

## **CB-2-2023 – Planning Board Analysis (Attachment 1)**

This bill would amend the procedures for public notice, review, consideration, and approval of legislative amendments to the text of the Zoning Ordinance.

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

### **Bill Description:**

CB-2-2023 establishes a new mechanism for the initiation and approval of legislative text amendments to the Zoning Ordinance. The bill specifies initiation must come from a member of the District Council via direction to the Planning Board in writing to initiate a legislative amendment, or from the Planning Board with the written authorization of the District Council.

The bill requires the Planning Director to prepare the proposed amendment in consultation with the Council's Legislative Counsel within twenty-one calendar days of initiation and to issue a Technical Staff Report on the proposed amendment within fourteen days of its preparation. The Technical Staff Report must include an analysis of the following:

“(i) how the proposed amendment will facilitate or hinder implementation of the relevant guiding principles, policies, and strategies of Plan Prince George's 2035 (or any successor General Plan), or the relevant goals, policies and strategies of any affected Master Plan or Sector Plan; and

“(ii) how the proposed amendment will facilitate or hinder implementation of the strategies or priority recommendations of the Prince George's County Climate Action Plan.”

The Planning Board would be required to advertise and hold a public hearing to consider the proposed amendment, Technical Staff Report, and any public comments “as appropriate,” and make a recommendation, by resolution, on the proposed amendment in accordance with the legislative amendment decision standards.

The proposed amendment would then be transmitted to the District Council for the typical legislative process pursuant to the Rules of Procedure of the Council.

The Planning Board hearing would be required to be scheduled within thirty calendar days of the preparation of a proposed legislative text amendment, with a minimum public notification time of twenty-one calendar days prior to the date of the hearing. The hearing notice and copy of the proposed text amendment shall be transmitted by email to every person or organization registered with the Planning Department.

### **Policy Analysis:**

#### **Summary**

The Planning Board strongly supports the underlying intent of CB-2-2023 to provide for Planning Department involvement at the very beginning of the consideration of a possible legislative text amendment of the Zoning Ordinance (and we recommend similar consideration for the Subdivision Regulations). The Planning Board also strongly supports the goal of increasing public transparency when the Council considers text amendments. It is essential to the success of these new codes that staff be involved as early in the legislative process as possible.

However, the Planning Board believes the bill should be amended to better distinguish the Planning Department and Planning Board's advisory function from the Council's legislative function. Several proposed amendments are described below.

Amendment #1: (page 5, line 6): Reverse the wording to state "Within twenty-one (21) calendar days, the Council's Legislative Counsel shall prepare the proposed amendment in consultation with the Planning Director." Legislation should be drafted by the Council staff because legislating is a core Council function, and the Planning Department lacks capacity to draft all text amendments.

Amendment #2: (page 5, line 8): Retain the requirement in existing law that the Clerk of the Council transmit proposed text amendments to the Planning Director and require that the Director publish a technical staff report within 21 days (rather than the current 5 days) so that planning staff have adequate time to fully analyze the proposal. Require the Planning Board to hold a public hearing and make comments on the text amendment within 30 days of the date the proposed text amendment was transmitted by the Clerk, excluding days when the Planning Board is in recess.

Amendment #3: Require that the Planning Director's Technical Staff Report certify (or fail to certify if appropriate) the technical sufficiency of the proposed text amendment to ensure consistency with the legislative style and conventions of the current Zoning Ordinance. This proposed step would complement the Office of Law's determination of legal sufficiency of bills. This staff certification would be completely independent of planning staff's view of the merits of the legislation. The new zoning ordinance will quickly become as unworkable, and conflict riven as the prior ordinance if text amendments are not drafted in a way that fits correctly into the structure of the new ordinance. Requiring technical sufficiency of all text amendments is critical.

Amendment #4: Retain language in the current zoning ordinance which states that the PHED Committee may not hold a work session on the text amendment prior to the Planning Board's hearing. Adjust the deadline to acknowledge that the Planning Board now has 30 days from referral to transmit its comments.

Amendment #5: (page 5, line 22): Delete the requirement that the Board's comments be transmitted by a formal resolution. The Board's existing practice of communicating its recommendation via letter is sufficient. Requiring a resolution will add expense and delay without improving the end result.

Amendment #6: (page 5, line 4): Delete the requirement for written authorization by the District Council before the Planning Board may propose a text amendment. The current practice is that text amendments proposed by the Planning Board are presented by the Council Chair "at the request of the Planning Board." This practice is simpler, and the Council still retains the ability to approve presentation.

Finally, the Planning Board notes that lines 10-15 on page 5 require the Technical Staff Report to analyze the proposed amendment with reference to Plan Prince George's 2035, any affected Master Plan or Sector Plan, and the Prince George's County Climate Action Plan. There are many other kinds of analysis required for a legislative amendment, and the legislative history should make clear that the list on lines 10-15 is not exclusive.

**Impacted Property:**

CB-2-2023 would affect all property in that portion of the Regional District within Prince George's County – all County property except the City of Laurel.

Following discussion, the Planning Board voted to support CB-2-2023 with amendments.