

Office of the Chairman
Prince George's County Planning Board

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April 20, 2023

The Honorable Thomas E. Dernoga
Chairman
Prince George's County Council
Wayne K. Curry Administration Building
1301 McCormick Drive
Largo, MD 20772

Re: CB-50-2023, CB-52-2023 and CB-53-2023

Dear Chairman Dernoga:

Thank you for providing the Planning Board an opportunity to review and comment on proposed District Council legislation. During the April 20, 2023 Planning Board meeting, the following positions were adopted in accordance with the Planning Department staff's recommendations on the proposed legislation. **A Planning Board Analysis is attached for your consideration and a brief excerpt from the report is provided below:**

***CB-50-2023** A bill to prohibit the development of townhouses and one-family detached dwelling units, under certain circumstances in the Residential Agricultural (R-A) Zone, utilizing the prior Zoning Ordinance Table of Uses.*

Planning Board Recommendation: No position and encourage continued conversations.
(See Attachment 1 for full analysis)

The Planning Board has numerous concerns with CB-50-2023, as drafted.

The WHEREAS clauses on pages 2 through 4 identify the issues with footnote exception uses. The clauses should also explain why the bill seeks to specifically prohibit Footnote 136. Adding language explaining a reasonable basis for adopting the zoning legislation is highly desirable.

Rather than inserting the same provision in every paragraph of the Transitional Provisions, which results in significant added complexity, this bill could be greatly simplified by adding a paragraph similar to 27-1903(f) (which was added by CB-17-2023) at the end of both Sections 27-1703 and 27-1704.

It is not possible to amend the prior Zoning Ordinance after April 1, 2022, because the prior Zoning Ordinance has been repealed in its entirety as of that date. A repealed ordinance cannot be amended because it no longer exists.

Any provisions in the prior Zoning Ordinance currently eligible to be used are only made applicable by authority granted by the current Ordinance. Therefore, limitations of the nature enacted by CB-17-2023 and proposed by CB-50-2023 may only be authorized in the transition and grandfathering Sections of the current Zoning Ordinance.

The Planning Board notes that CB-17-2019 amended the use table for the R-A Zone in the prior Zoning Ordinance but did not confer authority to bring a development application.

Therefore, the bill language referencing “development applications pursuant to superseded authority under the enactment of CB-17-2019” is not accurate. The bill, however, makes such applications impractical since any resulting site plan application will likely be denied for failure to comply with the requirements of the law and the proposed uses the authors of CB-17-2019 were seeking to permit would not be allowed. This language should be deleted from the bill.

If the intent of the Council is to retain the low-density land use character that currently exists around Freeway Airport, the Council should consider a minor plan amendment to appropriately revisit and amend the land use recommendations pertaining to the Freeway Airport area.

CB-52-2023 A bill to prohibit for a period of two years the approval of townhouses that have not yet received site plan approval, unless the property to be developed is located within certain geographies identified in the bill. The geographies that would be exempt from the two-year prohibition are Plan 2035 Regional Transit Districts, Local Transit Centers, and Local Centers; Metropolitan Washington Council of Governments Activity Centers; and "designated Transit-Oriented or Revitalization areas."

Planning Board Recommendation: Oppose.
(See Attachment 2 for full analysis)

The Planning Board finds the bill to be well-intentioned, but not the optimum mechanism for achieving the goals of Plan 2035. First, the growth targets of Plan 2035 cover all types of dwelling units, and there is no clear rationale for singling out townhouses. Townhouses are a beneficial type of development in those zones that were designed for the use, such as the new RSF-A Zone. They are also beneficial as a means of revitalizing obsolete shopping centers and office parks, by allowing those properties to be redeveloped as mixed-use.

The Planning Board concurs that additional measures are needed to achieve the goals of Plan 2035. The Planning Board believes it would be more appropriate to address the growth in all types of dwelling units and to do so by adopting a countywide annual growth policy, as other Maryland jurisdictions have done after careful study.

Should the bill move forward, there are several serious technical deficiencies in the bill that will prevent it from being enforced or administered. The Planning Board has listed those items for consideration.

CB-53-2023 A bill to prohibit the development under certain circumstances in commercial, industrial, and residential zones utilizing the prior Zoning Ordinance Table of Uses.

Planning Board Recommendation: No position and encourage continued conversations.
(See Attachment 3 for full analysis)

The Planning Board has numerous concerns with CB-53-2023, as drafted.

The WHEREAS clauses on pages 2 through 4 identify the issues with footnote exception uses. The clauses should also explain why the bill seeks to specifically prohibit footnotes 85 of the Commercial use table, 126 and 143 of the Residential use table, and 75 of the Industrial use table. Adding language explaining a reasonable basis for adopting the zoning legislation is highly desirable.

Rather than inserting the same provision in every paragraph of the Transitional Provisions, which results in significant added complexity, this bill could be greatly simplified by adding a paragraph similar to 27-1903(f) (which was added by CB-12-2023) at the end of both Sections 27-1703 and 27-1704.


As with CB-50-2023, this bill attempts to amend three tables of uses permitted that were contained in the prior Zoning Ordinance to delete four footnotes scattered among those tables. It is not possible to amend the prior Zoning Ordinance after April 1, 2022, because the prior Zoning Ordinance has been repealed in its entirety as of that date. A repealed ordinance cannot be amended because it no longer exists.

Any provisions in the prior Zoning Ordinance currently eligible to be used are only made applicable by authority granted by the current Ordinance. Therefore, limitations of the nature enacted by CB-12-2023 and proposed by CB-53-2023 may only be authorized in the transition and grandfathering Sections of the current Zoning Ordinance.

As always, Planning Department staff members are available to work with the Council and your legislative staff on any pertinent legislative matters. Please let us know if we may be of further assistance.

Should you have questions, please do not hesitate to contact the Office of the Planning Director at 301-952-3595. Thank you, again, for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter A. Shapiro", with a long horizontal flourish extending to the right.

Peter A. Shapiro
Chair

Attachments