

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2021 Legislative Session

Reference No.: CB-088-2021

Draft No.: 2

Committee: COMMITTEE OF THE WHOLE

Date: 10/04/2021

Action: FAV(A)

REPORT:

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

The Committee of the Whole convened on October 4, 2021 to consider CB-88-2021. The Planning, Housing, and Economic Development (PHED) Committee Director summarized the purpose of the bill and informed the Committee of written comments received on referral. This bill makes certain corrective amendments to the new County Subdivision Regulations adopted by the Council via enactment of CB-15-2018. These amendments clarify the intention of the County Council in enacting a new code of County Subdivision Regulations and make certain reconciliatory changes and other corrective amendments prior to taking effect by operation of law as a result of potential adoption of a Countywide Map Amendment for Prince George's County.

On September 30, 2021, the Planning Board voted to support CB-88-2021. The Office of Law reviewed CB-88-2021 as it was presented on September 21, 2021, and found it to be in proper legislative form with legal impediments to its adoption.

The Committee reviewed a Proposed DR-2 with revisions summarized by Chad Williams of the Prince George's Planning Department to include Section 24-1703 in the list of sections to be repealed and reenacted, and also new provisions in Sections 24-1900—24-1904, as follows:

- **Sec. 24-1400. Applicability.**

- 24-1401. General**

- (a) These Regulations apply to:**

- (1) The subdivision of all lands within the boundaries of the Regional District within Prince George's County, unless subdivision is expressly exempted in Section 24-1403 Exemptions, below, or by a specific Subsection of these Regulations;**

- (2) A conversion of use from residential to nonresidential, or nonresidential to residential, or the conversion of either a residential or nonresidential use to mixed-use; and**

(3) An amendment of findings, conditions, and/or certified plans established by the Planning Board in a prior approval of a preliminary plan of subdivision.

- On page 3, line 24, strike “proposed” before “development”.

24-1703. Applications Pending Prior to _____ [insert effective date of these Regulations]

* * * * *

- **(e)** Once constructed, PURSUANT TO A SUBDIVISION APPLICATION, DEVELOPMENT APPLICATION, OR PERMIT APPROVED UNDER THE PRIOR ZONING ORDINANCE AND SUBDIVISION REGULATIONS, ALL BUILDINGS, USES, STRUCTURES, OR SITE FEATURES WILL BE LEGAL AND NOT NONCONFORMING AND SHALL BE EXEMPT FROM THE PROVISIONS OF THESE REGULATIONS UNTIL THEY ARE REQUIRED OR ELECT TO FILE A SUBDIVISION APPLICATION, OR A SITE PLAN OR OTHER DEVELOPMENT APPLICATION (NOT TO INCLUDE ANY APPLICATION FOR A CHANGE IN OCCUPANCY OR A CHANGE IN OWNERSHIP) UNDER THE PROVISIONS OF THE ZONING ORDINANCE. ~~the project shall be “deemed conforming” and shall be subject to the same rules as other conforming subdivisions under the Subdivision Regulations and uses, structures, signs, and other features under the Zoning Ordinance. Under no circumstance shall an illegal subdivision, use, structure, sign, or other feature as of the effective date of the Subdivision Regulations or Zoning Ordinance be “deemed conforming.”~~
- **(c)** If the subdivision approval expires or is revoked (i.e., for failure to comply with the terms and conditions of approval), any subsequent subdivision of the land shall be subject to the procedures and standards of these Regulations.
- **(d)** Once constructed, THE BUILDING, USES, STRUCTURES, OR SITE FEATURES WILL BE LEGAL AND NOT NONCONFORMING AND SHALL BE EXEMPT FROM THE PROVISIONS OF THESE REGULATIONS UNTIL THEY ARE REQUIRED OR ELECT TO FILE A SUBDIVISION APPLICATION, OR A SITE PLAN OR OTHER DEVELOPMENT APPLICATION (NOT TO INCLUDE ANY APPLICATION FOR A CHANGE IN OCCUPANCY OR A CHANGE IN OWNERSHIP) UNDER THE PROVISIONS OF THE ZONING ORDINANCE. THIS PROVISION SHALL BE EXPRESSLY SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (E) OF THIS SECTION. NO ILLEGAL BUILDING, USE, STRUCTURE, OR SITE FEATURES AS OF [INSERT THE EFFECTIVE DATE OF THIS ORDINANCE] WILL BE DEEMED NOT NONCONFORMING. LEGAL NONCONFORMING USES CERTIFIED UNDER THE PRIOR ZONING ORDINANCE WILL CONTINUE TO MAINTAIN THEIR CERTIFIED LEGAL NONCONFORMING STATUS ~~the project shall be “deemed conforming” and shall be subject to the same rules as other conforming uses, structures, and site features under the Zoning Ordinance.~~
- **(B) Display and Maintenance of Posted Notice**
 - (i)** _____ All signs shall be posted and displayed for a continuous period of time (see Table 24-3308(b): Required Public Notice).
 - (ii)** _____ The sign(s) shall be durable, conspicuous, and legible for the length of the required posting period.
 - (iii)** _____ The applicant is responsible for the reasonable maintenance of all signs. If a sign is removed, falls down, or is otherwise not properly located on the site subject to the application, or in the right-of-way, for any portion of the required posting period, the applicant shall repost the sign.
 - (iv)** _____ The applicant shall remove the signs from the site within 15 days after the public hearing on the application.

(v) The person posting the sign shall file a written affidavit of posting in the record. A close-up, legible photograph of each posted sign and additional long-distance photographs depicting the signs and unique, identifiable features of the land subject to the application shall also be submitted and included in the record for the case.

(vi) The applicant shall inspect the sign(s) at least one time no later than the 15th day of posting to ensure that the signs are maintained. The person conducting the inspection shall file in the record a written affidavit of the sign’s condition. A combined posting and inspection affidavit shall be filed at least 14 days prior to the hearing.

(vii) Any unauthorized person removing, destroying, defacing, obstructing, or otherwise interfering with a posted sign (directly or indirectly) is in violation of this Ordinance THESE REGULATIONS and subject to any penalties provided by this Ordinance THESE REGULATIONS and State law. Interference with a posted sign shall in no way delay or invalidate the application.

- Page 12, line 31, strike “proposed” before “development”

24-4204. Private Streets and Easements

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(a) Exemptions

(1) A preliminary plan of subdivision (minor or major) containing private streets, rights-of-way, alleys, and/or easements that do not conform to the standards of Subtitle 23: Roads and Sidewalks may be approved under the following conditions:

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(C) In the RSF-A, RMF-12, and RMF-20 zones in developments of three-family, two-family, and townhouse dwellings, private streets that do not conform to the standards in Subtitle 23: Roads and Sidewalks, may be approved, provided:

(i) The land proposed to be subdivided shall have frontage on, and direct vehicular access to, a public street having a right-of-way width of at least 60 feet;

(ii) Points of access to public streets shall be approved by the Planning Board, or the Planning Director for a minor subdivision, and by the DPIE Director, the State Highway Administration, the Department of Public Works and Transportation, the Public Works Department of the municipality in which the property is located, or other appropriate roadway authority, as applicable;

(iii) Private streets which are interior to the subdivision (and are not dedicated to public use) shall be improved to not less than the current standards set forth in Subtitle 23: Road and Sidewalks, of the County Code; and

(iv) Private streets shall be conveyed to a property owners’ or homeowners’ association that shall hold the land in common ownership, shall be responsible for maintaining the streets, and shall be created under recorded land agreements (covenants).

(D) IN ANY ZONE WHERE TOWNHOUSE OR TWO-FAMILY DWELLINGS ARE PERMITTED, EXCEPT WITHIN THE TRANSIT-ORIENTED/ACTIVITY CENTER BASE AND TRANSIT-ORIENTED/ACTIVITY CENTER PLANNED DEVELOPMENT ZONES, THE PLANNING BOARD MAY APPROVE THE USE OF PRIVATE STREETS AND ALLEYS PROVIDED:

(I) THE PAVEMENT WIDTH OF PRIVATE STREETS SHALL NOT BE LESS THAN TWENTY-TWO (22) FEET IN WIDTH;

(II) THE PAVEMENT WIDTH OF PRIVATE ALLEYS SHALL NOT BE LESS THAN EIGHTEEN (18) FEET IN WIDTH; AND

(III) SUBSECTIONS (I) AND (II) ABOVE SHALL ONLY BE APPLICABLE PROVIDED THAT THE ACCESSIBILITY OF THE PRIVATE STREETS AND ALLEYS TO EMERGENCY EQUIPMENT IS ENSURED BY THE COUNTY FIRE CHIEF OR THE CHIEF’S DESIGNEE.

~~(D)~~ **(E)** In the Transit-Oriented/Activity Center base and TRANSIT-ORIENTED/ACTIVITY CENTER Planned Development zones, private alleys that do not conform to the standards in Subtitle 23: Roads and Sidewalks, may only be provided if:

- (i)** They connect at each end to a street;
- (ii)** The pavement width of an alley provides safe vehicular access to individual lots; and
- (iii)** The alleys provide vehicular access only to lots with frontage on a public street.

~~(E)~~ **(F)** Within any nonresidential or mixed-use development located outside the Transit-Oriented/Activity Center base and TRANSIT-ORIENTED/ACTIVITY CENTER Planned Development zones, a subdivision with private rights-of-way or easements that do not conform to the standards in Subtitle 23: Roads and Sidewalks, may be approved, provided:

- (i)** The right-of-way or easement shall have a minimum right-of-way width of 22 feet connecting the lots to a public street;
- (ii)** The right-of-way or easement shall be:
 - (aa)** Adequate to serve the extent of the development proposed;
 - (bb)** Consistent with the requirements in Section 27-6206, Vehicular Access and Circulation, of Subtitle 27: Zoning Ordinance; and
 - (cc)** Not result in any adverse impact on the access and use of other lots or parcels within the subdivision.
- (iii)** The development shall comply with all other applicable requirements of these Regulations; and
- (iv)** Approval of a right-of-way or easement in accordance with this Subsection shall be deemed the creation of a driveway, in accordance with Section 27-6206(b), Vehicular Accessway Classifications, in Subtitle 27: Zoning Ordinance.

~~(F)~~ **(G)** Where direct vehicular access to an individual lot fronting on a public street should be denied due to a potentially hazardous or dangerous traffic situation, a private easement may be approved in accordance with the driveway standards in Section 27-6206(d) of Subtitle 27: Zoning Ordinance, in order to provide vehicular access, when deemed appropriate by the Planning Board.

- **(c) Mitigation**
- ~~In lieu of subsection (b), above:~~
- SECTION 2. BE IT ENACTED BY THE COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND, SITTING AS THE DISTRICT COUNCIL FOR THAT PART OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT IN PRINCE GEORGE'S COUNTY, MARYLAND, THAT SECTION 24-1900 OF THE SUBDIVISION REGULATIONS OF PRINCE GEORGE'S COUNTY, MARYLAND, BEING ALSO SUBTITLE 24 OF THE PRINCE GEORGE'S COUNTY CODE, BE AND THE SAME IS HEREBY ADDED:

• **SUBTITLE 24. SUBDIVISIONS.**

• **PART 24-1 GENERAL PROVISIONS**

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• **SEC. 24-1900 DEVELOPMENT PURSUANT TO PRIOR REGULATIONS**

• **24-1901. ABROGATION**

• THE PROVISIONS OF THIS SECTION SHALL BE ABROGATED, AND OF NO FURTHER FORCE AND EFFECT AFTER TWO (2) YEARS AFTER THE EFFECTIVE DATE OF THESE REGULATIONS, ABSENT FURTHER EXTENSION BY LEGISLATIVE ACT OF THE GOVERNING BODY OF THE COUNTY.

• **24-1902. PURPOSE AND INTENT**

• NOTWITHSTANDING THE PROVISIONS SET FORTH WITHIN THIS PART, THE COUNTY COUNCIL FINDS THAT THERE IS A NEED TO RETAIN CERTAIN PROCEDURES, REGULATIONS, ZONES, USES, AND/OR OTHER ASPECTS EMBODIED WITHIN THE PRIOR SUBDIVISION REGULATIONS (BEING ALSO SUBTITLE 24, PRINCE GEORGE’S COUNTY CODE, 2019 EDITION, 2020 SUPPLEMENT) FOR PURPOSES OF SUSTAINING AND/OR MINIMIZING WHOLESAL ABANDONMENT, FOR PROPOSALS FOR THE DEVELOPMENT OF LAND IN PRINCE GEORGE’S COUNTY.

• IN APPROVING CB-015-2018, IT IS THE INTENT OF THE DISTRICT COUNCIL TO PROSPECTIVELY IMPLEMENT THE PROVISIONS OF THIS SUBTITLE IN FURTHERANCE OF THE ORDERLY GROWTH AND DEVELOPMENT OF LAND, AS WELL AS THE PROTECTION OF THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF CITIZENS AND RESIDENTS, IN PRINCE GEORGE’S COUNTY. HOWEVER, BASED ON SIGNIFICANT PUBLIC TESTIMONY RECEIVED DURING CONSIDERATION OF THESE REGULATIONS, THE COUNCIL RECOGNIZES THAT SUCH IMMEDIATE, WHOLESAL IMPLEMENTATION OF THIS SUBTITLE MAY NOT BE FEASIBLE OR APPROPRIATE IN ALL CIRCUMSTANCES. ACCORDINGLY, THE PURPOSE OF THIS SECTION IS TO PROVIDE, FOR A LIMITED TIME PERIOD, A PROCESS TO APPLY THE REQUIREMENTS OF THE PRIOR SUBDIVISION REGULATIONS (SUBTITLE 24, PRINCE GEORGE’S COUNTY CODE, 2019 ED., 2020 SUPP.).

• **24-1903. APPLICABILITY**

• **(A)** DEVELOPMENT PROPOSALS OR PERMIT APPLICATIONS MAY UTILIZE THE PRIOR ZONING ORDINANCE (WITH THE EXCEPTION OF THE LCD, LMXC, AND LMUTC ZONES) OR SUBDIVISION REGULATIONS FOR DEVELOPMENT OF THE SUBJECT PROPERTY.

• **(B)** ONCE APPROVED, DEVELOPMENT APPLICATIONS THAT UTILIZE THE PRIOR SUBDIVISION REGULATIONS SHALL BE CONSIDERED “GRANDFATHERED” AND SUBJECT TO THE PROVISIONS SET FORTH IN SECTION 24-1704 OF THIS SUBTITLE.

• **24-1904. PROCEDURES**

• IN ORDER TO PROCEED WITH DEVELOPMENT UNDER THE PRIOR SUBDIVISION REGULATIONS, THE FOLLOWING PROCEDURES SHALL APPLY:

• **(A)** THE APPLICANT SHALL SCHEDULE AND PARTICIPATE IN A PRE-APPLICATION CONFERENCE, NOTWITHSTANDING THE REQUIREMENTS OF SECTION 24-3302(B), APPLICABILITY.

• **(B)** THE APPLICANT SHALL PROVIDE A STATEMENT OF JUSTIFICATION WHICH SHALL EXPLAIN WHY THE APPLICANT HAS ELECTED NOT TO DEVELOP A SPECIFIC PROPERTY PURSUANT TO THE PROVISIONS OF THESE SUBDIVISION REGULATIONS.

• **(C)** NOTWITHSTANDING SECTIONS 24-1703 AND 24-1704, ABOVE, OR THE PROCEDURES OF THE PRIOR SUBDIVISION REGULATIONS, SUBDIVISION APPLICATIONS SUBMITTED UNDER THE PROVISIONS OF THIS SECTION 24-1900 SHALL BE SUBJECT TO THE CERTIFICATE OF ADEQUACY PROCESS OF SECTION 24-4503 OF THESE REGULATIONS.

• **(D)** PLANNING DIRECTOR SHALL SUBMIT QUARTERLY REPORTS TO THE DISTRICT COUNCIL AS TO THE DEVELOPMENT APPLICATIONS PROCEEDING UNDER THE PRIOR REGULATIONS.

• * * * * *
• ~~Sec. 24 ###. Section name.~~
• ~~(a)~~
• * * * * *

SECTION # 3. BE IT FURTHER ENACTED that this Act shall take effect ON THE DATE OF APPROVAL OF THE COUNTYWIDE SECTIONAL MAP AMENDMENT (“CMA”) BY THE DISTRICT COUNCIL on October 1, 2021/thirty (30) calendar days after it becomes law/the effective date of CB ## 2021

Terry Bell, County Executive’s Liaison to the County Council, indicated that the County Executive is in support of the legislation.

On a motion by Council Member Glaros and second by Council Member Davis, the Committee voted favorable, 9-0, on Proposed DR-2 as well as inclusion of a severability clause as a new Section 3. recommended by the Council’s Zoning and Legislative Counsel.