



The Maryland-National Capital Park and Planning Commission



PRINCE GEORGE'S COUNTY
Planning Department

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February 1, 2024

TECHNICAL STAFF REPORT

TO: The Prince George's County Planning Board

FROM: Chad Williams, LEED AP BD+C, Master Planner

SUBJECT: Legislative Drafting Request LDR-40-2024
Proposed Omnibus Revisions to the Prince George's County Zoning Ordinance

The Planning Department's legislative team has reviewed the proposed legislative amendment to the Zoning Ordinance and presents the following evaluation and findings leading to a recommendation of **SUPPORT**, as described in the Recommendation section of this technical staff report.

I. EVALUATION CRITERIA

Proposed legislative amendments to the Zoning Ordinance are reviewed under the requirements of Section 27-3501, Legislative Amendment, of the Prince George's County Zoning Ordinance. Staff have considered the following in reviewing this proposed legislative amendment:

- A. The Prince George's County Zoning Ordinance;
- B. The *Plan Prince George's 2035 Approved General Plan*;
- C. The current Area Master Plans, Sector Plans, and Functional Master Plans for Prince George's County;
- D. The Prince George's County Climate Action Plan; and
- E. Community feedback.

II. BACKGROUND

- A. **Purpose:** LDR-40-2024 is a proposal to amend numerous provisions of the Prince George's County Zoning Ordinance to reconcile terms, procedures, and other language of the new Zoning Ordinance; revise certain procedures and regulations; and clarify language to further effectuate successful implementation of the County's new, modern, streamlined Zoning Ordinance.

- B. Impacted Property:** As a bill of broad application with numerous global revisions to the Zoning Ordinance, this proposed legislative amendment would impact all property in Prince George’s County except property located within the City of Laurel.
- C. Policy Analysis:** LDR-40-2024 is the culmination of more than one year of collaboration between the Prince George’s County Planning Department and stakeholders including the County Council, agency and municipal representatives, residents and civic activist organizations, developers, the County Land Use Bar, Maryland Building Industry Association, and other parties. It is based in large part on observations of real applications that have used the new Zoning Ordinance following its effective date of April 1, 2022.

This bill represents a consensus-driven approach to balance the needs and perspectives of the many stakeholders in the County’s planning, zoning, and development procedures. Among the major highlights addressed by this proposed legislative amendment are:

- a. Clarifications of the Transition Provisions, including, but not limited to:
 - i. Ensuring access to the prior zone’s uses remains at the 10-year period implemented by the District Council;
 - ii. Clarifying the legal status of grandfathered buildings and structures, and of uses, and relocating language to Part 27-7 so conforming grandfathering and nonconformities are together in one location;
 - iii. Providing a “safe harbor” for expansion of grandfathered buildings and structures at up to 10 percent of existing gross floor area of 30,000 sq. ft., whichever is less;
 - iv. Clarifying reconstruction after fire loss is permitted; and
 - v. Ensuring Woodmore Town Center has access to prior development approvals.
- b. Revisions to the uses and standards for development in the IE (Industrial, Employment) Zone as directed by Council in 2022 to make the zone more akin to the former I-1 Zone;
- c. Limitations on residential growth in the CGO Zone outside the Capital Beltway;
- d. Clarification of development on nonconforming lots;
- e. An increase in the baseline maximum residential density in the Transit-Oriented/Activity Center Zones to yield the development/building forms desired for these designated growth locations and further incentivize development;
- f. The addition of location standards to limit where Transit-Oriented/Activity Centers may be located to ensure balance and protect growth priorities;
- g. Clarification of procedures; and
- h. Streamlining of processing and approval timeframes.

This proposed legislative amendment covers dozens of essential revisions that will greatly strengthen the Zoning Ordinance and further implement the original goals of the Zoning Rewrite to clarify and streamline the County’s planning, zoning, and development review procedures.

III. COMPLIANCE WITH EVALUATION CRITERIA

Section 27-3501(c)(2)(B) requires the Planning Director issue a Technical Staff Report on any proposed legislative amendment to the Zoning Ordinance within 14 calendar days of the transmittal of the proposed amendment by the Clerk of the Council. This Section also requires, at minimum, analysis of the extent to which the proposed legislative amendment complies with six criteria.

A. This proposed legislative amendment meets the requirements of Section 27-3501(c)(2)(B) as follows:

- (i) **Is consistent with the goals, policies, and strategies of Plan Prince George’s 2035 (or any successor General Plan), area master plans, sector plans, functional master plans, and any other applicable approved plans;**

LDR-40-2024 is consistent with key goals of Plan 2035 and current area master plans and sector plans. There are numerous goals, policies, and strategies among these plans that are addressed by the proposals in LDR-40-2024.

The Land Use Goal of Plan 2035 reads: “**(d)irect future growth toward transit-oriented, mixed-use centers in order to expand our commercial tax base, capitalize on existing and planned infrastructure investments, and preserve agricultural and environmental resources.**” Further, the number one Plan 2035 critical implementation initiative is “**(u)pdate the Prince George’s County Zoning and Subdivision Ordinances.**” The current Zoning Ordinance and Subdivision Regulations implemented the highest priority implementation recommendation of Plan 2035 when they took effect April 1, 2022. LDR-40-2024 not only furthers the effectiveness of the Zoning Ordinance through clarification and revisions to ensure it meets its original goals, but it also strengthens zoning laws to ensure transit-oriented, mixed-use centers are prioritized and draw future growth. LDR-40-2024 contains provisions to clarify and strengthen measures that will expand the County’s commercial tax base and employment base. These provisions in turn better position development to capitalize on existing and planned infrastructure and continue the current Zoning Ordinance’s strong protections on the County’s Rural and Agricultural Area.

In terms of policies and strategies of Plan Prince George’s 2035, example policies include Policy 1: “**(d)irect a majority of projected new residential and employment growth to the Regional Transit Districts in accordance with the Growth Policy Map and the Growth Management goals set forth in Table 17**” and Policy 7: “**(l)imit future mixed-use land uses outside of the Regional Transit Districts and Local Centers.**” LDR-40-2024 complies with these goals through a variety of means. Perhaps most directly, Policy 1 is directly supported by the proposal in LDR-40-2024 to increase the baseline residential density maximum in the County’s Transit-Oriented/Activity Center base zones. This

increase will greatly incentivize investment and growth in these zones, including the County's eight Regional Transit Districts.

Further, LDR-40-2024's proposal to limit residential development in the CGO (Commercial, General and Office) Zone outside the Capital Beltway will directly support Policy 7 of the Land Use element of Plan 2035 to limit mixed-use development outside Regional Transit Districts and Local Centers.

Plan 2035 also contains numerous strategies; many such strategies do not pertain to the Zoning Ordinance and are thus not pertinent to review of LDR-40-2024, pertinent strategies include LU 1.2: **“(r)evise and update the Zoning Ordinance, Subdivision Ordinance, and other County regulations to ensure they are consistent with and support the Plan 2035 growth management goals, vision, and policies. Conduct a comprehensive analysis of the Zoning Ordinance, including its use tables, zoning districts, and densities, and variance criteria”** and LU1.3: **“(e)valuate the existing zoning districts in the Regional Transit Districts to ensure that sufficient development capacity is available to meet desired population and employment targets set forth by the Center Classification System (see Table 16)”**.

These two pertinent strategies are directly addressed by LDR-40-2024. Regarding LU 1.2, the original enactment and effective date of April 1, 2022, for a brand new Zoning Ordinance and Subdivision Regulations fully complied with the strategy's call for a comprehensive analysis of the Zoning Ordinance. LDR-40-2024 continues that effort and ensures the new Zoning Ordinance functions as intended; LDR-40-2024 also directly constitutes a comprehensive revision and update of the Zoning Ordinance to further support Plan 2035 itself. Additionally, the existing zoning districts in the Regional Transit Districts now consist of the RTO-L (Regional Transit-Oriented, Low-Intensity) and RTO-H (Regional Transit-Oriented, High-Intensity) base zones, and LDR-40-2024 proposes revisions to these zones to increase the development capacity in these important growth locations.

As pertains to the County's currently effective area master plans and sector plans, these plans themselves implement the County's General Plan and establish goals, policies, and strategies intended to support the General Plan in a more localized and targeted manner. In general, these plans support targeted growth at identified growth locations, focusing on transit centers, preserving the natural environment and agricultural areas, providing recommendations to strength infrastructure, identifying new needed projects to accommodate growth, and encouraging economic growth.

To the extent the County's area master plans and sector plans themselves implement Plan 2035, LDR-40-2024 is generally consistent with these plans.

Proposals in LDR-40-2024 also address provisions that will help reduce impervious surfaces, improve stormwater management, and clarify open space requirements, which further implementation of functional master plans for parks and recreation and the natural environment.

(ii) Addresses a demonstrated community need;

Numerous community needs are addressed by the proposals embodied in LDR-40-2024. At the highest level, it is in the County's best interests for economic development that the transition and grandfathering procedures necessary to bridge the shift from the prior Zoning Ordinance to the current Ordinance be clear to understand and apply, and more transparent to all parties. LDR-40-2024 focuses on the transition and grandfathering provisions with a keen eye to clarification.

Many other specific community needs are also addressed. These include use table revisions to expand industrial tax and employment base or to clarify rules pertaining to pet grooming business, lot frontage revisions that help homeowners with narrower lots, or the restoration of a provision relaxing parking requirements for long-existing shopping centers to more easily permit new tenants. Many revisions proposed in LDR-40-2024 were directly sourced from community interaction with the County's permit review staff in M-NCPPC and DPIE and are intended to provide clarification that will streamline community-driven development applications to improve homes and small businesses.

(iii) Is consistent with the purpose and intent of the zones in this Ordinance, or would improve compatibility among uses and ensure efficient development within the County;

LDR-40-2024 is fully consistent with this criterion in that it clarifies and revises the zones of the Ordinance to better align the standards to the purposes and intent of individual zones, especially within the Transit-Oriented/Activity Center base zone category and the Planned Development zones. Additionally, the principal and accessory use tables of the Ordinance are proposed to be revised by LDR-40-2024 with an eye to consistency within and between these tables; use-specific standards are clarified; development review procedures are clarified, and in some cases streamlined; and development standards are revised; all of which will ensure efficient development within Prince George's County.

(iv) Is consistent with the implementation of the strategies and priority recommendations of the Prince George's County Climate Action Plan;

The 2022 Prince George's County Climate Action Plan contains twenty-six priority recommendations intended for rapid implementation with key near-term actions, and numerous strategies focused on the long-term vision to guide the County's climate mitigation and adaptation efforts over time. The strategies are contained in Chapter VI, Taking Action: Strategies to Achieve a Low-Carbon, Resilient Prince George's County, while the recommendations are described with detailed action steps in Chapter VII, Next Steps.

The twenty-six priority recommendations are divided into three action areas:

1. Operational actions to bring about transformational change;
2. Mitigating the cause of climate change by reducing greenhouse gas emissions; and
3. Adapting to coming climate impacts.

Although the County’s Zoning Ordinance is not the sole or leading tool in which to address climate action, LDR-40-2024 directly addresses several of the strategies and priority recommendations of the Climate Action Plan. For example, proposed revisions to incentivize investment in the County’s Transit-Oriented/Activity Center base zones will further the strategy to **bring jobs and housing closer together** by encouraging mixed-use development at targeted growth locations. Open space set-aside requirements, other measures pertaining to urban streets, strengthened tree canopy, and preservation of natural areas through limitation of intensive uses in the Rural and Agricultural zones further implements **innovative strategies to preserve natural areas and farmland**.

The Zoning Map is the single most important tool in the Zoning Ordinance available for addressing climate change. By directing most future growth to Plan 2035 Centers – where land has already been disturbed by prior development and necessary public infrastructure is already in place – the County can reduce the amount of “greenfield” development taking place on woodland and farm land outside the Capital Beltway. Greenfield development is almost always more injurious to our climate goals than infill and redevelopment because greenfield development disturbs functioning ecosystems and requires the extension of expensive and land-disturbing public facilities to serve the new development. LDR-40-2024 does not amend the Zoning Map, but Staff reminds the Council of the importance of using future Area Master Plans, Sector Plans, and Sectional Map Amendments to combat climate change.

In terms of priority recommendations, LDR-40-2024 directly supports several zoning and land use recommendations including the following examples drawn from each of the three action areas identified by the Climate Action Plan:

CO-5: Strengthen land use regulations to better align individual land use decisions with state County (sic) policies related to smart growth, natural resource conservation, and green infrastructure

LDR-40-2024 continues prioritization and incentivization of the County’s targeted growth centers, particularly Regional Transit Districts, Local Centers, the Innovation Corridor, and Employment Areas, through targeted revisions to the Transit-Oriented/Activity Center base zones and the principal use tables that will encourage investment. Residential growth in the County’s principal commercial zone, CGO (Commercial, General and Office) is proposed to be limited outside the Capital Beltway, which will also support County growth and preservation policies.

M-7: Increase investment in Activity Centers

As stated above, LDR-40-2024’s proposed revisions to the Transit-Oriented/Activity Center base zones, in particular the expansion of the maximum residential density permitted in these zones and the proposed limitation on where those zones may be located to ensure they are consistent with the Plan 2035 Growth Policy Map, will provide stronger tools to ensure investment occurs in the County’s designated activity centers.

A-10: Promote a healthy food system supported by low-carbon, regenerative agricultural practices

Minor revisions that expand value-added agricultural activity are just one example of how LDR-40-2024 builds on the strong foundation offered by the new Zoning Ordinance for the Countywide support of healthy food systems. The new Ordinance permits urban agriculture in all zones, for example, and this helps support the framework for zoning and land use policies supporting recommendation A-10 of the Climate Action Plan.

Staff have determined LDR-40-2024 is consistent with the implementation of the strategies and priority recommendations of the Prince George's County Climate Action Plan.

(v) Is consistent with other related State and local laws and regulations; and

LDR-40-2024 is fully consistent with other related State and local laws and regulations. The bill was drafted in accordance with the Land Use Article and its requirements for local governments and delegation of zoning authority. To the extent proposed revisions in LDR-40-2024 may touch on local laws and regulations, the proposed bill is consistent with these local laws and regulations and does not include provisions that contradict other local laws of the County Code.

(vi) Would avoid creating significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

LDR-40-2024 fully complies with this criterion. The current Zoning Ordinance as modified by multiple prior Council Bills was designed from the beginning not only to avoid creating significant adverse impacts on the natural environment but to support retrofitting, redevelopment, and adaptive reuse of previous development in accordance with the County and State environmental laws to provide new development that has a much higher baseline standard of environmental quality and sensitivity to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment than what had existed before. Although LDR-40-2024 makes few proposed changes to the County's Rural and Agricultural zones, it should be noted the current Zoning Ordinance provides significantly stronger protection for the County's Rural and Agricultural Area than the prior Zoning Ordinance through zoning tools and development standards.

- B. Pursuant to Section 27-3501(c)(2)(C), this Technical Staff Report **"shall contain an independent, non-substantive assessment of the technical drafting conventions of the proposed legislative amendment, in order to ensure consistency with the legislative style and conventions of the current Zoning Ordinance."** As such:

LDR-40-2024 fully complies with the legislative style and conventions of the current Zoning Ordinance.

- C. Finally, Section 27-3501(c)(2)(D) requires the Planning Board to make a recommendation on the proposed amendment in accordance with the Legislative Amendment Decision Standards that guide the District Council's final decision on the approval of a proposed legislative amendment.

Analysis of the Legislative Amendment Decision Standards is contained in a separate subsection of this Technical Staff Report below.

IV. PLANNING BOARD PUBLIC HEARING

Section 27-3501(c)(2)(D) requires the Prince George's County Planning Board to hold a public hearing and make comments on the proposed legislative amendment within 30 days of the date of the transmittal of the Clerk of the Council. Said public hearing must be noticed by electronic mail at least 21 days prior to the public hearing, sent to every community organization in the County registered pursuant to Section 27-3407(b)(3), and to any person or organization registered pursuant to Section 27-3402(d).

Notice for the public hearing on LDR-40-2024 was sent on February 1, 2024, as required by the Zoning Ordinance. The Planning Board public hearing will be held on February 22, 2024, thus meeting the notice requirement of the Zoning Ordinance.

Comments offered by the public prior to and during the Planning Board's public hearing will be summarized, along with the Planning Board's comments, on the Board's recommendation to Clerk of the Council.

V. ANALYSIS OF LEGISLATIVE AMENDMENT DECISION STANDARDS

LDR-40-2024 has been reviewed for consistency with Section 27-3501(d), Legislative Amendment Decision Standards, of the Zoning Ordinance. Staff find the following:

The advisability of amending the text of this Ordinance is a matter committed to the legislative discretion of the County Council sitting as the District Council and is not controlled by any one factor. Within each zone listed in the Classes of Zones (Section 27-4102), the (D)istrict (C)ouncil may regulate the construction, alteration, and uses of buildings and structures and the uses of land, including surface, subsurface, and air rights. The provisions for each zone shall be uniform for each class or kind of development throughout the zone, and no legislative amendment may create different standards for a subset of properties within a zone, unless such standards are necessary to implement development policies within the applicable Area Master Plan, Sector Plan, development policies of the General Plan, or other approved development district; however, any differentiation of a subset of properties within a zone shall be reasonable and based upon the public policy to be served.

Planning Staff take no position as to the legislative discretion of the District Council. However, staff find that LDR-40-2024 meets the criteria that the provisions for each zone shall be uniform for each class or kind of development throughout the zone. The proposed amendments contained in LDR-40-2024 would be consistently applied to each affected zone across the County.

Additionally, staff find that LDR-40-2024 does not create different standards for subsets of properties within a zone and there is no need to determine whether any such differentiation is reasonable and based upon public policies to be served.

Staff recommend the Planning Board find that LDR-40-2024 is consistent with the Legislative Amendment Decision Standards specified in Section 27-3501(d) of the Zoning Ordinance.

VI. PROPOSED AMENDMENTS

Following review of LDR-40-2024, Staff have no proposed amendments for the Planning Board's consideration at this time. Staff anticipate that additional amendments will be proposed by stakeholders and considered by the Council at a later date.

VII. RECOMMENDATION

Based upon the foregoing evaluation and analysis, the Planning Department's legislative team recommend that the Planning Board adopt the findings of this report and recommend **SUPPORT** of LDR-40-2024.