

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2024 Legislative Session

Reference No.:	CB-015-2024
Draft No.:	2
Committee:	PLANNING, HOUSING AND ECONOMIC DEVELOPMENT
Date:	5/16/2024
Action:	FAV(A)

REPORT: Committee Vote: Favorable, as amended, 5–0 (In favor: Council Members Dernoga, Ivey, Franklin, Hawkins, and Olson)

The Planning, Housing and Economic Development (PHED) Committee convened on March 21, 2024, to consider CB-2-2024. The PHED Committee Director summarized the purpose of the legislation and informed the Committee of written comments received on referral. As presented on March 5, 2024, Draft 1 of the bill is for the purpose of reconciling certain terms, procedures, and other language of the new Zoning Ordinance, being Chapter 27, 2019 Laws of Prince George's County; revising certain procedures and regulations; and adding clarification language to further effectuate successful implementation of the County's new, modern, streamlined Zoning Ordinance.

The Planning Board voted to support CB-15-2024 with amendments. The Zoning Hearing Examiner provided comments for proposed amendments needed to the bill.

Council Member Dernoga mentioned there is a follow-up binder from citizens that the Planning Department has not addressed. He explained that this is a pro-developer bill, and he is supporting it. He also explained that he proposed one amendment in the CGO Zone.

Ms. Sakinda Skinner, County Council Liaison, stated that the County Executive's Office supports the bill with a few friendly amendments and introduced Ms. Angie Rodgers, Deputy Chief Administrative Officer for Economic Development, to provide additional comments. Ms. Rodgers explained that the Administration is supportive of the bill with some amendments and supportive of the Planning Board and the Planning Department's recommendations for amendments to the bill. There are three departures from the Planning Board and Planning Department's recommendations. Those departures include: (1) owners accessing the old use tables. If the 180 days lapse, the applicant must use the new Zoning Ordinance use tables, and the Administration recommends an extension of the 180 days, giving owners additional time to re-tenant. The Administration would like to see a two-to-three-year extension of the ability to use the old Zoning Ordinance use tables; (2) the proposed transitional provisions regarding spaces that are already built out and the ability to make alterations to the spaces, the Administration would like to see more discussion about provisions that would protect large properties.

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The language with the bill says any alterations, extension, or enlargement that exceeds ten percent of gross square footage or 30,000 square feet, whichever is less, requires a detailed site plan that is a little bit too conservative for large multi-phased projects; and (3) the Administration is in opposition to the amendment that would prohibit townhouses in the Commercial General Office (CGO) Zone outside the Beltway. If there is a boundary, it should not be the Capital Beltway. Council Member Dernoga explained that the amendment was not a prohibition on townhouses.

The Planning Department presented PowerPoint presentation to respond to some of the comments they received during their public hearing. Mr. David Warner, Principal Counsel for the Prince George's County Planning Board, gave an overview of the amendments.

Council Member Blegay, a non-voting Council Member attending the Committee work session, discussed concerns about agricultural zones and development. Council Member Blegay expressed concerns about data centers in agricultural zones in her district. Mr. Derick Berlage, Acting Deputy Planning Director explained that data centers are not currently permitted in agricultural zones. He also explained that an amendment before the PHED Committee would extend that right to the Agricultural Preservation (AG) Zone and that he would like to work with Council Member Blegay to discuss data centers on two properties that may be appropriate for use in the AG Zone. Council Member Blegay requested a list of AG-zoned properties from the Planning Department.

Council Member Blegay asked about the Committee's vote to oppose any proposed amendment to permit plan development zones in the Agricultural-Residential (AR) Zone. Lastly, Council Member Blegay spoke in support of Council Member Dernoga's amendment to prohibit the development of townhouses in the CGO Zone.

Council Member Franklin discussed the CGO Zone, which came from Zoning Ordinance Rewrite consultants and the Planning Board. He explained that it was intentional to permit a mix of uses in the zone. The intent was to redevelop aging strip shopping centers inside and outside the Beltway.

Chair Ivey offered Amendment 9 to extend the time development applications can be considered under the prior Zoning Ordinance for two additional years. Chair Ivey explained that COVID-19 occurred and that more time is needed. She explained that currently, according to Planning Department staff, sixty percent (60%) of the applications are reviewed under the prior Zoning Ordinance, whereas forty percent (40%) are reviewed under the new Zoning Ordinance. The extension gives time for the County Council to continue refining the new code.

Council Member Oriadha, a non-voting Council Member attending the Committee work session, asked for a clarification on Amendment 9. Chair Ivey explained that the bill is for an extension and that the County Council has always discussed extending the time for access to the prior Zoning Ordinance. Council Member Oriadha, the Planning Department, recommended a six (6)

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month extension and recommended that Chair Ivey's amendment be revised to place the language under another section within the Zoning Ordinance.

Council Member Olson does not support Amendment 9. Council Member Franklin requested to add Amendment 11 to Amendment 9. Amendment 11 would remove the language prohibiting multifamily and townhouses outside the Capital Beltway. Ms. Karen Zvakos, Associate County Administrator, read Chair Ivey's revised Amendment 9; the amendment was seconded. Vice Chair Harrison, also a non-voting Council Member attending the Committee work session, elaborated on the basis for proposed Amendment 9 and explained that more time is needed to revise the Omnibus bill and the new Zoning Ordinance.

Council Member Blegay stated that, within her district, she sees only residential development in the CGO Zone and that Amendment 11 could be revised to require commercial development.

Council Member Olson asked whether the Committee is voting on one or two amendments. Ms. Zvakos explained that the PHED Committee has for consideration now Amendment 9 as revised but that the Committee could also consider Amendment 11 separately if that is the will of the PHED Committee. Council Member Hawkins made a friendly amendment to consider Amendment 11.

Many citizens, community organizations, and attorneys expressed support for and opposition to the Omnibus bill and proposed amendments to it.

The PHED Committee voted 3–2 on Amendments 9 and 11. Council Members Dernoga and Olson voted in opposition.

The Planning, Housing and Economic Development (PHED) Committee convened again on April 18, 2024, to consider amendments to CB-15-2024. Vice Chair Harrison discussed his proposed Amendment 18, which allowed property in the Agricultural-Residential (AR) Zone to be eligible for the Residential Planned Development (R-PD) Zone. Council Member Dernoga asked for the Planning Department's comments on Amendment 18 and other proposed amendments. Vice Chair Harrison asked if the Planning Department could review the amendment.

Ms. Angie Rodgers, DCAO, from the County Executive's Office, again about the three amendments requested by the Administration. Ms. Rodgers thanked the Planning Department because two amendments discussed during the March 21 PHED Committee meeting had been addressed. The amendment to permit alterations, extensions, or enlargements that exceed ten percent of the gross square feet or 30,000 square feet, whichever is greater, provides additional protections for larger projects going through the entitlement process. The second amendment allows owners access to the old use tables if the 180 days lapse to three years, giving owners additional time to re-tenant. The Administration again requested the amendment to prohibit townhouses in the Commercial General Office (CGO) Zone outside the Beltway be amended with a different boundary than the Capital Beltway.

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Numerous citizens and land use attorneys testified in opposition and support of the proposed amendments. Mr. Bracey with the Lincoln Vista community, Ms. Kathy Bartolomeo, Mr. John Robinson, Ms. Jill Oliver, Mr. Greg Smith, and Mr. Dan Smith testified in opposition to the amendments. Ms. Janet Gingold, with the Maryland Chapter of the Sierra Club testified in opposition to the amendments.

Ms. Suellen Ferguson for the Town of University Park testified in support of Council Member Olson's amendment to allow the Mixed-Use Town Center (M-U-TC) Zone to continue in the Town of Riverdale Park. Ms. Ferguson wanted an amendment to the process to provide notice and a process for properties transferred by the University of Maryland to private entities.

Mr. Matt Tedesco, Mr. Edward Gibbs, Mr. Robert Antonetti, Mr. Arthur Horne, and Mr. Tom Haller testified in support of the amendments and opposed the amendment prohibiting townhouses outside the Beltway.

The PHED Committee considered and voted on eight amendments. The amendments were as follows: Amendment 17-Transitional Provisions, Amendment 15-Qualified Data Centers location to places of worship, Amendment 13-Qualified Data Centers in the Agriculture and Preservation (AG) Zone, Amendment 8-Legacy M-U-TC Zone, Amendment 7-minimum lot sizes, Amendment 18-RPD Zone, Amendment 14-Prohibition on townhouses in the Commercial, General and Office (CGO) Zone, and Amendment 16-Master Plan, Sector Plan conformance with detail site plans.

Ms. McNeil, Chief Zoning Hearing Examiner requested technical amendments be made to Amendments 13 and 15.

The PHED Committee voted 5–0 favorably on Amendments 17, 15, 8, and 7.

Ms. Zavakos discussed technical amendments to Amendment 13, and the Committee voted 3–2. Council Members Dernoga and Olson abstained from voting on the amendment.

The Committee voted to hold Amendment 18 until the Planning Department provides additional analysis and a map showing other districts that the amendment would impact. The Committee also held Amendment 14.

On Amendment 16, Council Member Franklin, the amendment proposer, explained that he opposed CB-3-2023 (DR-2) and stated that his amendment repeals CB-3-2023. There is broad agreement that implementing master plans and sector plans is more important in development outcomes. The disagreement concerns the correct way to implement master and sector plans in development outcomes. CB-2-2023 (DR-2) required a determination on whether a specific use is permitted or prohibited based on the use conformance with the most recent master or sector plan during a detailed site plan review. The Planning Board opposed CB-3-2023 and the Zoning Hearing Examiner raised serious concerns.

Council Member Franklin believes that the decision on permitting or prohibiting uses should occur at the beginning of the development process, during the comprehensive planning and zoning review stage. Council Member Dernoga asked how many detailed site plans have been denied since the enactment of CB-3-2023 (DR-2). The Committee voted 3–2. Council Member

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Dernoga voted in opposition to the amendment. He explained that the public can speak during comprehensive planning and zoning, but that is the only time the public can speak. He further explained that master and sector plans with sectional map amendments are not being revised, so the public cannot have a meaningful discussion. The change was to provide the opportunity to speak. Council Member Franklin explained that master and sector plans were paused because of the pending new Zoning Ordinance. Council Member Olson voted no on the amendment.

The Planning, Housing and Economic Development (PHED) Committee convened again on May 16, 2024, to consider additional amendments to CB-15-2024. The Committee Director gave an overview of the amendments discussed four amendments. Council Member Olson proposed the three amendments. The amendments are as follows: Amendment 21-Property Conveyed by the State of Maryland on behalf of the University of Maryland, Amendment 20-development of townhouses and multifamily units on outlots, and Amendment 22- District Council public hearing requirements for zoning map amendments for land conveyed from the United States and the State of Maryland. The land use bar's request to amend Section 27-1704(b) Projects Which Received Development or Permit Approval Under the Provisions of the Prior Zoning Ordinance.

Director Lakisha Hull discussed that the Planning Department took no position on the three amendments proposed by Council Member Olson and deferred to the County Council on how it would like to proceed on that request.

Ms. McNeil, Chief Zoning Hearing Examiner, had no additional comments on the amendments.

Ms. Rodgers, DCAO with the County Executive's Office, spoke and needed clarification on Amendment 21. Council Member Olson explained that the amendment allows the ability to not have the neighborhood compatibility standards apply if the development is within 150 feet of publicly owned land; it will enable more density next to publicly owned land. Ms. Rodgers also requested clarification on the language within the amendment that allows the conveyance of public land in the Reserve Open Space (ROS) Zone to another public entity. Council Member Olson explained that the language is restoring the previous language, and the University of Maryland and the surrounding community support the restoration of the language.

Ms. Dinora Hernandez with the Office of Law did not have any additional comments on the proposed amendments.

Council Member Hawkins requested an explanation on Amendment 22 the notification of the District Council on requirements for zoning map amendments for land conveyed from the United States and the State of Maryland. Council Member Olson explained that there has not been a notice requirement.

Four (4) speakers, comprised of attorneys representing developer applicants in the County, from spoke in support of the proposed amendments.

Ms. Karen Zavakos, Associate Council Administrator, and Mr. Chad Williams with the Planning Department discussed additional revisions to Amendment 20 regarding developing townhouses and multifamily units on outlots. The Committee 5-0 favorably on the amendment.

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Next, the PHED Committee considered Amendments 21 and 22 and voted 5–0 favorably on the amendments.

Lastly, the Committee voted 4–0–1 favorably on the Land Use Bar amendment. Council Member Dernoga abstained from voting on the amendment.

Chair Ivey motioned, seconded by Council Member Hawkins, the PHED Committee voted 5–0 favorably on CB-15-2024, as amended.