

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

OFFICE OF THE ZONING HEARING EXAMINER

**Wayne K. Curry Administration Building
Largo, Maryland 20774
(301) 952-3644**

September 6, 2022

TO: Jackie Brown, Committee Director
Planning, Housing and Economic Development Committee

FROM: Maurene Epps McNeil
Chief Zoning Hearing Examiner

Re: CB-069-2022

This legislation amends the transitional provisions by providing a new Section 27-1705 to allow property that was zoned M-X-T prior to the effective date of the recent Countywide Map Amendment to avail itself of all uses in the CGO (Commercial, General and Office) Zone under certain circumstances. I suggest technical revisions to the bill, and I also have substantive concerns.

The technical issues are as follows:

- The purpose clause on page 1, lines 3-4, should be revised to expressly note that the properties have been rezoned to certain zones (and the new zones should be identified) but may develop with uses allowed in the CGO Zone. This revision would be more transparent than the current language.
- The new subparagraph (a) on page 2, lines 2-8 should be revised as follows, for clarity:
“At the time of Site Plan or Preliminary Plan of Subdivision review, a property that was in the M-X-T (Mixed Use -Transportation Oriented) Zone, but rezoned to the [insert zones] may elect to develop in accordance with the uses, regulations and other requirements of the CGO (Commercial, General and Office) Zone rather than the uses, regulations and requirements of its current zoning.”

The substantive issues are that the bill, as drafted, could be subject to a legal challenge that the bill is attempting to rezone property legislatively and/or that the language violates the basic tenets of due process which hold that the law be rational and understandable. The new subparagraph (b) language appears to allow any property that has an approved Site Plan or Preliminary Plan of subdivision prior to the effective date of the Countywide Map Amendment to develop with uses in the CGO Zone and to also be able to operate under the regulations and other requirements of its prior M-X-T zoning.

The language used is unclear since the current zoning of the property is unknown, as is the reason why the CGO Zone uses may be a better fit. All properties had to have been M-X-T prior to the effective date of the Countywide Map Amendment but may be any other zone afterwards, yet owners of these properties will be allowed to ignore their current zoning, and take advantage of the uses available to properties in the new CGO Zone while conforming to the regulations and other requirements of the M-X-T Zone found in the prior Zoning Ordinance (which has been repealed pursuant to the express language found in Section 27-1701).

Is there a specific reason why the CGO Zone uses would be a better fit, and why the grandfathering provisions found elsewhere in Part 1 of the new Zoning Ordinance cannot address the issue(s) that led to the bill? Legal challenges might be avoided if the issues were addressed in the bill and limiting criteria (such as the nature of adjacent uses, and size of the properties, and impact on the applicable Master or General Plan, etc.) included to govern the application of this transitional language.