



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

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Prince George's County Planning Board

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January 6, 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-12-2023 (DR-2), CB-13-2023, CB-14-2023,
CB-15-2023, CB-16-2023(DR-2), CB-17-2023
and CB-18-2023

Dear Chairman Dernoga:

Thank you for providing the Planning Board an opportunity to review and comment on proposed District Council legislation. During the January 5, 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 of each bill is attached for your consideration and a brief excerpt from each report is provided below:**

CB-12-2023 (DR-2) *This bill amends the current Zoning Ordinance to limit an applicant's ability to make use of certain enumerated text amendments that existed in the prior Zoning Ordinance and that were approved by prior Councils.*

Planning Board Recommendation: Oppose as drafted.
(See Attachment 1 for full analysis)

The Planning Board and the Planning Department have generally opposed site-specific text amendments because they reduce the uniformity and consistency of treatment that are core purposes of any zoning ordinance. The bill, as drafted, lacks clarity on the process used to determine the text amendments impacted by the legislation. The proposed legislation also does not state which types of development applications would be ineligible to proceed under CB-12-2023 (DR-2), using the prior Zoning Ordinance. In addition, at the time of enactment of the new Zoning Ordinance, many such text amendments had been approved and property owners may have been in the process of designing projects in reliance on those text amendments. One of the purposes of the transitional and grandfathering provisions of the new Zoning Ordinance was to give these property owners a reasonable period of time to apply under the prior ordinance, while at the same time repealing site-specific text amendments so that they would no longer be available after the grandfathering period.

Section 27-1900 established a two-year "grandfathering" period in which new applications utilizing the provisions of the prior Zoning Ordinance could be submitted and accepted. The two-year period was a policy choice by the Council that sought to balance property owners' near-term development plans with the goal of eventually eliminating site-specific text amendments. Reducing that two-year period is likewise a policy decision for the Council.

The Planning Board recommends that the bill be amended to clarify the process on how the text amendments discussed in this legislation were chosen, explain the types of development applications that are ineligible to file under the prior ordinance, and amend the bill to reflect the correct draft of each bill affected by this legislation.

***CB-13-2023** This bill amends the current Zoning Ordinance to repeal the text that allows certain properties that were in the Mixed Use -Transportation Oriented (M-X-T) Zone prior to the effective date of the new Zoning Ordinance to elect to conform to the requirements of the Commercial General Office (CGO) Zone.*

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

The Planning Board voted to oppose CB-69-2022, which added Section 27-1705 to the transitional and grandfathering provisions of the current Zoning Ordinance to permit former M-X-T zoned properties outside a Transit-Oriented/Activity Center or Neighborhood Conservation Overlay Zone to develop as if it had been assigned the CGO Zone instead of whatever zone was assigned to such property by the Countywide Map Amendment (CMA).

The legislation raised substantial policy implications and amounted to de facto changes in zoning that were not contemplated in the CMA and did not result from comprehensive or piecemeal rezoning procedures. These de facto rezonings occurred outside the normal procedures for rezoning available via the procedures of a Sectional Map Amendment, Zoning Map Amendment, or Planned Development (PD) Zoning Map Amendment.

CB-13-2023 allows properties to develop as recommended by the CMA, or to use the transitional provisions to develop under their prior zone, if applicable.

***CB-14-2023** This bill amends the current Zoning Ordinance to repeal the text of CB-77-2022 (DR-2), which gave developed properties and properties with an accepted application prior to April 1, 2024 the ability to develop under the prior Zoning and Subdivision Ordinances indefinitely.*

Planning Board Recommendation: Support.
(See Attachment 3 for full analysis)

The Planning Board voted to oppose CB-77-2022. CB-77-2022 was a short bill with extremely complex and wide-reaching impacts on the new Zoning Ordinance. It drastically altered the transitional rules that were placed in the new Zoning Ordinance by the Council in 2018 and 2021. The bill gave properties that were developed and constructed under the prior Ordinance or have an application for a building permit, preliminary subdivision plan, or a site plan filed by April 1, 2024, the ability to develop under the prior Zoning and Subdivision Ordinances in perpetuity

In addition, the bill placed the decision of whether to choose the prior Zoning Ordinance in the development or redevelopment of such properties in the hands of applicants. In so doing, it superseded the ability of the local government – including the Council – to require conformance to the new zoning regulations and procedures that resulted from nine years of collaborative effort. In effect, CB-77-2022 created a situation in which two Zoning Ordinances are in effect for Prince George’s County in perpetuity.

CB-15-2023 *This bill amends the current Zoning Ordinance to repeal the text of CB-78-2022 (DR-2), which amended Sections 27-4106 and 27-5101, development regulations for split-zoned properties.*

Planning Board Recommendation: Support.
(See Attachment 4 for full analysis)

The Planning Board voted to oppose CB-78-2022, which modified development regulations ("bulk regulations" such as minimum lot size, minimum front setback, minimum yard depths, minimum green area, maximum lot coverage, etc.), to require the application of the regulations of the highest-intensity zone unless the applicant of a development proposal on a split-zoned lot or parcel opts out. It would also require the highest intensity zone's use table to apply to the development of a split-zoned lot or parcel unless the applicant opts out. These mandates would supersede the regulations and uses of lesser-intensity zones. It must be noted that CB-78-2022 (DR-2) only affected record lots that may have received more than one zone through the adoption of the Countywide Map Amendment.

The repeal of CB-78-2022 (DR-2) and enactment of CB-15-2023 will affect a very small number of properties subject to Part 4 of the Council's Approved Guide to New Zones, which guided the Countywide Map Amendment technical rezoning process. Part 4 pertained to US 1 and the Innovation Corridor.

A few properties that qualified under the definition of "lot," specifically where it references "one or more record lots," received different zones on different record lots through the Countywide Map Amendment. The CMA did not so much result in split-zoned property as it resulted in different zones on different record lots owned by the same party.

CB-16-2023 (DR-2) *This bill amends the current Zoning Ordinance to repeal CB-79-2022 (DR-2). That bill revised the coverage and green area requirements for properties that were previously zoned Light Industrial (I-1) and which were undeveloped prior to the effective date of the new Zoning Ordinance and the Countywide Sectional Map Amendment (CMA) on April 1, 2022, and permitted distribution warehouses in the Industrial/Employment (IE) Zone by right and without the need of special exception approval for properties in the IE Zone that were formerly in the I-1 Zone and were undeveloped prior to April 1, 2022.*

Planning Board Recommendation: Support.
(See Attachment 5 for full analysis)

The development and approval of the new Zoning Ordinance by the Council was consistent in ensuring that vacant properties with no prior entitlements or approvals and no pending applications would use the regulations and procedures of the new Zoning Ordinance. CB-79-2022 ran counter to this consistent approach.

The Planning Board voted to oppose CB-79-2022 because it reduced the minimum green area requirement for properties meeting the criteria from 25 percent of the property to 10 percent and waived the lot coverage maximum of 45 percent, potentially allowing up to 90 percent of the

property to be covered. CB-79-2022 provided 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 bill created a considerable inequity among owners of IE properties and significantly eroded zoning principles of uniform application of zoning laws within zoning classifications.

***CB-17-2023** This bill would amend the Zoning Ordinance to limit the authority granted by CB-17-2019 (DR-4) to certain R-A properties. It would prohibit the development of townhouses and one-family attached dwelling units in the Residential Agricultural (R-A) Zone under the standards and regulations of the prior Zoning Ordinance unless an applicant had secured acceptance of an application and/or already proceeded to construction.*

Planning Board Recommendation: Oppose as drafted with amendments.

(See Attachment 6 for full analysis)

The Planning Board voted to oppose CB-17-2019 (DR-3) because the development of townhouses is not in keeping with the purposes of the former R-A Zone. The purposes of the R-A Zone were to provide large lot one-family detached dwellings while encouraging the retention of agriculture as a primary land use, and to encourage the preservation of trees and open spaces. However, the Planning Board opposes the bill as drafted because it does not, with clarity, state which types of development applications would be ineligible to proceed under CB-17-2023. In addition, the language within this bill could have been added to CB-12-2023 (DR-2) since they amend the same sections of the code.

The District Council should note that the 2022 Approved Bowie-Mitchellville and Vicinity Master Plan recommends that the properties located at 3600, 3702, and 3900 Church Road - Freeway Airport – be redeveloped with medium- density, attached, or detached single-family units.

This Master Plan language reflected the Council's policy decision to allow townhouses via CB-17-2019. If the District Council intends to prohibit townhouse and one-family attached dwelling units on this property, the Council may consider initiating a minor amendment to the 2022 master plan to revise these recommendations before approving the ongoing sectional map amendment for Bowie-Mitchellville and Vicinity.

Should the District Council not amend the master plan, it may choose to retain the subject property in its current AR Zone through the current SMA process or rezone back to AR in a future SMA. However, not amending the master plan would create an inconsistency between the applicable master plan recommendations and its zoning.

***CB-18-2023** This bill amends the current Zoning Ordinance to repeal text added to the Zoning Ordinance by CB-97-2022 which eliminated development standards for expedited transit-oriented development in the Local Transit-Oriented (LTO) Zone.*

Planning Board Recommendation: Support.
(See Attachment 7 for full analysis)

The Planning Board voted to oppose CB-97-2022, which undermined critical goals of the County's Zoning Rewrite project and the new Zoning Ordinance. The bill carved out a class of development and exempted that development from the regulations normally applicable in the LTO zone. These are the type of special carve-outs that rendered the prior zoning ordinance challenging to

administer. The new Zoning Ordinance applies clear, transparent, and consistent regulations to all similar development in a zone. CB-97-2022 did away with that consistency.

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