

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2021 Legislative Session

Reference No.: CB-038-2021

Draft No.: 2

Committee: COMMITTEE OF THE WHOLE

Date: 09/30/2021

Action: FAV(A)

REPORT:

Committee Vote: Favorable as amended, 9-0 (In favor: Council Members Hawkins, Anderson-Walker, Davis, Dernoga, Franklin, Glaros, Ivey, Taveras and Turner)

The Committee of the Whole convened on June 17, 2021 and September 30, 2021 to consider CB-38-2021. This legislation was transmitted by the County Executive for the Council's consideration. As presented on June 2, 2021, Draft-1 of the legislation amends various sections of the County Code to adopt additional permit fees for Site Road permit applications. Specifically, Department of Permitting, Inspections and Enforcement (DPIE) is proposing the following two new fees: (1) fees for multiple plan reviews and (2) fees for multiple plan reviews for failure to include public roads. DPIE is also clarifying extension fees for grading, storm drain and stormwater management outside the public right of way.

At the June 17, 2021 Committee worksession, the Planning, Housing and Economic Development Committee summarized the purpose of the legislation and informed the Committee of written comments received on referral. DPIE Director Melinda Bolling and DPIE Associate Director Mary Giles provided additional background on the legislation and responded to Council Members' questions.

The Maryland Building Industry Association (MBIA) submitted a letter to Council Chairman Hawkins offering the following comments on CB-38-2021:

“The Maryland Building Industry Association (MBIA) appreciates the opportunity to offer testimony/comments back for CB-38-21, to adopt additional permit fees for Site Road permit applications. Specifically, DPIE is proposing the following two new fees: (1) fees for multiple plan reviews and (2) fees for multiple plan reviews for failure to include public roads. DPIE is also clarifying extension fees for grading, storm drain, and storm water management outside the public right of way. We understand the rationale for these changes and while no one wants to prolong the review cycle as that costs more money and takes longer to get to market, we know that some applicants aren't as diligent as they should be on some plans and it is not the counties job to perform quality control for certain applicants. Though some challenges are to be anticipated with this proposal, to start DPIE performing a partial review or issuing comments in second and third round reviews that could have been issued during the in the first round of

comments. If a thorough review is not completed, it should not be the applicants' responsibilities to pay an additional. There isn't a mention for peer review, if that is utilized which is often encouraged by DPIE and now with the volume coming in. Monitoring responsibility for issuing/addressing comments is further complicated by the use of peer review, if an issue arises when this is utilized is the applicant responsible for the fee, how would DPIE handle that situation. Additionally, we would request that under Sec. 23-115. - Permit fees -Paragraph (f) be removed from this bill. The Department of Permitting Services should be able implement the phasing parts of the paragraph by policy without having it be a legislative act. This appears to be included to authorize the "Deficiency Fee" and while the industry rightfully opposes new fees, the phasing language is more concerning. Doing it by legislation makes it harder to be flexible and that does not benefit anyone. Even though there is waiver language in the paragraph, the section focuses more on the authority of the department not frontage improvements and should be removed."

Council Member Turner made a motion to hold CB-38-2021 in Committee, seconded by Council Member Davis, to allow time for preparation of revisions to address concerns raised during the Committee discussion. The motion passed 11-0.

On September 30, 2021, DPIE Deputy Directors Gary Cunningham and Dawit Abraham were present to discuss revisions to the legislation to address comments received during the June 17, 2021 Committee meeting. Associate County Attorney Amanda Denison summarized revisions in a Proposed Draft-2 (DR-2) as follows:

AN ACT concerning

Water Resources Protection and Grading Code of Prince George's County

For the purpose of adopting additional permit fees for Site Road permit applications.

Specifically, two new fees: (1) fees for multiple plan reviews, and (2) fees for multiple plan reviews for failure to include public roads. Also, the Bill and clarifies extension fees for grading, storm drain, and stormwater management outside the public right of way.

(e) Extra Review Cycle Fee for Site Road Applications: If the permittee has not addressed all County review comments in the first three plan review cycles, such that the approval or permit is not issued on the 4th cycle, the permittee shall pay an extra review cycle fee as identified in the Table of Fees in Subtitle 2-253.63 for each extra review cycle prior to the approval and issuance of the permit. This extra review cycle fee applies to site development concepts, street grade establishments, street construction permits, site development rough grading permits, and site development fine grading permits. The Director or their designee shall have the authority to waive this fee. If the extra review cycle is due to new comments from the County that could have been made during earlier review cycles which then resulted in review cycles exceeding 4

cycles, then the fee shall not be assessed.

(f) Road Plan Deficiency Fee for Site Road Permit Applications: Site Road permits shall include the construction of all public roads shown on the preliminary plan of subdivision and final subdivision plats, and shall include the frontage road improvements as required by Subtitle 23-105. If this information is missing from the permit submission, the permit submission will be returned for correction and the permittee will be required to pay a Road Plan Deficiency Fee with the subsequent submission. This fee will not be required if a waiver letter was granted by the Director prior to permit submission which matches the extent of roadwork on the submitted permit plans. This fee applies to street construction permits and side development and grading permits. For phased projects, the permit application and plans must include all roads within the phase limit, including the full width of the roads adjacent to and near the lots and parcels in that phase. The phasing shall be established by a previously approved site development concept. In the instance of a phased project, all public roads within a phase of development shall be included in the phased permit application. The Department shall approve multiple phases of a project during the Site Development Concept Plan approval. If the improvements to the existing frontage road are submitted as a separate permit, that application shall be submitted prior to or concurrently with submission of the onsite permit. If the frontage improvements are submitted as a separate permit, the onsite permit will not be issued until the existing frontage road permit has been issued. For phased projects, the existing frontage road improvements shall be included in the first permit phase that abuts the frontage road. If the existing frontage road improvements are submitted as a separate permit, prior to submission of the onsite permit, the fee will not be required. If the existing frontage improvements are submitted as a separate permit, the onsite permit will not be issued until the existing frontage road permit has been issued. The Director or their designee may waive the requirements of this Paragraph and authorize a reduced scope for a permit application on a Site Development Concept Plan.

(g) Phasing of Site Road Permit Applications: For phased projects, the permit application and plans must include all roads within the phase limit, including the full width of the roads adjacent to and near the lots and parcels in that phase. The phasing shall be established by an approved Site Development Concept Plan. For phased projects, the existing frontage road improvements shall be included in the first permit phase that abuts the frontage road.

(h) Road Plan Deficiency Fee: If the scope of the permit submission does not conform to the requirements of Paragraph (f) and (g) above, the permit submission will be returned for

correction and the permittee will be required to pay a Road Plan Deficiency Fee with the subsequent submission submissions. This fee will not be required if a waiver letter was granted by the Director or their designee prior to permit submission which matches the extent of roadwork on the submitted permit plans. This fee applies to street construction permits and site development fine grading permits. For phased projects, the permit application and plans must include all roads within the phase limit, including the full width of the roads adjacent to and near the lots and parcels in that phase. The phasing shall be established by a previously approved site development concept. For phased projects, the existing frontage road improvements shall be included in the permit phase that abuts the frontage road. If the existing frontage road improvements are submitted as a separate permit, prior to submission of the onsite permit, the fee will not be required. If the existing frontage improvements are submitted as a separate permit, the onsite permit will not be issued until the existing frontage road permit has been issued. This fee applies to street construction permits and site development fine grading permits.

The Office of Law reviewed Proposed DR-2 and determined that it is in proper legislative form with no legal impediments to its enactment. The Office of Audits and Investigations Legislative and Policy Analyst submitted a June 16, 2021 Fiscal Impact Statement indicating enactment of CB-38-2021 will have a potentially positive direct fiscal impact on the County through increased permitting fees and an improved permitting process with DPIE. Enactment of CB-38-2021 could have a positive indirect impact by increasing the efficiency of the Department with staff workload through incentivizing permittees to include and address required information and comments by staff in the approval of their permits.

On a motion by Council Member Franklin and second by Council Member Taveras, the Committee voted favorable, 9-0, on CB-38-2021 Proposed DR-2.