

CB-12-2023 (DR-2) – Planning Board Analysis (Attachment 1)

This bill amends the current Zoning Ordinance to limit an applicant's ability to make use of certain enumerated text amendments that existed in the prior Zoning Ordinance and that were approved by prior Councils.

The Planning Board has the following comments for consideration by the District Council:

Policy Analysis:

The prior Zoning Ordinance contained numerous site-specific text amendments. CB-12-2023 proposes to eliminate the ability of new applicants to utilize eighteen such site-specific text amendments, notwithstanding the grandfathering period granted to other applicants under Section 27-1900 of the new Zoning Ordinance. Section 27-1900 permits the filing of new development applications using the regulations of the prior Zoning Ordinance for the development of projects for a transitional period of two years until April 1, 2024.

The Planning Board and the Planning Department have generally opposed site-specific text amendments because they reduce the uniformity and consistency of treatment that are core purposes of any zoning ordinance. The bill, as drafted, lacks clarity on the process used to determine the text amendments impacted by the legislation. The proposed legislation also does not state which types of development applications would be ineligible to proceed under CB-12-2023 (DR-2) using the prior Zoning Ordinance. In addition, at the time of enactment of the new Zoning Ordinance, many such text amendments had been approved and property owners may have been in the process of designing projects in reliance on those text amendments. One of the purposes of the transitional and grandfathering provisions of the new Zoning Ordinance was to give these property owners a reasonable period of time to apply under the prior ordinance, while at the same time repealing site-specific text amendments so that they would no longer be available after the grandfathering period.

Section 27-1900 established a two-year "grandfathering" period in which new applications utilizing the provisions of the prior Zoning Ordinance could be submitted and accepted. The two-year period was a policy choice by the Council that sought to balance property owners' near-term development plans with the goal of eventually eliminating site-specific text amendments. Reducing that two-year period is likewise a policy decision for the Council, and therefore the Planning Board takes no position on CB-12-2023.

The Planning Board recommends that the bill be amended to clarify the process on how text amendments discussed in this legislation were chosen, explain the types of development applications that are ineligible to file under the prior ordinance, and amend the bill to reflect the correct draft of each bill affected by this legislation.

Impacted Property:

The legislation will affect all development applications permitted under CB-8-2021(DR-2), CB-23-2021(DR-3), CB-50-2021(DR-3), CB-55-2021 (DR-2), CB-81-2021 (DR-2), CB-83-2021 (DR-2), CB-106-2021(DR-2), CB-40-2020 (DR-2), CB-41-2020, CB-54-2020 (DR-2), CB-69-2020 (DR-2), CB-10-2019 (DR-2), CB-13-2019, CB-18-2019, CB-19-2019 (DR-2), CB-45-2019 (DR-2), CB-60-2019 (DR-2), CB-88-2018 (DR-3), and CB-89-2018 (DR-3), that have yet to be filed and accepted and/or constructed under the prior Zoning Ordinance.

Following discussion, the Planning Board voted to oppose CB-12-2023 (DR-2) as drafted.