

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2023 Legislative Session

Reference No.: CB-055-2023

Draft No.: 2

Committee: PLANNING, HOUSING AND ECONOMIC DEVELOPMENT

Date: 6/15/2023

Action: FAV (A)

REPORT:

Committee Vote: Favorable as amended, 4-0 (In favor: Council Members Ivey, Dernoga, Olson and Oriadha)

The Planning, Housing and Economic Development (PHED) Committee convened on June 15, 2023, to consider CB-55-2023. The PHED Committee Director summarized the purpose of the legislation and informed the Committee of written comments received on referral. As presented on April 25, 2023, Draft-1 of the bill amends the Subdivision Regulations to include a procedural requirement to incorporate a summary and assessment of all testimony, both offered in opposition to and support of a subdivision application, within the administrative record. CB-55-2023 was discussed in conjunction with CB-54-2023, a bill amending the Zoning Ordinance standard review procedures for County zoning/development applications to enhance public understanding of an administrative body's decision by requiring an assessment of opposition arguments and testimony within the administrative record for these applications.

The Planning Board voted to support the bill with amendments in an alternate draft as explained in a June 8, 2023, letter to the Council Chairman with the following analysis:

“CB-54-2023 and CB-55-2023 are essentially the same bill but for different Subtitles; the Planning Board analysis will address both bills. Although well-intentioned and in accordance with common practice of peer jurisdictions to summarize and address pertinent comments and arguments raised by the opposition to development applications, as drafted CB-54-2023 and CB-55-2023 are overly broad and would result in significant additional work while raising potential concerns as to the relevance of opposition testimony to the review and decision standards of any given development application.

The Planning Board notes that technical staff reports, and Planning Board resolutions already include summaries of opposition and how pertinent comments have been addressed, without the need for codification. All parties agree that such summaries and responses are important. However, should the Council wish to proceed to codify these summaries, the Planning Board recommends several revisions to better clarify the intent of the bills to directly address concerns. The Planning Board has prepared two proposed Alternate Draft 2 bills that incorporate our recommendations.

As drafted, CB-54-2023 will affect all development applications that require the preparation of a

technical staff report by requiring these reports to include summarization of opposition. CB-55-2023 will affect all subdivision applications in which a technical staff report is prepared.

Additional summaries would be required for any development application subject to a recommendation by the Planning Board or Zoning Hearing Examiner, to any development application where the District Council, Planning Board, Board of Appeals, or Zoning Hearing Examiner makes the final decision, and to any subdivision application where the Planning Board makes the final decision.”

The Council’s Zoning and Legislative Counsel summarized revisions in a Proposed Draft-2 (DR-2) prepared at the bill sponsor’s request to address Planning Board’s comments as follows:

SECTION 24-3300. STANDARD SUBDIVISION REVIEW PROCEDURES.

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24-3307. Staff Review and Action

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(b) Application Subject to Staff Recommendations

(1) Technical Staff Report

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(C) Each Staff Report shall summarize any written communications RELEVANT TO THE APPLICABLE REVIEW STANDARDS provided by the opposition AT LEAST ONE (1) WEEK PRIOR TO THE PUBLICATION OF THE TECHNICAL STAFF REPORT. Such summary shall INCLUDE THE PLANNING DIRECTOR’S RESPONSE ~~respond~~ to the objections and arguments made by the opposition and shall be made a part of the record. If there are objections and arguments made by multiple people or organizations in opposition, the ~~Technical Staff~~ PLANNING DIRECTOR shall summarize each separate issue raised instead of addressing each individual person or organization of record. THE SUMMARY SHOULD ALSO COMMENT ON OBJECTIONS AND ARGUMENTS MADE BY THE OPPOSITION THAT, WHILE NOT RELEVANT TO THE REVIEW STANDARDS APPLICABLE FOR THE APPLICATION TYPE, WOULD BE RELEVANT TO OTHER APPROVALS REQUIRED IN THE DEVELOPMENT PROCESS.

(a) General

(1) Procedures

The Planning Board shall hold any required public hearing on the application in accordance with its Rules of Procedure. At the hearing, the Planning Board shall consider the application, relevant support materials, the staff report, any comments by the Planning Director, and any public comments. The Planning Board shall then make one of the decisions authorized for the

particular type of application, based on the review standards applicable to the application type, as set forth in Section 24-3400, Application-Specific Subdivision Review Procedures and Decision Standards.

(2) Summaries

In making its decision, the Planning Board shall include a summary of the ~~record~~ ORAL AND WRITTEN testimony (including exhibits by reference) SUBMITTED by the opposition THAT IS RELEVANT TO THE REVIEW STANDARDS APPLICABLE TO THE APPLICATION in each evidentiary case. Such summary shall respond to the objections and arguments made by the opposition AND SHALL BE MADE A PART OF THE RECORD. THE SUMMARY SHOULD ALSO COMMENT ON OBJECTIONS AND ARGUMENTS MADE BY THE OPPOSITION THAT, WHILE NOT RELEVANT TO THE REVIEW STANDARDS APPLICABLE FOR THE APPLICATION TYPE, WOULD BE RELEVANT TO OTHER APPROVALS REQUIRED IN THE DEVELOPMENT PROCESS.

The Zoning and Legislative Counsel also noted additional amendments on Page 2, Line 12, and Page 3, Line 5, to change RELEVANT to PERTINENT and revisions to the bill title on Page 1, lines 2-5 as necessary to reflect revisions in other revisions in Proposed DR-2.

Maurene McNeil, Chief Zoning Hearing Examiner, was present to comment on remaining concerns with the alternate draft that only requires a summary for those in opposition.

Sakinda Skinner, County Council Liaison, stated that the County Executive is in support of the legislation. The Office of Law finds CB-55-2023 to be in proper legislative form with no legal impediments to its enactment.

Council Chair Dernoga, the bill sponsor, suggested that Zoning and Legislative Counsel include additional revisions in Proposed DR-2 to address the ZHE's comment that the summary should also include those in support.

After discussion, on a motion by Council Chair Dernoga, seconded by Council Member Olson, the Committee voted favorably on CB-55-2023 Proposed DR-2, including the additional revisions.