

CB-92-2022 (DR-2) – Planning Board Analysis (Attachment 1)

A bill to revise the application review procedures for zoning applications decided by the District Council.

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

Policy Analysis:

The purpose of this Planning Board analysis is to comment on an amendment that was added to CB-92-2022 subsequent to the time that the Planning Board made its recommendation on that bill.

CB-92-2022 eliminates the Council’s election to review procedures from the current Zoning Ordinance. On Thursday, September 15, 2022, the Board took a position to support the bill with amendments.

Also, on Thursday, September 15, 2022, CB-92-2022 was discussed by the Council’s Planning, Housing, and Economic Development Committee (PHED) and several amendments were proposed. Upon review of the PHED Committee Report on CB-92-2022, the Planning Board believes the Committee intended to expand the coverage of the bill so that it also eliminates election to review for applications using the transitional provisions of the current ordinance to proceed under the rules of the prior ordinance. Specifically, in the Committee Report there is a notation that reads (emphasis added):

“After public testimony on the legislation, PHED Chair Franklin, made a motion for a favorable recommendation, second by Council Chair Hawkins, on CB-92-2022 including an amendment to provide that the bill is applicable to new development applications utilizing the old Zoning Ordinance and incorporation of the Planning Department staff’s suggested edits. The Council’s Zoning and Legislative Counsel clarified that the amendment would be a new subsection in the bill to reference the transitional provisions of the Code.”

Unfortunately, the language added by CB-92-2022 (DR-2) has a much broader and unintended effect. Specifically, the following language was added as lines 3-4 on page 5 as a new duty of the District Council, under Section 27-3301(b)(1), which specifies the applications for which the District Council makes the final decision:

(I) Any application processed under the Transitional Provisions of this Subtitle (Section 27-1700, et. seq.).

This language will render applications of any type, including those that were never subject to District Council review under the prior Zoning Ordinance (such as use and occupancy, building, and grading permits), subject to District Council review. Since thousands of applications fall into these categories, Council review would not be practical, and it seems clear that this was not the Committee's intent.

Instead of the proposed language, the Planning Board offers the following language that could be incorporated as an amendment sheet by the District Council:

1. Remove Section 27-3301(b)(1)(I) from the bill.
2. Add Section 27-1700 to lines 1 and 16 on page 1 to indicate CB-92-2022 will be amending that Section.
3. Add a new proposed Subsection 27-1704(m) to pages 1-2 of CB-92-2022 (DR-2) to read:

SUBTITLE 27. ZONING.
PART 27-1. GENERAL PROVISIONS.
SECTION 27-1700. TRANSITIONAL PROVISIONS.

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

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(m) Notwithstanding any other requirement or provision of Section 27-1700, Section 27-1900, or the prior Zoning Ordinance, procedures and requirements pertaining to the District Council’s election to review authority shall not be applicable to any application proceeding under or subject to this Section 27-1700 or Section 27-1900.

This proposed revision greatly simplifies the intent regarding Council election to review under the prior Zoning Ordinance by clearly and directly waiving such procedures for all applications proceeding under the provisions of the prior Zoning Ordinance.

Impacted Property:

The additional language of proposed Subsection 27-3301(b)(1)(I) would impact all development activity, including simple change in ownership, throughout all of Prince George’s County when the owner/applicant chooses to proceed under the Transitional Provisions in, among other locations, Part 27-1700 of the new Zoning Ordinance.

Following discussion, the Planning Board voted to support sending comments to the District Council to remove proposed Subsection 27-3301(b)(1)(I) from CB-92-2022 (DR-2) and to prepare an amendment sheet or other appropriate means to amend CB-92-2022 (DR-2) to clarify the Council’s intent regarding the prior Zoning Ordinance election to review procedures.