

# PRINCE GEORGE'S COUNTY COUNCIL

## COMMITTEE REPORT

2022 Legislative Session

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**Reference No.:** CB-105-2022

**Draft No.:** 1

**Committee:** PLANNING, HOUSING AND ECONOMIC DEVELOPMENT

**Date:** 10/19/2022

**Action:** FAV

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### **REPORT:**

Committee Vote: Favorable, 4-0 (In favor: Council Members Franklin, Glaros, Hawkins, and Turner)

The Planning, Housing and Economic Development (PHED) Committee convened on October 19, 2022, to consider CB-105-2022. The Planning, Housing and Economic Development (PHED) Committee Director summarized the purpose of the legislation and informed the Committee of written comments received on referral. This legislation amends the Zoning Ordinance to authorize development standards and uses for designated employment areas in the Legacy Comprehensive Design Zone under certain circumstances. The PHED Committee Director clarified that the legislation bypassed presentation and went straight to introduction; therefore, no substantive amendments could be made to the legislation during the Committee meeting.

The Planning Board took no position on the legislation and referenced the following analysis in their October 6, 2022, letter to the Council Chairman:

### **“Policy Analysis:**

This bill makes revisions to the Legacy Comprehensive Design (LCD) Zone that would allow any property zoned LCD as of April 1, 2022, that is "identified within an employment area in an Area Master Plan or Sector Plan" to develop in accordance with the standards and uses applicable to the former Employment and Institutional Area (E-I-A) Zone. The bill would then waive the green area standards of the former E-I-A Zone and reduce the minimum green area to 10 percent "if consistent with the approved CDP." It also essentially waives the minimum standards of the Landscape Manual for landscaping, buffering, and screening for all uses, allowing these minimums to be modified by the approved CDP.

There is only one area of the County specifically identified as an "Employment Area" with land in the LCD Zone as of April 1, 2022. The properties are within the 2022 Approved Bowie-Mitchellville and Vicinity Master Plan in the Collington Local Employment Area west of US 301 and north of Leeland Road, and include the existing and still developing Collington Trade Center as well as the planned National Capital Business Park. A map of this area is attached.

The Planning Board generally does not support text amendments that provide unique standards for subsets of properties. We understand that this legislation is intended as a stop-gap measure pending implementation of the recommended industrial zoning in the Bowie-Mitchellville and Vicinity Master Plan. This bill is in opposition to the three fundamental principles of land use regulation (1) fairness, (2) predictability, and (3) user-friendly regulations. CB-105-2022 does not provide clear, transparent, and consistent regulations for all similar development in a zone.

The Planning Board notes that development of the National Capital Business Park is proceeding under an existing legislative text amendment, CB-22-2020 (DR-2), which allowed property in the former Residential Suburban (R-S) Comprehensive Design Zone to develop with the uses and regulations of the former Employment and Institutional Area (E-I-A) Comprehensive Design Zone. The provisions of CB-22-2020 (DR-2) already do what CB-105-2022 proposes to do for the National Capital Business Park and will continue to do so for as long as the National Capital Business Park continues to develop as LCD and its approvals remain valid. Several entitlements including the Basic Plan and Comprehensive Design Plan (CDP) have been approved for this development, giving this development access to the regulations and provisions of the prior Zoning Ordinance by nature of its reclassification to the LCD Zone on April 1, 2022, and pursuant to the transition and grandfathering provisions of Section 27-1700.

### **Recommended Amendments:**

The Planning Board strongly recommends that the phrase "identified within an employment area in an Area Master Plan or Sector Plan" found on page 2, lines 10-11 be replaced with "located within the Collington Local Employment Area of the 2022 Approved Bowie-Mitchellville and Vicinity Master Plan." The term "employment area" is not defined in the Zoning Ordinance, and many master and sector plans throughout the County identify land that is targeted for employment. The phrase "employment area" as used in CB-105 is vague, and properties elsewhere in the County might attempt to use the bill to apply E-I-A standards to properties that are wholly inappropriate for E-I-A development.

The Planning Board also recommends deletion of the phrase "in effect" from page 2, line 14 of the bill. The Planning Board believes the intent of the bill is to require compliance with a Basic Plan, CDP or SDP that was approved prior to April 1, 2022. Without the recommended deletion, the text could be interpreted to allow a Basic Plan, CDP or SDP approved after April 1 to utilize the prior Zoning Ordinance."

The Zoning Hearing Examiner submitted an October 6, 2022, memorandum to the PHED Committee Director recommending that the legislative history include the genesis for the bill, and the purpose clause be revised to briefly explain the basis for the bill.

The Office of Law provided the following comments in an October 19, 2022, to the Committee. "The Office of Law reviewed the bill as it was presented on September 17, 2022, in conjunction with the Memorandum submitted by Park and Planning, the Zoning Hearing Examiner, MNCPPC Staff Report, and the Map of Eligible Properties. The Office of Law finds that as written, without the included legislative history, CB-105-2022 could be interpreted as attempted spot zoning legislation because as stated in the Park and Planning Memorandum, it does pose "direct opposition to the three fundamental principles of land use regulation (1) fairness, (2) predictability, and (3) user-friendly regulations. CB-105-2022 does not provide clear, transparent, and consistent regulations for all similar development in a zone."

If, as the ZHE suggested, the legislation history can clear up the opposition presented by the Park and Planning Memo, then the Office of Law suggests including it in the bill to prevent potential conflicts or challenges. The map is suggestive of multiple properties within one geographical area. This can be interpreted in multiple ways and therefore the legislative history would be helpful in identifying the proper interpretation of the included area on the map.

Lastly, the Office of Law concurs with the suggested amendments proposed by the Staff Report on page 2.”

Terry Bell, County Council Liaison, stated that the County Executive supports the legislation.

David Iannucci, President & CEO of the Prince George’s County Economic Development Corporation, submitted a letter to PHED Committee Chairman Franklin in support of the bill indicating that enactment of CB-105-2022 would be a positive force for job creation and growth of the County’s non-residential tax base.

The Committee received public testimony from John Tabori and Arthur Horne, Esq.

After discussion of agency comments and potential non-substantive amendments for consideration following the public hearing on the legislation, the Committee voted favorable, 4-0, on Draft-1.