

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2023 Legislative Session

Reference No.: CB-021-2023

Draft No.: 2

Committee: PLANNING, HOUSING AND ECONOMIC DEVELOPMENT

Date: 2/16/23

Action: FAV (A)

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 February 16, 2023, to consider CB-21-2023. The PHED Committee Director summarized the purpose of the legislation and informed the Committee of written comments received on referral. This bill amends the transitional provisions to add a new provision to Section 27-1704 of the Zoning Ordinance, allowing for access to the Use Tables of the prior Ordinance based on the zoning classification in place before the Zoning Ordinance took effect on April 1, 2022. CB-21-2023 also allows for alternate development regulations for IE zoned property assemblages abutting the inside of the Capital Beltway.

The Planning Board was scheduled to review CB-21-2023 during their February 16, 2023, meeting. The Planning Department staff recommended that the Planning Board take no position with amendments as explained in a February 11, 2023, staff report to the Planning Board. The staff provided the following information for the Planning Board's consideration:

Bill Background:

Significant discussion has taken place over the past six months in response to issues identified by the development community pertaining to transition and grandfathering provisions of the new Zoning Ordinance. The District Council directed Council staff, the Planning Department, and other stakeholders to work collaboratively to identify a series of legislative revisions to the new Zoning Ordinance to address valid concerns that have been raised. CB-21-2023 is the first of this series of proposed revisions.

CB-21-2023 proposes two new Subsections in the transition and grandfathering provisions.

The most consequential is a new Section 27-1704(o) that would allow any property in the County subject to the Zoning Ordinance to access the uses permitted by the property's former zone as that zone existed before the effective date of the Countywide Map Amendment.

Proposed Section 27-1704(n) would allow an assemblage of properties abutting the inside of the Capital Beltway (I-95/I-495) that were rezoned from the M-X-T Zone to the IE (Industrial,

Employment) Zone pursuant to the CMA to develop under the provisions of the new Zoning Ordinance for the CGO (Commercial, General and Office) Zone. The only properties that would be able to make use of subsection (n) are the properties covered by Conceptual Site Plan No. 14003 (Hampton Park), and possibly several additional properties adjacent to that development (see attached map).

Policy Analysis: Bill Structure

The approach elected in CB-21-2023 to combine a broad, Countywide provision with a provision that applies to only one location in the County seems better suited to separate bills. Combining these topics raises concerns among Planning Staff that result in a mixed recommendation to the Planning Board.

Proposed Use

Transition Language Staff supports proposed section 27-1704(o). This clarification on use access aptly addresses the single most valid transition concern identified by the development community. The transition and grandfathering provisions of the new Zoning Ordinance and Subdivision Regulations do a good job of providing fair and equitable provisions to protect development rights and the physical design of prior development and projects still in-process, but do not adequately address use transitions for existing development.

Additional clarity is necessary and appropriate to provide assurance to property and business owners that they can realize the financial potential of their development, by allowing existing and future development, during an appropriate transition period, to accommodate uses and tenants anticipated by the project's original approvals. Proposed 27-1704(o) offers an appropriate ten-year use transition timeframe that balances equity and financial concerns of owners with the County's interest in making sure that buildings eventually comply with the County's new zoning law.

To improve the clarity of the proposed text, staff recommends that page 2, lines 9-11 be revised to simply reference March 31, 2022 and April 1, 2032. The revised text would be:

(o) Any use allowed on any property by the zoning classification that was in effect on March 31, 2022, may be permitted until April 1, 2032.

Staff understands that there is interest in substantively amending the above text to cut off access to the March 31, 2022, use tables if a property is rezoned in the future at the applicant's request. The following text accomplishes this change:

(o) Any use allowed on any property by the zoning classification that was in effect on March 31, 2022, may be permitted until April 1, 2032, or until the property is rezoned pursuant to a Zoning Map Amendment (Section 27-3601) or Planned Development Zoning Map Amendment (Section 27-3602), whichever occurs first. The Council may also wish to consider cutting off access to the prior use tables after a property is rezoned by Sectional Map Amendment.

Proposed IE Development Regulations Language

Proposed Section 27-1704(n) grants a small subset of IE properties the opportunity to develop as if the properties were zoned CGO. The IE and CGO zones are very different. This language treats certain IE properties differently from all other IE properties, compromising the goal of having uniformity for all properties within a zone.

The term “assemblage” is not defined in the Zoning Ordinance, but this term is commonly applied to a group of lots or parcels that are the subject of a single development application. The properties covered by Conceptual Site Plan (CSP) No. 14003 (Hampton Park) appear to meet the requirements of the bill, because this assemblage includes properties abutting the inside of the Beltway and because the assemblage was rezoned from M-X-T to IE. The Hampton Park development is outlined on the attached map as Area 1. The properties outlined as Area 2 were also rezoned from M-X-T to IE but are not part of the Hampton Park assemblage. These properties theoretically would also be able to develop under the standards of the CGO zone if at some future date they assembled with properties adjacent to the inside of the Beltway.

As the Planning Board noted in comments provided to the District Council on CB-69-2022, allowing former M-X-T properties to develop as if they had been rezoned to the CGO Zone in the CMA would constitute de facto rezoning outside the normal procedures for rezoning. If CGO is the appropriate zone, it would be preferable to rezone the affected properties via the soon-to-be-initiated Blue Line Corridor Sectional Map Amendment, a Zoning Map Amendment, or a Planned Development (PD) Zoning Map Amendment.

Staff notes that the Blue Line Corridor Sector Plan and Sectional Map Amendment (SMA) are expected to be completed in FY 2025, and the SMA may well place Hampton Park in the CGO zone at that time. The SMA would be completed long before Hampton Park loses its ability to develop under its prior MXT zone, making CB-21 unnecessary.

Since Hampton Park has been identified by staff as the qualifying site for Section 27-1704(n), staff notes Hampton Park has largely completed construction on the County office building and retains approvals for development of the site that will remain valid for at least twenty years by virtue of its approved Conceptual Site Plan (CSP), pursuant to Section 27-1704(a) and the granting of twenty-year validity periods for CSP development.

Staff identifies minor typos on page 2, line 8. For consistency, the zone abbreviation should appear first, and the full name of the CGO Zone is slightly off. The suggested revision would be: “CGO (Commercial, General and Office) Zone.”

Summary

Planning staff support proposed Section 27-1704(o) but do not support Section 27-1704(n). In addition to the potential alternative language to Section 27- 1704(o) contain in the Proposed Use Transition Language discussion above, the following amendment should also be made:

Revise page 2, line 8 to read: “this Ordinance for development in the CGO (Commercial, General and Office) Zone.”

The Council’s Zoning and Legislative Counsel summarized the following revisions in a Proposed DR-2 (DR-2) prepared at the bills sponsor’s request to address comments received on

referral:

Sec. 27-1704. Projects Which Received Development or Permit Approval Prior to the Effective Date of this Ordinance.

* * * * *

(n) Any assemblage of properties abutting the inside of the Capital Beltway (I-95/I-495) that were rezoned from the M-X-T Zone to the IE (Industrial, Employment) Zone pursuant to the Countywide Sectional Map Amendment (“CMA”) may elect to develop under the provisions of this Ordinance for development in the ~~Commercial General Office (CGO) CGO (COMMERCIAL, GENERAL AND OFFICE) Zone.~~

(o) ~~Any use allowed on any property by the zoning classification that was in effect before April 1, 2022, may be permitted for a period of ten (10) years from the effective date of this Ordinance, or until April 1, 2032~~ ANY USE ALLOWED ON ANY PROPERTY BY THE ZONING CLASSIFICATION THAT WAS IN EFFECT ON MARCH 31, 2022, MAY BE PERMITTED UNTIL APRIL 1, 2032, OR UNTIL THE PROPERTY IS REZONED PURSUANT TO A ZONING MAP AMENDMENT (SECTION 27-3601) OR PLANNED DEVELOPMENT ZONING MAP AMENDMENT (SECTION 27-3602), WHICHEVER OCCURS FIRST.

Angie Rodgers, Deputy Chief Administrative Officer for Economic Development, stated that the Administration supports the amended legislation and acknowledged the workgroup process with Council Members, County Executive and Planning Department staff to respond to some of the concerns that have been raised regarding the grandfathering and transition provisions in the new Ordinance. Rhonda Weaver, County Attorney, was present and reserved comment until such time that she had an opportunity to review the revisions in Proposed DR-2 indicating her intent to provide a legislative comment by close of business.

Several speakers who registered to speak via the eComment portal and in person testified regarding their concerns with the legislation and requested the bill include additional grandfathering provisions.

In response to Council Chair Dernoga’s and Council Member Oriadha’s inquiries concerning the effect of CB-21-2023 provisions on prior enacted legislation amending the regulations for gas station and tobacco shop uses, respectively, Zoning and Legislative Counsel suggested the following additional revision in Proposed DR-2:

(o) UNLESS OTHERWISE PROVIDED IN THIS SUBTITLE, any use allowed on any property by the zoning classification that was in effect on March 31, 2022, may be permitted until April 1, 2032, or until the property is rezoned pursuant to a Zoning Map Amendment (section 27-3601) or Planned Development Zoning Map Amendment (section 27-3602),

whichever occurs first.

After discussion, the Committee voted favorable, 5-0, on Proposed DR-2 as amended.