

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2022 Legislative Session

Reference No.: CB-078-2022

Draft No.: 2

Committee: PLANNING, HOUSING AND ECONOMIC DEVELOPMENT

Date: 9/15/2022

Action: FAV (A)

REPORT:

Committee Vote: Favorable as amended, 4-1 (In favor: Council Members Franklin, Harrison, Hawkins, and Turner. Oppose: Council Member Glaros)

The Planning, Housing and Economic Development (PHED) Committee convened on September 13, 2022, and September 15, 2022, to consider CB-78-2022. At the September 13 Committee worksession, 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 bill amends the Zoning Ordinance to provide for zone regulations and principle use regulations applicable to the development of split-zoned property.

The Planning Board opposed the legislation with explanation of their position in a September 8, 2022, letter to the Council Chairman as follows:

“This bill would modify zone development regulations (“bulk regulations” such as minimum lot size, minimum front setback, minimum yard depths, minimum green area, maximum lot coverage, etc.) to require the application of the regulations of the highest-intensity zone unless the applicant of a development proposal on a split-zoned lot or parcel opts out. It would also require the highest-intensity zone’s use table apply to development of a split-zoned lot or parcel unless the applicant opts out. These mandates would supersede the regulations and uses of lesser-intensity zones.

It should be noted the bill is drafted with an assumption that split-zoned property always consists of two zones, but some split-zoned property in the County contains more than two zones. Approximately 70 properties are split-zoned with three or more zones.

As a general policy, the Planning Board does not encourage the split-zoning of properties because this often becomes problematic to property owners. However, split-zoned properties exist in Prince George’s County for a variety of reasons – the most common of which is that at some point in the past during a deliberate rezoning effort such as a Sectional Map Amendment, the Prince George’s County Council sitting as the District Council placed property in multiple zones to achieve desired policy outcomes. For example, a large undeveloped property may abut a residential subdivision to the west and an industrial park to the east, and a prior Council may have assigned two zones to this property, creating a split-zoned property, to ensure there is a transition between the residential neighborhood and the industrial uses.

Any global effort to legislatively retrofit split-zoned properties is likely to create substantial compatibility problems that prior Councils have made conscious zoning decisions to prevent or alleviate. Without a case-by-case analysis of the County’s split-zoned properties, the Planning Board believes this bill will foster numerous incompatible uses throughout the County.

There may be legal concerns associated with this bill, and the Planning Board defers to Council and County attorneys for comments as to potential legal issues. The Planning Board’s concern is that the bill may, in effect, rezone property through legislation rather than an authorized rezoning process.”

The Zoning Hearing Examiner submitted a September 9, 2022, memorandum with the following comments:

“I believe this should be subject to Special Exception approval. Accordingly, the language on page 2, lines 15-17 should be revised as follows: “Where a specific property is split-zoned, the Applicant may request approval of a special exception to develop the property in accordance with the use table of the higher intensity zone.”

Special Exception review will ensure that surrounding residents/property owners will have sufficient notice of the higher intensity use requested, as well as an opportunity to comment at the pre-application neighborhood meeting and at the meeting held by the Zoning Hearing Examiner. Most importantly, it will ensure that any possible negative impacts on the surrounding properties, that might possibly be in a lower intensity zone, is reduced or averted.”

During the September 13 meeting, the Committee reviewed a Proposed DR-2 with amendments as follows:

AN ORDINANCE concerning

Zoning—Zones and Zone Regulations—Principal Uses—Split-Zoned Property

For the purpose of clarifying the development regulations and use tables applicable to the development of ~~split zoned property within the new Zoning Ordinance of Prince George’s County, being also Chapter 37, 2018 Laws of Prince George’s County, Maryland (CB-013-2018), as amended by Chapter 53, 2021 Laws of Prince George’s County, Maryland (CB-098-2021)~~ LOTS THAT WERE SPLIT ZONED AS A RESULT OF APPROVAL OF THE COUNTYWIDE MAP AMENDMENT BY THE DISTRICT COUNCIL.

Sec. 27-4106. Organization of Zone Regulations.

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(d) Applicability of Development Regulations to Split Zoned Property

Where a ~~specific property is~~ LOT, AS DEFINED IN THIS SUBTITLE, WAS WHOLLY LOCATED WITHIN A SINGLE ZONE UNDER THE PRIOR ZONING ORDINANCE AND HAS BEEN split zoned AS A RESULT OF APPROVAL OF THE COUNTYWIDE MAP AMENDMENT BY THE DISTRICT COUNCIL, it shall be subject to the development regulations of the higher intensity zone unless an applicant elects to utilize the development regulations of the less intense zone.

PART 27-5. USE REGULATIONS.

SECTION 27-5100 PRINCIPAL USES.

Sec. 27-5101. Principal Use Tables.

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(c) Applicability of Use Tables to Split Zoned Property

Where a ~~specific property is~~ LOT, AS DEFINED IN THIS SUBTITLE, WAS WHOLLY LOCATED WITHIN A SINGLE ZONE UNDER THE PRIOR ZONING ORDINANCE AND HAS BEEN split zoned AS A RESULT OF APPROVAL OF THE COUNTYWIDE MAP AMENDMENT BY THE DISTRICT COUNCIL, it shall be subject to the use table of the higher intensity zone unless an applicant elects to utilize the use table of the less intense zone.

After public testimony and discussion by Council Members, the bill was held in Committee at the request of Council Member Glaros to allow time for the Planning Department to provide additional information as it relates to properties in the US 1 Corridor.

At the September 15 Committee meeting, PHED Committee Chair Franklin, the bill sponsor, followed up on initial comments he provided during the September 13 Committee meeting indicating that the purpose of the bill is to address impediments to development for split zoned properties in the County. Scott Rowe, M-NCPPC Planner IV, summarized an issue with a lot that is classified in two different zones in Campus Village, with only one property split zoned as a result of the Countywide Map Amendment. The Council’s Zoning and Legislative Counsel informed the Committee of the current Zoning Ordinance definition of “lot”.

Council Member Glaros suggested the bill be held in committee to allow this issue to be addressed in CB-68-2022 (new Zoning Ordinance omnibus corrective bill) or narrow the proposed CB-78-2022. The Zoning and Legislative Counsel advised that narrowing of the bill’s applicability is allowed later in the legislative process after the public hearing given that limiting applicability is non-substantive.

After discussion, on a motion by Committee Chair Franklin and second by Council Member Hawkins, the Committee voted favorable, 4-1, on CB-78-2022 Proposed DR-2.