

**INTER-OFFICE MEMORANDUM
PRINCE GEORGE'S COUNTY, MARYLAND
ZONING HEARING EXAMINER OFFICE**

TO: Rana Hightower, Director
Planning, Housing, and Economic Development Committee

FROM: Maurene Epps McNeil
Chief Zoning Hearing Examiner

DATE: March 20, 2024

RE: CB- 15-2024

Thank you for the opportunity to provide the following comments on this legislation, many technical in nature:

- (1) On page 13, Section 27-1903(e) is underlined but the language is already in the Zoning Ordinance. I would recommend that this Section be revised to add "Zoning" prior to "Ordinance" in (e) on line 11.
- (2) On page 13, Section 27-1905 should be revised to spell out "Section" but it is surplusage to add "of this subtitle" when anything in "Section 27 –" is only in the Zoning Ordinance.
- (3) On page 18, it may be difficult to enforce the change to the "consolidated storage" definition that prohibits storage of items connected with the operation of a business as it is subject to interpretation. If it is the sponsor's intent to preclude actually operating a business within the unit the next sentence should be revised to add "and may not be used to sell to customers or otherwise in connection with the operation of a business."
- (4) On page 19, why is the "Farm Supply sales..." definition included?
- (5) On page 19, the definition of Food Market needs further revision because "liquor store" was not a defined use in the prior Zoning Ordinance. It fell under the category of "Food or Beverage Store."
- (6) On page 24, a bracket is missing in the "Vehicle Repair and Services station" definition.
- (7) On page 26, add <A> under ZHE column in the "Zoning Ordinance, Generally " Row.

(8) On page 27, no change should be made to 27-3303 (a)(8) since there is no subparagraph (9) - (8) is followed by a new paragraph (b).

(9) On page 28, revise Section 27-3304 (b) (2) (c) to "Variances, major departures, and security exemption plans associated with a special exception."

(10) On p.30, don't make the change to 27-3306 (a)(2)(E) as there is no (F).

(11) On page 42, the language is being amended to require that the ZHE mail a notice 30 days prior to its hearing to registered civic associations, owners of land within 500 feet, and every municipality within one mile of the subject property. This new language (for special exception) and existing language (for ZMA's) is difficult to complete for the relatively small ZHE staff and unnecessary. The same mailings are made at the pre-application neighborhood meeting stage (Section 27-3402), and upon notification of completion (Section 27-3402). These informational mailings already must include information as to how become a Person of Record at the evidentiary hearing to be held. Moreover, 30 days prior to the ZHE hearing a sign is posted with all of the relevant information as to how to become a Person of Record and/or to receive additional information about the hearing.

If the District Council wishes to keep the language I ask that the information that the applicant must provide in Sections 27-3601, 27-3604, 27-3615 and 27-3617 be revised to require the language. The ZHE staff could then more readily locate all of these addresses and mail the notice.

Finally, I ask that the sponsor add Section 27-3407 (b)(4) to allow the appropriate body to transmit the notice via mail or electronic mail, just as is allowed in sending notice to registered civic or neighborhood organizations.

(12) On page 42 of the bill, the Posting column for Minor changes to approved Special Exceptions should be revised to allow the ZHE, Planning Director, or municipality, as applicable, to waive posting requirements. In the alternative, and for purposes of transparency, it may be a better practice to delete all waivers.

(13) On page 47 of the bill, the required information on signs is being expanded. In our experience, the signs become unreadable as we increase the amount of information. I would ask that subparagraph (C) not require any more than an address, acreage, and zoning of the subject property, and that subparagraph (G) only require a statement such as "Please contact for info on attending/testifying at the hearing". The agency or the applicant is paying for the increased size of the signs and additional typesetting, and the point of the sign is to advise where the reader can go to access further information.

(14) On page 48, new paragraph (vi) regarding the signs' ground clearance should be aspirational rather than mandatory since this will be difficult to police and enforce. Paragraph (vii) could be removed unless the intent is for applicants to be responsible for the size and type of sign. If it remains up to the governmental agencies to order the type, size, color, and headings for the sign, this information isn't necessary within the Subtitle.

(15) On page 51, paragraph(f) concerning transcripts is being revised to only require them once an appeal is noted or if the District Council elects to review. It is helpful for the Examiners to have access to a transcript when writing their decision. If the Council does wish to amend the law the language should clarify that the Office of the Clerk would order the transcript since the record would have been transmitted to that Office at this point in the review process.

(16) On page 51, the existing language in (i) allows the Planning Board or ZHE, as appropriate, to prepare a list of persons of record. However, the definitions for POR and zoning case limit the POR to those who ask the ZHE to become a POR in a case heard by the ZHE. It may be best to delete this paragraph.

(17) On pages 52-53, the Planning Board appears to be opting out of the common law test for reconsideration by quasi-judicial bodies, and are allowing reconsiderations to occur up to a year following its final actions. Since the District Council delegates certain areas of its authority in Subtitle 27 to the Planning Board, it should review the Planning Board procedures prior to making this change. Moreover, to avoid a reconsideration becoming an impermissible change of mind subject to challenge, the Planning Board should reduce the requested time period for reconsidering a final action.

(18) On page 52, the new language for the new paragraph (5) references the Section of the Code that explains why there is a People's Zoning Counsel. It appears to be surplusage to add that Section as a requirement to consider when granting a continuance.

(19) On page 54, the proposed change to strike existing language in Section 27-3414 (a) should not occur. The ZHE's written decision is what is filed with the Clerk; the notice explains to POR what they can do next. Accordingly, the language should not be changed.

(20) On page 65, paragraph (8), standards for approving a SMA that accompanies a minor plan amendment should be expanded to include more of the standards for approving other SMAs after approval of a major plan amendment, found in Section 27-3503(b)(5), such as "the character of the area under review" and "the suitability of particular uses" (see page 69). The language used in the draft mirrors that for approval of a Master Plan, but the SMA should have more standards than the broad police power language.

(21) On page 73, Section 27-3601 (d)(7)(D) should not strike the reference to a Technical Staff Report since the ZHE cannot schedule a hearing without it. I would suggest that the language read "At least 30 days after receiving the Planning Board's recommendation and the Technical Staff Report, the ZHE shall provide notice,...." At the end of that paragraph, strike reference to the ZHE Rules of Procedure.

(22) On page 74, revise Section 27-3601 (e) to add "No amendment to a Planned Development base zone shall be granted without the applicant demonstrating

conformance with the decision standards in Section 27-3602.” These zoning map amendments are also not subject to the change or mistake test.

(23) On page 79, would the sponsor consider revising Section (d)(5) to only require that the Planning Director submit all documents compiled once the Application is accepted? It would streamline the number of duplicates forwarded. The language in (d)(6) should require the ZHE to notify the Planning Director, the applicant, and all Persons of Record if there is a new hearing date.

(24) On page 80, the new (1)(H) requires the special exception to comply with applicable regulations in Part 6. First, the language is unnecessary since Section 27-6105(e) already requires that special exceptions be reviewed for compliance with all Sections in Part 6 as may be applicable. If the sponsor believes language is necessary on page 80, it should mirror the language used in Section 27-6105(e).

(25) On pages 116-117, given the County’s interest in providing more senior housing or homes that would allow the resident to age in place, should providing additional elements of universal design be considered a public benefit?

(26) On pages 144-197, the Use Tables are revised to add “refer to special exception standards” even if the particular use does not require a SE. Please explain these additions or remove where inapplicable.

Should you have any questions please feel free to contact me.