

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2022 Legislative Session

Reference No.: CB-068-2022

Draft No.: 2

Committee: PLANNING, HOUSING AND ECONOMIC DEVELOPMENT

Date: 9/7/2022

Action: FAV(A)

REPORT:

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

The Planning, Housing, and Economic Development (PHED) Committee convened on September 7, 2022, to consider CB-68-2022. The Planning, Housing and Economic Development Committee Director summarized the purpose of the legislation and informed the Committee of written comments received on referral. CB-68 was presented at the request of the Planning Board (via Technical Staff of the Planning Department). The bill incorporates several technical revisions to the new Zoning Ordinance that took effect on April 1, 2022, to ensure it continues functioning as intended and to eliminate unintended consequences and minor oversights. It amends definitions, procedures, and standards to add clarity and address several regulatory aspects inadvertently lost in the review and revision cycles leading to the initial approval of the new Zoning Ordinance. Finally, CB-68-2022 incorporates several legislative text amendments passed at the end of 2021 that could not be included in CB-98-2021 due to timing.

Council Member Glaros informed the Committee that similar to last year's corrective bill (CB-98-2021), CB-68-2022 has been workshopped with a group comprised of Planning Department staff, County Executive staff, Office of Law, and Council legal staff including Zoning Hearing Examiners. Ms. Glaros commented that current temporary regulations for outdoor dining during COVID expire in December 2022 and it is therefore critical to include these provisions in the new Ordinance.

The Planning Board supports the legislation and by letter dated July 21, 2022, to the Council Chairman indicates that CB-68-2022 is essential to successfully implementing the new Zoning Ordinance. The Office of Law reviewed CB-68-2022 as it was presented on July 5, 2022, and Proposed Draft-2 that was presented during PHED Committee meeting on September 7, 2022 and found it to be in proper legislative form with no legal impediments to its enactment. Terry Bell, Council Liaison, informed the Committee that the County Executive is in support of CB-68-2022.

Scott Rowe, M-NCPPC Planner IV, presented a PowerPoint summarizing purposes of the omnibus corrective legislation, key technical revisions, and what to expect in the future including regular cycles of proposed technical and substantive amendments to the new Ordinance in the January/February and July/September timeframes.

The Committee reviewed a Proposed DR-2 containing a new section concerning outdoor dining as referenced by Council Member Glaros. The language is as follows:

Sec. 27-1705. Temporary Authorization for Outdoor Seating.

(a) Findings

(1) In furtherance of local recovery efforts resulting from the COVID-19 health crisis, the District Council finds critical need to create and implement an expedited administrative process to authorize certain uses in the Eating or Drinking Establishment Uses Principal Use Category to offer newly created or expanded outdoor seating on adjacent exterior space or shared exterior space in Prince George's County.

(2) The District Council anticipates that a significant number of otherwise existing lawful eating and drinking uses located in the County will apply for immediate authorization to provide outdoor seating or expand outdoor seating areas for customers despite the fact that said outdoor seating may not have been included on their applicable detailed site plan, special exception site plan, or similar site plan such as, but not limited to, specific design plans and permit site plans.

(3) This Zoning Ordinance and the prior Zoning Ordinance, as may be applicable, require eating and drinking establishment uses to specify any outdoor seating areas on its approved detailed site plan, special exception site plan, or similar site plan, to comply with all other provisions in the local zoning laws prior to issuance of a use and occupancy permit to commence operations of the use, and to operate the establishment in compliance with the provisions of the approved detailed site plan, special exception site plan, or similar site plan and use and occupancy permit at all times.

(b) Regulations

(1) Until April 1, 2024, all provisions of this Subtitle and of the prior Zoning Ordinance (for such projects subject to the transitional provisions of Section 27-1700 or which are using the provisions of Section 27-1900), including but not limited to the provisions concerning site plan conformance, minimum setbacks, and minimum parking, shall be suspended and not subject to violation or enforcement action to allow for Prince George's County to authorize outdoor dining to otherwise existing lawful uses in the Eating and Drinking Establishment Uses Principal Use Category on adjacent exterior space or shared exterior space in Prince George's County, after compliance with all regulations stated in this Subsection and so long as the establishment remains in compliance with the regulations stated herein.

(2) The DPIE Director shall establish and administer an expedited administrative process to authorize otherwise existing lawful uses in the Eating and Drinking Establishment Uses Principal Use Category on adjacent exterior space or shared exterior space in Prince George's County, after compliance with all regulations stated in this Subsection and so long as the establishment remains in compliance with the regulations stated herein.

(c) Enforcement

(1) Any lawful use in the Eating and Drinking Establishment Uses Principal Use Category that is authorized to offer newly created or expanded outdoor dining must comply with all State and County laws and regulations with the exception of the laws of this Subtitle suspended herein.

(2) Notwithstanding any provision of this Subtitle or Subtitle 28, Civil Monetary Fines or Penalties, of the County Code, Prince George's County may rescind forthwith any approval granted to an otherwise existing lawful use in the Eating and Drinking Establishment Uses Principal Use Category to offer any newly created or expanded outdoor seating for failure to comply with any State or County laws or regulations and any requirement stated herein.

(3) The enforcement of the requirements herein and all other State and County laws and regulations for uses in the Eating and Drinking Establishment Uses Principal Use Category shall be performed as required by State or County laws and regulations, with the assistance of Prince George's County law enforcement as needed.

The following individuals offered testimony regarding certain provisions, conflicts, and possibly oversights in the new Zoning Ordinance for the Council's consideration moving forward with the regular cycles of amendments as mentioned by Mr. Rowe: Edward Gibbs, Thomas Haller, Matthew Tedesco, and Robert Antonetti. The testimony included comments on consideration to allow variances to use specific standards and special exception requirements, inconsistencies between Subtitle 24 (Subdivision Regulations) and Subtitle 27 (Zoning Ordinance) for pre-application neighborhood meeting times, Section 27-3402 (a)(4) limitation of utilization of RPD Zone to properties in a current residential base zone, submission of statement of justification later in application process such as at time of acceptance instead of at time of informational mailing, and clarification of Sections 27-1900 and 27-1904 as described in a Gibbs and Haller September 6, 2022 letter to Council Chair Hawkins.

The Chief Zoning Hearing Examiner (ZHE) commented on deletion of the definition of "elderly family" on page 34 as a potential concern with discrimination based on age and reference to Federal law. Upon advice from the Zoning and Legislative Counsel, the deletion was left in the legislation until such time as the ZHE can further research the issue and if determined the definition should remain in the Ordinance, the bill can be amended at the time of public hearing/prior to enactment.

On a motion by Council Member Glaros and second by Council Member Turner, the Committee voted favorable on CB-68-2022 with the amendments as contained in Proposed DR-2.