



Office of the Chairman
Prince George's County Planning Board

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January 12, 2023

The Honorable Thomas E. Dernoga
Chairman
Prince George's County Council
Wayne K. Curry Administration Building
1301 McCormick Drive
Largo, MD 20772

Re: CB-2-2023, CB-3-2023, CB-5-2023, CB-9-2023, CB-11-2023, CR-2-2023, and CR-6-2023

Dear Chairman Dernoga:

Thank you for providing the Planning Board an opportunity to review and comment on proposed District Council legislation. During the January 12, 2023 Planning Board meeting, the following positions were adopted in accordance with the Planning Department staff's recommendations on the proposed legislation. **A Planning Board Analysis of each bill is attached for your consideration and a brief excerpt from each report is provided below:**

CB-2-2023 *This bill would amend the procedures for public notice, review, consideration, and approval of legislative amendments to the text of the Zoning Ordinance.*

Planning Board Recommendation: Support with Amendments.
(See Attachment 1 for full analysis)

The Planning Board strongly supports the underlying intent of CB-2-2023 to provide for Planning Department involvement at the very beginning of the consideration of a possible legislative text amendment of the Zoning Ordinance (and we recommend similar consideration for the Subdivision Regulations). The Planning Board also strongly supports the goal of increasing public transparency when the Council considers text amendments. It is essential to the success of these new codes that staff be involved as early in the legislative process as possible.

However, the Planning Board believes the bill should be amended to better distinguish the Planning Department and Planning Board's advisory function from the Council's legislative function. Several proposed amendments are described in the attached full analysis.

CB-3-2023 *This bill would amend the decision standards for the approval of detailed site plan (minor and major) and special exception applications to include master plan consistency as a required standard for site plan approval.*

Planning Board Recommendation: Oppose unless amended.
(See Attachment 2 for full analysis)

The Planning Board supports the general purpose of CB-3-2023 to make comprehensive plans an important consideration in the development and redevelopment of the County, there are numerous challenges involved in applying comprehensive plan recommendations to a detailed site plan (DSP), because DSPs represent a very late stage in the development process, and because DSPs regulate technical site design elements that are far removed from the more general recommendations found in a comprehensive plan.

The term “substantial conformance” is not defined in the bill, and we do not know what this means. The Planning Board, Planning Department, and Legal Department are all very familiar with the conformance requirement of the prior and current Subdivision Regulations and can potentially work with this general level and expectation if applied to detailed site plans and/or special exceptions, but the phrase “substantial conformance” implies a higher bar. What level that bar sets is unknown.

A detailed site plan is a development procedure that occurs very late in the land development process and is intended for the approval of the location and design of buildings and site features (e.g., parking, loading, access, open spaces, signage, and landscaping). Comprehensive Plans, by contrast, focus on big picture issues that are already determined before a detailed site plan or special exception application is submitted and reviewed, such as land uses, zoning recommendations, and functional area considerations including environmental impacts (most of which are addressed through other parts of the County Code), transportation facilities, public facilities, and economic development recommendations oriented to the entirety of a plan area rather than specific sites.

Because of these facts and the point in time when a detailed site plan may be required, Planning staff is not sure how to evaluate whether a detailed site plan conforms to the high-level recommendations of a Comprehensive Plan because most of these recommendations are moot to a property-specific, physical development-oriented development application wherein the impactful decisions (e.g. zoning and permissible land use) have already been made.

The Planning Board notes that the key purpose of most Comprehensive Plans is to recommend appropriate zoning for specific properties or groups of properties. The best way for the Council to ensure that detailed site plans conform to the Comprehensive Plan is to always implement the zoning recommended in the Council's Comprehensive Plans, and to avoid text amendments that allow development to occur in ways that contradict the applied zone. This approach will be far more effective in advancing the goals of Comprehensive Plans than CB-3-2023. When the zoning is correct, and the standards of the zone remain in force, a detailed site plan will nearly always conform the Comprehensive Plan.

CB-5-2023 This bill amends the Zoning Ordinance to alter the period of time that development of gas station principal uses may utilize the standards and regulations of the prior Zoning Ordinance.

Planning Board Recommendation: No position with technical amendments.
(See Attachment 3 for full analysis)

The ability of gas station uses to develop using the prior Zoning Ordinance or Subdivision Regulations is a policy decision of the District Council. The Planning Board notes for District Council’s consideration that changing the transitional and grandfathering provisions for certain uses and not others could lead to an inequity among businesses in the County.

The Planning Board recommends that the proposed language under Subsection (c) on page 2, line 11 be deleted from the bill. The proposed language adds confusion and contradicts the proposed language under letter (d) on lines 19 through 24 of the legislation.

Basically, Subsection (c) is authorization of the use of the regulations of the prior Zoning Ordinance and such authorization would need to remain applicable to gas station uses.

The proposed language under Subsection (d) is the key language necessary to achieve the purpose of the bill in limiting the period of time in which proposed gas stations can use the standards and procedures of the prior Zoning Ordinance; the proposed language in Subsection (c) is unnecessary and could result in interpretation challenges.

The phrase “in accordance with the Zoning Ordinance and Subdivision Regulations in existence at the time of the acceptance of a development application” on lines 18 and 19 on page 2 could be read as contradictory to the purposes and other regulations of Section 27-1900.

The Planning Board recommends this phrase be reworded to read: “shall be reviewed in accordance with the prior Zoning Ordinance and Subdivision Regulations [in existence at the time of the acceptance of a development application.]”

***CB-9-2023** This bill amends the hours of operation in the Zoning Ordinance for approval of special exceptions for tobacco shops, electronic cigarette shops, or retail tobacco business uses.*

Planning Board Recommendation: No position with technical amendments.
(See Attachment 4 for full analysis)

Limiting the hours of operation for tobacco shops, electronic cigarette shops, or retail tobacco business uses is a policy decision of the District Council. The Planning Board notes for District Council’s consideration that changing the transitional and grandfathering provisions for certain uses and not others could lead to an inequity among businesses in the County.

The Planning Board would like to recommend two technical amendments for District Council consideration. On page 2, line 2, delete the letter” (a)” and replace with the letter “(kkk)”to show the correct letter for the use in the new Zoning Ordinance. Next, on line 24, remove the words “retail tobacco business.” This language was inadvertently typed twice on the same line.

***CB-11-2023** This bill amends the Zoning Ordinance to prohibit consolidated storage facilities in non-residential and transit-oriented/activity base zones.*

Planning Board Recommendation: No position with amendments
(See Attachment 5 for full analysis)

The Planning Board understands that the limitation of consolidated storage facilities is a policy decision of the District Council. There are no major Planning Board objections to removing these facilities from the NAC, TAC-E, LTO-E, and CGO Zones. Consolidated storage facilities are currently allowed in the CS Zone with the approval of a special exception, but this bill would prohibit the use in the CS Zone.

Still, this bill proposes to make a substantive change to the new Zoning Ordinance without a complete analysis of the impact of the change. The Planning Board does note that this bill will create at least twenty-one nonconforming uses should it pass as drafted. Also, the Planning Board notes for District Council’s consideration that changing the transitional and grandfathering provisions for certain uses and not others could lead to an inequity among businesses in the County.

These facilities are typically quiet, low investment uses with high returns. There are countywide implications for limiting “consolidated storage” uses to industrial zones and placing an unnecessary burden on residents who may need these facilities closer to their homes. It also will contribute to increases in vehicle miles traveled and truck miles. Consolidated storage facilities serve a valid community need.

Additionally, the new Zoning Ordinance includes design standards that promote attractive, high-quality consolidated storage facilities wherever they may be built.

If the District Council decides to move forward with this legislation, the Planning Board would like to recommend amendments to the bill. The proposed amendments are described in the attached full analysis.

***CR-2-2023** This resolution is intended to establish a Health Impact Assessment requirement in land use matters.*

Planning Board Recommendation: Support for purposes of revisiting the County’s Health Impact Assessment process to incorporate national best practices.
(See Attachment 6 for full analysis)

The Planning Board notes initial drafts of the current Zoning Ordinance removed the requirement for health impact assessments, deeming these premature, and in many cases, unnecessary (such as for site plan applications for very small projects), and deferring to the national best practices for need determination as the Planning Board - and consultant-preferred approach should the Council wish to address health impact assessments in the current code. The Council restored the prior Zoning Ordinance’s health impact assessment requirements before the initial approval of the current Zoning Ordinance on October 23, 2018.

Although Planning Board supports the overall goals expressed in CR-2-2023 to pull back from a direct health impact assessment requirement in favor of the best practice approach to determine need, the Planning Board notes nothing in CR-2-2023 mandates this approach nor affects current zoning laws in any way. A future legislative text amendment will be necessary to make changes to the County’s health impact assessment requirements.

***CR-6-2023** This resolution would formally adopt the Climate Action Plan for Prince George’s County and supplementary comments report; provide for status briefings to the County Council, at least annually; provide an effective date for the Resolution; and generally, speak to climate action.*

Planning Board Recommendation: Support and to convey concerns about certain recommendations and action steps specified in the Climate Action Plan.
(See Attachment 7 for full analysis)

The Planning Board supports the goals, objectives, and guiding principles of the Climate Action Plan, with concerns. The Planning Board recognizes the reality and impacts of climate change, and that immediate action is necessary to improve resiliency and enhance the County’s ability to mitigate climate impact.

However, several of the specific priority recommendations and action steps contained in the Climate Action Plan raise Planning Board concerns pertaining to the ability of the Planning Department, Zoning Ordinance, and comprehensive planning efforts to effectively implement these current actions.

As always, Planning Department staff members are available to work with the Council and your legislative staff on any pertinent legislative matters. Please let us know if we may be of further assistance.

Should you have questions, please do not hesitate to contact the Office of the Planning Director at 301-952-3595. Thank you, again, for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter A. Shapiro", with a long horizontal flourish extending to the right.

Peter A. Shapiro
Chair

Attachments