

# PRINCE GEORGE'S COUNTY COUNCIL

## COMMITTEE REPORT

2023 Legislative Session

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**Reference No.:** CB-011-2023

**Draft No.:** 2

**Committee:** PLANNING, HOUSING AND ECONOMIC DEVELOPMENT

**Date:** 2/7/2023

**Action:** FAV (A)

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### **REPORT:**

Committee Vote: Favorable as amended, 5-0 (In favor: Council Members Ivey, Blegay, Dernoga, Olson and Oriadha)

The Planning, Housing and Economic Development (PHED) Committee convened on January 19, 2023, February 2, 2023, and February 7, 2023, to consider CB-11-2023. At the January 19 Committee work session, the Planning, Housing and Economic Development (PHED) Committee Director summarized the purpose of the legislation and informed the Committee of written comments received on referral. As presented on December 12, 2022, this legislation amends the Zoning Ordinance to prohibit Consolidated Storage in the CS, CGO, NAC, TAC Edge, and LTO Edge Zones.

The Planning Board voted to take no position on the legislation with amendments as explained in a January 12, 2023, letter to the Council Chairman as follows:

“The Planning Board understands that the limitation of consolidated storage facilities is a policy decision of the District Council. There are no major Planning Board objections to removing these facilities from the NAC, TAC-E, LTO-E, and CGO Zones. Consolidated storage facilities are currently allowed in the CS Zone with the approval of a special exception, but this bill would prohibit the use in the CS Zone.

Still, this bill proposes to make a substantive change to the new Zoning Ordinance without a complete analysis of the impact of the change. The Planning Board does note that this bill will create at least twenty-one nonconforming uses should it pass as drafted. Also, the Planning Board notes for District Council’s consideration that changing the transitional and grandfathering provisions for certain uses and not others could lead to an inequity among businesses in the County.

These facilities are typically quiet, low investment uses with high returns. There are countywide implications for limiting “consolidated storage” uses to industrial zones and placing an unnecessary burden on residents who may need these facilities closer to their homes. It also will contribute to increases in vehicle miles traveled and truck miles. Consolidated storage facilities serve a valid community need.

Additionally, the new Zoning Ordinance includes design standards that promote attractive, high-quality consolidated storage facilities wherever they may be built.

If the District Council decides to move forward with this legislation, the Planning Board would like to recommend amendments to the bill.”

The Planning Board’s recommended amendments are as follows:

“On page 1, lines 3 through 4, revise the purpose statement to read as follows: “For the purpose of prohibiting Consolidated Storage in certain Non-Residential [,] and Transit-Oriented/Activity Center Base[d] Zones of the Zoning Ordinance of Prince George's County.”

On page 2, the proposed revisions to the table of uses to replace the term "Refer to special exception standards" with a specific reference to Section 27-5400 should be removed from the bill. There was a conscious decision to use the phrase "refer to special exception standards" for special exception (SE) references because there are two aspects of standards that apply to all SEs: the general standards of Section 27-5401 and whatever specific standards apply to a specific use within Section 27-5402. It was thus easiest to refer at a high level to the SE standards instead of codifying links to separate Sections for each use requiring SE approval. The Planning Board also notes that changing a very small portion of the use tables represented by this column, in this bill, creates an inconsistency with the rest of the use tables in the new Zoning Ordinance and is inappropriate.”

PHED Committee Chair Ivey, the bill sponsor, indicated that the Committee meeting was an opportunity to receive and review comments for pending amendments and no action by the Committee was expected at that time. Ms. Ivey commented on a map prepared by M-NCPPC Planning staff at her request to show all the I-1 Zone property in the County where consolidated storage uses would still be allowed. M-NCPPC Planning Department Intergovernmental Liaison Rana Hightower summarized the Planning Board’s position and recommended amendments. Chief Zoning Hearing Examiner Maurene McNeil concurred with the Planning Board recommended amendment to the purpose clause. Deputy County Attorney Joe Ruddy reserved comment on the bill until amendments were finalized. Deputy Chief Administrative Office for Economic Development Angie Rodgers stated that the County Executive had no position at the time also noting concerns with removal of zones intended for commercial uses. Ms. Rodgers commented that the Administration appreciates the policy intent of the legislation; however, a core tenet of their economic development platform is more commercial uses to support the residential community.

Several speakers who registered to speak via the eComment portal and in person testified regarding their concerns with the legislation as drafted and requested the bill include grandfathering provisions for pending applications and to allow the use to remain in commercial zones by special exception.

Council Member Burroughs offered an opportunity for individuals who testified to attend civic association meetings in his district to hear residents’ concerns with the increasing number of liquor stores, storage and gas station uses in their communities.

The legislation was held in Committee to allow time for preparation of amendments.

During the February 2 meeting, PHED Chair Ivey indicated that she was continuing to work on the bill with the industry and her intent to have a revised draft discussed during a PHED Committee meeting to be held on February 7. Ms. Ivey spoke to the positive feedback she has received from residents who support her goal to locate these facilities only in industrial areas and

not popping up all around them.

Jose Sousa, Assistant Deputy Chief Administrative Officer for Economic Development, indicated the Administration’s concurrence with the Planning Board analysis, support of the bill and awaiting the proposed amendments.

The Committee voted to hold the legislation until the February 7 PHED Committee meeting.

During the February 7 meeting, the Committee reviewed a Proposed DR-2 with shaded amendments that were summarized by the Council’s Zoning and Legislative Counsel as follows:

On page 1:

AN ORDINANCE concerning

Consolidated Storage

For the purpose of prohibiting Consolidated Storage in CERTAIN Non-Residential AND Transit-Oriented/Activity Center Based Zones of the Zoning Ordinance of Prince George’s County ; PROVIDING A LIMITED TRANSITION PERIOD SUBJECT TO ADDITIONAL DEVELOPMENT REQUIREMENTS; DEFINING COMMUNITY NON-PROFIT SPACE; AND SPECIFYING THAT EXISTING USES SHALL NOT BE DEEMED NONCONFORMING.

BY repealing and reenacting with amendments:

Sections 27-2500, 27-5101, 27-5102, and 5402,

On page 2:

**PART 27-2. INTERPRETATION AND DEFINITIONS.**

**SECTION 27-2500. DEFINITIONS.**

**Sec. 27-2500. Definitions.**

(a) The following words, terms, and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this Section.

\* \* \* \* \*

**COMMUNITY NON-PROFIT SPACE**

**BUILDING SPACE LEASED TO A NON-PROFIT COMMUNITY SERVICE AGENCY, SOCIAL SERVICE, OR ARTS ORGANIZATION THAT IS PRIMARILY AVAILABLE TO THE PUBLIC FOR EDUCATIONAL, RECREATIONAL, COMMUNITY SERVICE, SOCIAL SERVICE, OR OTHER CIVIC PURPOSES, AND NOT OPERATED FOR PROFIT.**

On page 3, remove the brackets that were in Draft-1 so that the following phrases remain in the table:

{Refer to special exception standards.} <u>27-5400</u>
27-5102(f)(4)(A) {and refer to special exception standards} <u>27-5402</u>
{Refer to special exception standards} <u>27-5400</u>
27-5102(f)(4)(B) {and to refer to special exception standards} <u>27-5400</u>
{Refer to special exception standards} <u>27-5400</u>
27-5102(f)(4)(C) {and refer to special exception standards} <u>27-5400</u>

On pages 4 and 5:

**Sec. 27-5102. Requirements for Permitted Principal Uses**

**(a) General**

**(1)** Standards for a specific principal use shall apply to the particular individual principal use regardless of the zone in which it is located or the review procedure by which it is approved, unless otherwise specified in this Ordinance. This Section sets forth and consolidates the standards for all principal uses for which a reference to this Section is provided in the "Use-Specific Standards" column of the principal use tables in Section 27-5101, Principal Use Tables. These standards may be modified by other applicable standards or requirements in this Ordinance.

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**(f) Industrial Uses**

\* \* \* \* \*

**(4) Warehouse and Freight Movement Uses**

**(A) Consolidated Storage**

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**(vii) IN THE CGO ZONE, THE PROPERTY OWNER SHALL SET ASIDE OF MINIMUM OF 1,500 SQUARE FEET OF GROSS FLOOR AREA OF COMMERCIAL/RETAIL/OFFICE SPACE AT GROUND LEVEL OR ABOVE GROUND LEVEL AT ZERO BASE RENT TO BE LEASED AS COMMUNITY NON-PROFIT SPACE, AS DEFINED IN SECTION 27-2500 OF THIS CODE, SUBJECT TO THE FOLLOWING:**

**(aa) IF THE COMMUNITY NON-PROFIT SPACE IS LOCATED**

ABOVE GROUND LEVEL, THE PROPERTY OWNER SHALL ENSURE THAT SPACE IS HANDICAPPED ACCESSIBLE, AND SHALL PROVIDE ADEQUATE SIGNAGE SO THAT THE PUBLIC CAN LOCATE THE SPACE.

(bb) OCCUPANCY AND USE OF THE COMMUNITY NON-PROFIT SPACE SHALL BE SUBJECT TO A COMMUNITY BENEFIT AGREEMENT EXECUTED BY THE PROPERTY OWNER AND COMMUNITY NON-PROFIT ORGANIZATION. SAID COMMUNITY BENEFIT AGREEMENT SHALL BE BINDING ON ALL SUCCESSORS, HEIRS, AND ASSIGNS OF THE PROPERTY.

(cc) THE PROPERTY OWNER SHALL ENSURE THAT THE COMMUNITY NON-PROFIT TENANT ACCESS TO AT LEAST ONE (1) LARGE STORAGE UNIT ON THE PROPERTY.

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**SECTION 27-5400. SPECIAL EXCEPTION USES.**

**Sec. 27-5402. Additional Requirements for Specific Special Exception Uses.**

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**(u) Consolidated Storage**

(1) Consolidated storage may be permitted, subject to the following:

\* \* \* \* \*

(I) IN THE CS, NAC, TAC-E, AND LTO-E ZONES, THE PROPERTY OWNER SHALL SET ASIDE OF MINIMUM OF 1,500 SQUARE FEET OF GROSS FLOOR AREA OF COMMERCIAL/RETAIL/OFFICE SPACE AT GROUND LEVEL OR ABOVE GROUND LEVEL AT ZERO BASE RENT TO BE LEASED AS COMMUNITY NON-PROFIT SPACE, AS DEFINED IN SECTION 27-2500 OF THIS CODE, SUBJECT TO THE FOLLOWING:

(i) IF THE COMMUNITY NON-PROFIT SPACE IS LOCATED ABOVE GROUND LEVEL, THE PROPERTY OWNER SHALL ENSURE THAT SPACE IS HANDICAPPED ACCESSIBLE, AND SHALL PROVIDE ADEQUATE SIGNAGE SO THAT THE PUBLIC CAN LOCATE THE SPACE.

(ii) OCCUPANCY AND USE OF THE COMMUNITY NON-PROFIT SPACE SHALL BE SUBJECT TO A COMMUNITY BENEFIT AGREEMENT EXECUTED BY THE PROPERTY OWNER AND COMMUNITY NON-PROFIT ORGANIZATION. SAID COMMUNITY BENEFIT AGREEMENT SHALL BE BINDING ON ALL SUCCESSORS, HEIRS, AND ASSIGNS OF THE PROPERTY.

(iii) THE PROPERTY OWNER SHALL ENSURE THAT THE COMMUNITY NON-PROFIT TENANT ACCESS TO AT LEAST ONE (1) LARGE STORAGE UNIT ON THE PROPERTY.

On page 6:

SECTION 2. BE IT FURTHER ENACTED that, for proposed uses inside I-95/I-495 (the “Capital Beltway”), no Detailed Site Plan for a consolidated storage use in a non-industrial zone shall be approved after March 1, 2023, except for any proposed development of consolidated storage which has completed a Pre-Application Conference pursuant to Section 27-3401 before April 1, 2023; provides Community Non-Profit Space; and is adjacent to an existing consolidated storage use.

SECTION 3. BE IT FURTHER ENACTED that any proposed development of a consolidated located outside I-95/I-495 (the “Capital Beltway”) that has completed a Pre-Application Neighborhood Meeting for a Detailed Site Plan pursuant to Section 27-3402, prior to April 1, 2023, may be reviewed and decided in accordance with the use regulations in effect prior to the effective date of this Ordinance.

SECTION 4. BE IT FURTHER ENACTED that all uses in existence on the effective date of this Ordinance may continue and shall be permitted and not deemed nonconforming uses.

Mr. Ruddy, Mr. Sousa, Ms. Hightower and Ms. McNeil reserved comments on Proposed DR-2 indicating that additional time was needed to review the revisions.

On a motion by Council Chair Dernoga and second by PHED Committee Chair Ivey, the Committee voted, 5-0, for an additional amendment on page 4, line 28 to insert “AS APPROVED BY THE DISTRICT COUNCIL” at the end of the sentence.

On a motion by PHED Committee Chair Ivey and second by Council Member Oriadha, the Committee voted, 5-0, for an additional amendment to include “BUSINESS INCUBATOR”. Council’s Zoning and Legislative Counsel suggested including the term in the definition of “Community Non-Profit Space”. Upon consideration, Counsel determined that the term “business incubator” connotes for-profit businesses; as such, the term appears within the regulation language added to proposed new Section 27-5102(f)(4)(A)(vii) of the legislation.

On a motion by PHED Committee Chair Ivey and second by Council Member Olson, the Committee voted favorable, 5-0, on CB-11-2023 Proposed DR-2 as amended.