

PRINCE GEORGE'S COUNTY COUNCIL
COMMITTEE REPORT
2016 Legislative Session

Reference No.: CB-039-2016
Draft No.: 1
Committee: PLANNING, ZONING AND ECONOMIC DEVELOPMENT
Date: 06/15/2016
Action: FAV

REPORT:

Committee Vote: Favorable with recommended amendments, 4-0-1 (In favor: Council Members Harrison, Franklin, Taveras and Toles. Abstain: Council Member Glaros)

Council staff summarized the purpose of CB-39-2016 and informed the Committee of written referral comments that were received. This legislation bypassed presentation, was introduced on June 7, 2016 and scheduled for a public hearing on July 19, 2016. The Council's Zoning and Legislative Counsel stated that correspondence from the Prince George's Sierra Club, received immediately prior to the Committee worksession, could not be considered and discussed during the worksession due to pending litigation.

Council Member Turner, the bill's sponsor, informed the Committee that this legislation facilitates implementation of Plan 2035 providing clarification to County Council policies for designated centers approved in the General Plan which have been adopted since the time of the approved Master Plan for the area. Mr. Turner explained that the provisions of the bill do not allow a density bonus, and clarifies that density must be in accordance with the zoning.

The Office of Law reviewed CB-39-2016 and determined that it is in proper legislative form with no legal impediments to its enactment. The Planning Board took no position on the legislation and provided the following comments including a suggested amendment. This bill as drafted would permit Preliminary Plans of Subdivision or Final Plats of Subdivision to be designed to conform to the density in centers as outlined in Plan 2035. Planning staff believes this bill may apply to every Plan 2035 center.

The Planning Board would like to recommend an amendment to the bill. On page 2, lines 4 through 7, revise the language to read: "Notwithstanding any other requirement of this Section, a Preliminary Plan of Subdivision or Final Plat of Subdivision may be designed to conform to the land use policy recommendations applicable from a County general plan."

This change would make the language consistent with the Plan 2035 language. The policy recommendations of existing master plans, sector plans and transit district development plans

with associated overlay zones will remain valid with the exception of tiers, corridors, and centers which Plan 2035 policy recommendations supersede.

Plan 2035 states that all planning documents which were duly adopted and approved prior to the date of adoption of Plan 2035 shall remain in full force and effect, except the designation of tiers, corridors, and centers, until those plans are revised or superseded by subsequently adopted and approved plans. The new general plan is intended to represent a new vision which will be implemented over many years, through the adoption of small area sector, master and other development plans and studies, as well as through zoning via sectional map amendments.

The Chief Zoning Hearing Examiner (ZHE) reviewed the bill and provided the following comments and suggested amendment:

1. Density is a zoning concept and usually addressed prior to subdivision. See Maryland Annotated Code, Land Use Article, Section 22-104. Moreover, it has been held that the County may not use the plan process to effect zoning changes. Thus, the General Plan, as well as other plans, serve as a guide and not a vehicle for zoning. Several policies in the most recent General Plan, also note that the Zoning Ordinance should be revised and updated to ensure consistency with the Plan's growth, intensity and density recommendations. (2014 General Plan, Plan Prince George's 2035, pp. 90-93). I recommend that the sponsor amend the Zoning Ordinance to accomplish the purpose for the bill, or insert "General Plan" on line 1.
2. If the sponsor goes forward with the bill, the language on p. 2, line 7 should be amended. Inclusion of a specific General Plan will require continued amendments as the District Council adopts new plans. I, therefore recommend that the sentence be revised as follows: "Notwithstanding any other requirement of this Section...as approved within the most recent General Plan."

Robert Antonetti testified in support of the legislation. Martha Ainsworth, representing the Prince George's Sierra Club; Norman Oslak, representing Progressive Cheverly; and Joanne Flynn, representing Black Swamp Creek Land Trust testified in opposition to the legislation.

The Committee voted favorable on CB-39-2016 including amendments as recommended by the Planning Board and the ZHE. Since the bill was already introduced, the Committee's recommended amendments will be included as an amendment sheet on the date of public hearing on the legislation.