

CB-79-2022 – Planning Board Analysis (Attachment 4)

A bill to modify the lot coverage and green area requirements for previously Light Industrial (I-1) zoned properties and to permit distribution warehouses in the Industrial/Employment (IE) Zone by right and without need of special exception approval for properties in the IE Zone that were formerly in the I-1 Zone.

The Planning Board has the following comments for consideration by the District Council:

Policy Analysis:

This bill would amend the lot coverage and green area requirements of a subset of the new Industrial, Employment (IE) Zone, namely to properties that were formerly zoned Light Industrial (I-1) prior to the effective date of the new Zoning Ordinance and the Countywide Sectional Map Amendment (CMA) on April 1, 2022. It will also allow distribution warehouses to be built on properties zoned I-1 prior to April 1, 2022, by right, and without special exception approval otherwise required for distribution warehouses in the IE Zone. Both proposed provisions would only apply to properties that were vacant on April 1, 2022.

As it pertains to the lot coverage and green area requirements, this bill would reduce the minimum green area requirement for properties meeting the criteria from 25 percent of the property to 10 percent and would waive the lot coverage maximum of 45 percent, potentially allowing up to 90 percent of the property to be covered.

The Planning Board has serious concerns regarding uniformity and fairness. In the development and approval of the new Zoning Ordinance the Council was very consistent in ensuring that vacant properties that had no prior entitlements or approvals and had no pending applications would use the regulations and procedures of the new Zoning Ordinance. CB-79-2022 contradicts that consistent Council approach and provides carve-outs for a subset of the new IE Zone that would pertain only to properties that a) used to be in the I-1 Zone, and b) were vacant as of April 1, 2022. This creates a large inequity among owners of IE properties, and greatly erodes zoning principles of uniform application of zoning laws within zoning classifications.

Bill Formatting

Should CB-79-2022 proceed, a new draft should be produced that incorporates Table 27-4203(e)(2), the Intensity and Dimensional Standards of the IE Zone, in its entirety. It is not sufficient to list the proposed exemptions from the IE Zone lot coverage and green area regulations for former I-1 property as a proposed table Note 6 without also showing where the note applies. The Planning Board initially reviewed this bill and thought proposed Note 6 was contained in a different part of the Ordinance due to the lack of key context present in Table (e)(2). If the Planning Board were confused, lay readers interested in CB-79-2022 would also be confused.

As currently drafted proposed Note 6 would seem to be applicable to lot coverage and green area regardless of the proposed use. However, Table (e)(2) makes distinction between the residential uses now permitted in the IE Zone and all other uses permitted in the IE Zone.

It may be appropriate to consider reductions to lot coverage and green area for nonresidential/industrial uses (more on this below), but the Council may wish to retain a larger green area requirement and a smaller maximum lot coverage for proposed residential development in former vacant I-1 properties, for example, in which case proposed Note 6 would be appropriate to add to specific cells in the “Other Uses” column. Should Council wish proposed Note 6 to be generally applicable to lot coverage and green area, then the note should be added to the rows for these regulations in the “Standard (1)” column.

Insufficient Time to Evaluate the Impact of the New Zoning Ordinance and Subdivision Regulations

The new Zoning Ordinance and Subdivision Regulations took effect April 1, 2022. Five months is insufficient time to fully evaluate the effectiveness of the new zones, the new Zoning Ordinance and Subdivision Regulations, and the zones applied to property through the CMA technical rezoning exercise. It is premature to propose a bill that would result in significant changes to the County’s zoning as applied to real property.

Of particular note, the IE Zone was the topic of much discussion in 2021 leading to the approval of CB-98-2021 on November 29, 2021. During these discussions, the Planning Board staff made a commitment to the Council to revisit the table of uses permitted in the IE Zone. As part of this more comprehensive review of the IE Zone, the Planning Department is willing and able to review the “bulk regulations” of the IE Zone including lot coverage and green area to determine if changes should be proposed for Council’s review and consideration in a future substantive bill – it may well be that the current green area minimum and lot coverage maximum are not quite appropriate or yet correctly calibrated for industrial, commercial, and other nonresidential uses in the IE Zone. This approach would allow for a complete consideration of multiple factors and would be preferable to a piecemeal legislative solution oriented to a subset of the IE Zone.

Impacted Property:

This bill will affect all properties in the County which were a) formerly zoned I-1, and b) vacant, as of April 1, 2022. There are 1,234 such properties according to the Planning Department’s Geographic Information Systems analysis using a baseline improvement value not to exceed \$15,000 as a definition for “undeveloped” property.

Following discussion, the Planning Board voted to oppose CB-79-2022.