

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2023 Legislative Session

Reference No.: CB-016-2023

Draft No.: 2

Committee: PLANNING, HOUSING AND ECONOMIC DEVELOPMENT

Date: 1/9/2023

Action: FAV

REPORT:

Committee Vote: Favorable, 5-0 (In favor: Council Members Ivey, Blegay, Dernoga, Olson, and Oriadha)

The Planning, Housing and Economic Development (PHED) Committee convened on January 9, 2023, to consider CB-16-2023. The PHED Committee Director summarized the purpose of the legislation and informed the Committee of written comments received on referral. This bill amends the Zoning Ordinance to repeal a previously enacted amendment to the local zoning laws and restores the provisions in the new Zoning Ordinance as they existed prior to the enactment of CB-79-2022 concerning the lot coverage and green area requirements for previously I-1 (Light Industrial) zoned properties and permitting distribution warehouses in the IE (Industrial Employment) Zone.

The Planning Board supports the bill as explained in a January 6, 2023, letter to the Council Chairman with the following analysis:

Background:

CB-79-2022 (DR-2) was enacted on October 25, 2022.

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.

On December 12, 2022, the District Council enacted CR-3-2023, which suspended five legislative zoning amendments from taking effect until associated repeal bills are decided. CB-79-2022 (DR-2) is one of the five bills suspended by CR-3-2023 until final action takes place on CB-16-2023 (DR-2). CB-16-2023 (DR-2) would constitute the permanent repeal of CB-79-2022 (DR-2); the effective date was December 12, 2022.

Policy Analysis:

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.

The Planning Board staff is committed to a review of the intensity and dimensional standards and the use table for the new IE Zone. Planning Board staff are targeting January 2023 for this effort and will identify potential revisions for Council's review and consideration in a future substantive zoning bill. This approach would allow for a complete consideration of multiple factors and is preferable to a piecemeal legislative solution oriented to a subset of properties in the IE Zone.

The Chief Zoning Hearing Examiner submitted a January 3, 2023, memorandum to the PHED Committee Director with the following comments and suggested revisions:

"Thank you for the opportunity to provide comment on this bill that repeals CB-79-2022 and the changes that bill made to Sections 27-4203 and 27-5402 of the Zoning Ordinance (2019 Edition, 2022 Supplement).

It appears that the sponsors intent is to allow the "Distribution Warehouse" solely as a Special Exception use in the IE Zone and remove the language in Section 27-5402 that would have permitted this use by right if it is developed on certain property zoned I-1 prior to April 1, 2022. If that is the intent, I would recommend that the purpose clause on page 1, lines 3-5, be amended as follows:

For the purpose of repealing CB-079-2022 to only allow Distribution Warehouses by Special Exception in the IE (Industrial, Employment) Zone

On page 1, line 7, delete "reacting" and insert "reenacting".

On page 2, the revised table should remove the underlining of "Green area" since, as noted supra, that language currently exists in the Code."

Edward Gibbs, Law Offices of Gibbs and Haller, submitted a January 6, 2023, letter to PHED Committee Chair Ivey expressing opposition to CB-16-2023. Blake Esherick, 12405 Crain Holdings, LLC, submitted written testimony dated January 4, 2023, to Committee Chair Ivey in opposition to CB-16-2023.

Angie Rodgers, Deputy Chief Administrative Officer for Economic Development, addressed the Committee explaining the County Executive's position in opposition to CB-16-2023 as also expressed in the Executive's January 6, 2023, letter to Council Chairman Dernoga.

After public testimony, the Committee voted favorable on the legislation as drafted.