent on three sides to property with a future land use designation of Residential, Medium Density Land Uses within an applicable area master plan or sector plan approved prior to 2007.

The Planning Department also submitted comments on the Proposed DR-2 of the legislation, stating that “[t]he four principal use tables should be added to the bill. The use tables should reference the use-specific standards column under the ‘dwelling multifamily’ use and point to the new Section 27-5102(c)(1)(E)”; and “add the word ‘Area’ before the phrase ‘Master Plan’” on Pages 2 and 3 of the Proposed DR-2.

The Office of Law submitted comments on the legislation, stating that the bill was in proper legislative form, and adopting the comments of the Park and Planning Commission. Rhonda Weaver, County Attorney, restated the position expressed by the Office of Law in its March 16, 2023, Memorandum. The Acting Committee Director & Zoning and Legislative Counsel explained to the Committee, during discussion, that the refined language within the Proposed DR-2 of the legislation more clearly expressed the reasonable land use policy implementation basis behind the legislation which, in her professional view, addresses the potential concerns about uniformity that were expressed by the Planning Board and Chief Zoning Hearing Examiner, and adopted by the Office of Law.

Nathaniel Forman, of O'Malley, Miles, Nysten & Gilmore, P.A., representing 95 Forever Bapaz LLC, a developer potentially affected by the enactment of CB-068-2023, submitted written comments in opposition to the bill, and provided testimony before the PHED Committee to restate and amplify his client's concerns about the impact of the bill on the permitted development authority for their properties.

Following discussion, on a motion by Council Member Oriadha, seconded by Council Member Olson, the Committee voted favorable, 4-0, on CB-068-2023 (Proposed DR-2), as amended.