

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2022 Legislative Session

Reference No.: CB-061-2022

Draft No.: 2

Committee: PLANNING, HOUSING AND ECONOMIC DEVELOPMENT

Date: 9/15/2022

Action: FAV (A)

REPORT:

Committee Vote: Favorable as amended, 5-0 (In favor: Council Members Franklin, Glaros, Harrison, Hawkins, and Turner)

The Planning, Housing and Economic Development (PHED) Committee convened on September 15, 2022, to consider CB-61-2022. 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 bill amends the resident registration and pre-application neighborhood meeting requirements in the Zoning Ordinance for potential/pending development proposals in the County to require that the written summary of the pre-application community meeting be made a part of the administrative record for any development application that may be filed and accepted for consideration, and that the applicant provide electronic copies of the written meeting summary to attendees that provide an email address.

The Planning Board opposed the legislation as drafted as explained in a July 7, 2022, letter to the Council Chairman as follows:

“The prior Zoning Ordinance required mailed notices to neighbors and registered associations prior to acceptance of most development applications. The new Zoning Ordinance expanded that requirement for many applications to also require pre-application neighborhood meetings at which the applicant must present its project, receive comments, and consider whether to amend its application in response. The Council’s goal was to create a dialogue between applicant and community earlier in the development review process.

The pre-application neighborhood meeting is required for a zoning map amendment (ZMA), Planned Development (PD) zoning map amendment, Chesapeake Bay Critical Area Overlay (CBCA) map amendment, special exception, detailed site plan, major departure, and variance when associated with parent development applications. Applicants may choose to hold pre-application neighborhood meetings for other development proposals such as minor changes to approved special exceptions, minor amendments to approved detailed site plans, minor departures, minor administrative waivers, or modifications to development standards.

The new Zoning Ordinance requires applicants to prepare a written summary of the pre-application neighborhood meeting. The summary shall include “a list of those invited to the meeting, meeting attendees and/or a copy of the sign-in sheet, copies of the materials distributed or made available for review during the meeting, and any other information the applicant deems appropriate.”

CB-61-2022 amends the ordinance to require that the written summary become part of the administrative record of the development application. The bill also requires the applicant to email a copy of the written summary to all attendees who provide an email address.

The Planning Board believes it is premature to make substantive changes to the new Zoning Ordinance, which has only been in effect for three months. As discussed during deliberations on the new ordinance, it is anticipated that the Council will conduct a comprehensive review of the new ordinance in 2023 after it has been in effect for 18 months. The proposal in this bill should be considered at that time.

The Planning Board also notes that during the drafting of the new Zoning Ordinance, the District Council discussed whether pre-application neighborhood meetings should become part of the administrative record or not. The County Council decided that the pre-application neighborhood meeting should be an informal and informational meeting to brief affected residents on development proposals, and not become part of the record.

The Council was concerned that requiring written summaries to become part of the administrative record could introduce into the record information or opinions that are not relevant to Planning Board and Council decision-making standards for the application and could create unreasonable expectations for the public.

The bill also requires the applicant to email a copy of the written summary of the pre-application neighborhood meeting to attendees that provide an email address. The Planning Board believes the County Council intended the written summary to be a public document even though it is not made part of the administrative record. Therefore, distribution of the written summary to attendees seems appropriate.

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The Zoning Hearing Examiner submitted a July 8, 2022, memorandum with the following comments:

“Thank you for the opportunity to comment. As drafted, the legislation raises the following concerns:

- Less words are better whenever possible. I question the need to add all the section headings to the bill description lines on page 1 and would urge that we continue our current process of simply noting what the bill is about – in this instance it would be “PreApplication Neighborhood Meeting Requirements.”
- This bill was discussed thoroughly in our internal committee review of the Zoning Ordinance rewrite drafts. We all agreed that the purpose was to provide an informal process that ensured those within the neighborhood of a proposed zoning application could be provided details about the application before any hearings are held and decisions rendered. The Zoning Hearing Examiners objected to any mandatory inclusion of the meeting summary in the record for two

reasons: all decisions made by the Examiner are to be made based on the record, and all testimony is subject to cross-examination. Accordingly, inclusion of the meeting summary would either be inadmissible on the ground of irrelevancy (since the actual application could be totally different after all interested persons weighed in at the neighborhood meeting) or found not credible (if the persons that commented are not present at the quasi-judicial hearing to present sworn testimony).

- Given these possible limitations on admissibility it would also be unfair to citizens to have them believe the summary would be introduced as evidence and they then decide it unnecessary to become a Person of Record and participate in the hearing itself.

The Zoning Hearing Examiners are, therefore, opposed to the requirement that the written summary of the discussion generated at the pre-application neighborhood meeting be made part of the record in the actual case, and would ask that the new language on page 2, line 13 be stricken, and the purpose clause amended as necessary.

There is no objection to the new language on page 5, lines 7-8.”

After public testimony in support of the legislation, Council Member Turner suggested the bill be revised to provide that the written summary not be made part of the administrative record.

On a motion by Council Member Turner and second by Council Member Franklin, the Committee voted favorable, 5-0, on CB-61-2022 with this amendment on page 2, line 13 and in the bill title.