



MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
Prince George's County Planning Department

“Transitional Provisions”

Proposed Amendments

Prince George's County Council

Committee of the Whole

October 10, 2023

PRESENTER

David Warner, Principal Counsel

INTRODUCTION

1. **Brief Overview of Zoning**
2. **Discuss Conflicts and Ambiguities in Zoning Ordinance**
3. **Review Proposed Amendments**



General Purpose of Zoning

Regulate Development of Private Property

- e.g., Where can a building be constructed? How big can it be?

Regulate the Uses conducted on Private Property

- e.g., Allowed by right? Only conditionally allowed?



Required Permits

- In order to develop property, owners need a building permit.
- In order to conduct a use on property, owners need a use and occupancy permit.



ZONING APPROVALS



- In order to obtain a building permit, a property owner may have to first obtain certain development approvals under the County's Zoning Ordinance (e.g., zoning amendment, site plan, etc.)
- In order to obtain a use and occupancy permit, a property owner may have to first obtain certain use approvals under the County's Zoning Ordinance (e.g., special exception, certification of a nonconforming use)



There is only one Zoning Ordinance in Prince George's County

Sec. 27-1700 Transitional Provisions

27-1701. Effective Date

This Ordinance shall become effective on April 1, 2022, and repeals and replaces Subtitle 27. Zoning, Prince George's County Code, 2019 Edition, as amended from time to time.

Therefore, the processes for obtaining the development and use approvals necessary to acquire building and use/occupancy permits are contained only in the (current) Zoning Ordinance



THREE SECTIONS*

Three Sections in the Zoning Ordinance are designed to allow property owners to submit development applications for review and approval using the procedures and processes in the prior Zoning Ordinance

- **27-1703** – Property owners with development or permit applications filed and accepted prior to the effective date of the Ordinance
- **27-1704** – Property owners that received development approvals or permits prior to April 1, 2022
- **27-1900** – Proposals or permit applications of any type (during available two-year window)



* Section 27-1700 is entitled “Transitional Provisions” but Section 27-1900 is commonly included within that term.



— CONFLICTS AND AMBIGUITIES —

Experience with processing applications during the past year and a half afforded everyone the opportunity to identify issues in the transitional provisions that need to be corrected or clarified.



Section 27-1704

1. **What “development approvals” or “permits” qualify?**
 - The terms are undefined
 - The language excludes approvals granted after April 1, 2022
2. **What “amendments” to the approvals or permits are allowed?**
 - Can an owner add property?
 - To what degree can the project change?
3. **If an owner elects to use the (current) Zoning Ordinance, what happens to approvals granted under the provisions of the prior Zoning Ordinance?**
4. **When does the right to use Section 27-1704 expire?**



LEGISLATIVE HISTORY

Term? Infinite? 20 years? Until project is finished?

- **“Once constructed, the project shall be “deemed conforming” and shall be subject to the same rules as other conforming uses, structures...” CB-13-2018**
- **“Once constructed, the buildings, uses, structures, or site features will be legal and not nonconforming and shall be exempt from the provisions of this Ordinance until they are required or elect to file a site plan or other development application under this Ordinance ... This provision shall expressly subject (sic) ... to Subsection (e) [allowing for amendments to be reviewed under the prior Zoning Ordinance].” CB-098-2021**
- **“... the Council recognizes that such immediate, wholesale implementation of this Subtitle may not be feasible or appropriate in all circumstances.” Section 27-1902**
- **“Two years ago, we asked for consideration of legacy projects. There are certain projects that are significant and substantial enough, and which are far enough along, they should not be subjected to new provisions...” Testimony from Member of Land Use Bar, 7-17-2018 COW**



PROPOSED AMENDMENTS TO 27-1704

1. Section 27-1704 applies to all applications for development of property (e.g. Basic Plans, CSPs, CDPs DSPs, SDPs, etc.) approved under the provisions of the prior Zoning Ordinance. (Applications to conduct uses will be addressed in Part 27-7)

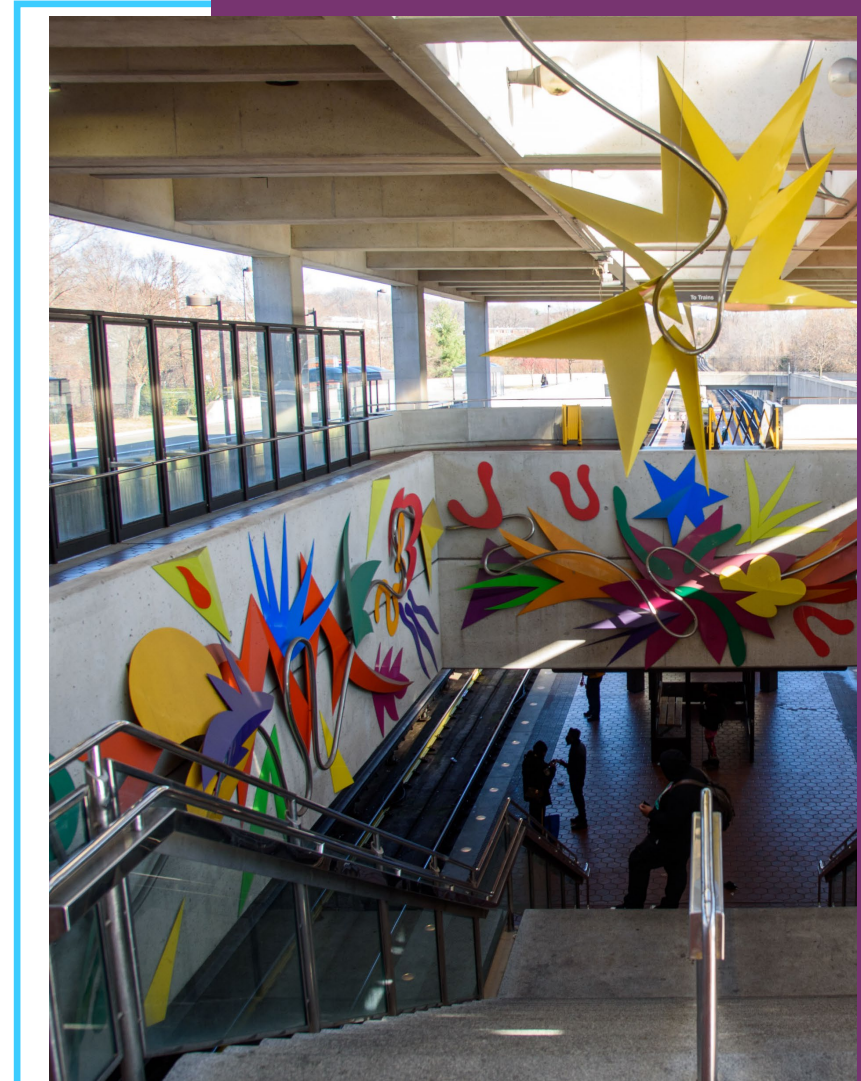
2. Approved development applications may be amended as often as the property owner desires until the project is constructed or the approval expires/does not vest (e.g., A DSP for an office complex can be redesigned for town center retail).



PROPOSED AMENDMENTS TO 27-1704

3. Once an owner files a development application for property under the provisions of the current Zoning Ordinance, approval of that application will cause prior approved development applications for that property to no longer have any force or effect (unless the owner's right to use the prior Zoning Ordinance has vested).

4. The right to use the development application processes in the prior Zoning Ordinance expires once the project described in an application subject to the transitional provisions is constructed.



NONCONFORMITIES

1. Section 27-1704(d) “Once constructed buildings, uses, structures, or site features” are legal, not nonconforming, and not subject to any law.
2. Such “legal, not nonconforming” buildings, uses, structures, or site features are defined as nonconforming under Section 27-2500.
3. Under 27-1704(d)(3), permitted uses in the Zoning Ordinance remain subject to Special Exception conditions in conflict with 27-3604(d)(11)(C)(v) and prior 27-320(a)(5)).



PROPOSED AMENDMENTS TO PART 27-7

- **Goal is to make it clear how buildings, structures, and site elements constructed under the provisions of the prior Zoning Ordinance will be treated under the current Zoning Ordinance if they no longer conform.**
- **Goal is to make it clear how uses allowed under the provisions of the prior Zoning Ordinance will be treated under the current Zoning Ordinance if they are no longer allowed.**



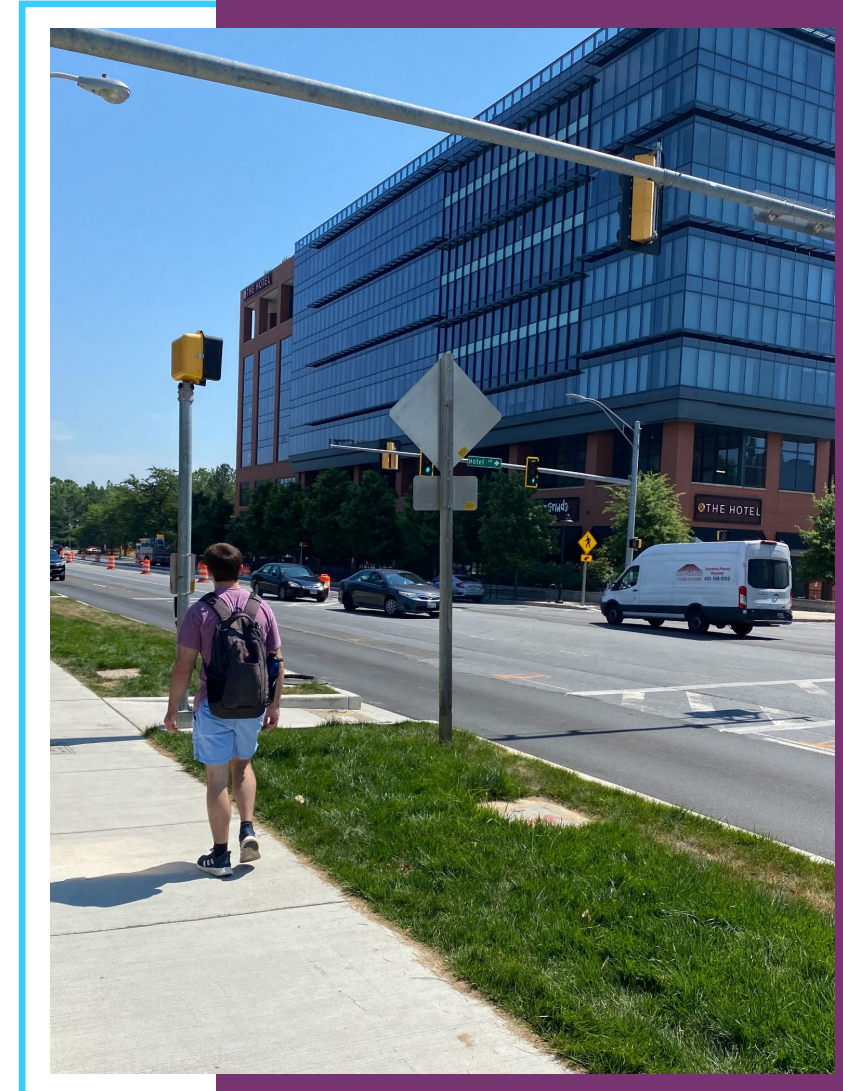
BUILDINGS, STRUCTURES, SITE ELEMENTS

1. Legal nonconforming buildings in existence on March 31, 2022, that are nonconforming April 1, 2022, remain legal nonconforming buildings.
2. Legal conforming buildings in existence on March 31, 2022, that are nonconforming April 1, 2022, remain legal conforming buildings.
3. Legal conforming buildings constructed pursuant to development applications approved under the transitional provisions, that are nonconforming under the Zoning Ordinance, are treated as legal conforming buildings.
4. Regular provisions governing nonconforming buildings apply to subsequent alterations, expansions, reconstruction, renovations, etc. of such buildings.



USES

- 1. All uses (including Special Exceptions) allowed on a property on March 31, 2022 shall be allowed on that property until April 1, 2032, or until the property is rezoned, whichever occurs first.**
- 2. Legal, certified nonconforming uses in existence on March 31, 2022, that remain nonconforming April 1, 2022, remain legal, certified nonconforming uses.**
- 3. Legal conforming uses in existence on March 31, 2022, that are nonconforming as of April 1, 2022, remain legal and conforming.**
- 4. Regular provisions governing nonconforming uses (e.g., discontinuation of use) apply to subsequent treatment of the uses described in 2 and 3.**



THANK YOU

