

CB-5-2023 – Planning Board Analysis (Attachment 3)

This bill amends the Zoning Ordinance to alter the period of time that development of gas station principal uses may utilize the standards and regulations of the prior Zoning Ordinance.

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

Policy Analysis:

This bill would reduce the timeframe in which development of gas station principal uses could occur under the regulations of the prior Zoning Ordinance or Subdivision Regulations. Instead of the two-year period of time in which the prior Zoning Ordinance would be available for the development of land in the County pursuant to the provisions of Section 27-1900 of the current Zoning Ordinance, gas station uses would be limited to one year from the effective date of this legislation. No gas station may use the regulations of the prior Zoning Ordinance or Subdivision Regulations after April 1, 2023, unless an application has been filed and accepted as of that date.

The Planning Board notes all other uses would be permitted to use the provisions of the prior Zoning Ordinance and Subdivision Regulations until April 1, 2024. Additionally, should CB-5-2023 pass, it is conceivable it may take effect close in time to April 1, 2023, leaving little time for notification to potential applicants interested in gas station principal use development who may have intended to take advantage of development rights codified in Section 27-1900.

The ability of gas station uses to develop using the prior Zoning Ordinance or Subdivision Regulations is a policy decision of the District Council. The Planning Board notes for District Council's consideration that changing the transitional and grandfathering provisions for certain uses could lead to an inequity among businesses in the County.

The Planning Board recommends that the proposed language under Subsection (c) on page 2, line 11 be deleted from the bill. The proposed language adds confusion and contradicts the proposed language under letter (d) on lines 19 through 24 of the legislation. Basically, Subsection (c) is authorization of the use of the regulations of the prior Zoning Ordinance and such authorization would need to remain applicable to gas station uses.

The proposed language under Subsection (d) is the key language necessary to achieve the purpose of the bill in limiting the period of time in which proposed gas stations can use the standards and procedures of the prior Zoning Ordinance; the proposed language in Subsection (c) is unnecessary and could result in interpretation challenges.

Should the District Council choose to retain the proposed language under Subsection (c), the word "development" must be added before the word "proposals" on line 12 of page 2. The term "development proposals or permit applications" was the result of discussion and is essential to retain for clarity. A clearer rewording of Subsection (c) could also eliminate confusing duplication of terms on line 12; the Planning Board recommends the following language:

“(c) [Development] Except for a gas station principal use, development proposals or permit applications of any type for properties in all other zones of the County may utilize the prior Zoning Ordinance or Subdivision Regulations for development of the subject property.”

The proposed language of Subsection (d) should also be revised to reflect the phrase “gas station principal use” for consistency with the current Zoning Ordinance conventions.

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Finally, during the review of CB-5-2023, the Planning Board identified potentially confusing language in Subsection 27-1903(d) that could be corrected in this bill. Namely, the phrase “in accordance with the Zoning Ordinance and Subdivision Regulations in existence at the time of the acceptance of a development application” on lines 18 and 19 on page 2 could be read as contradictory to the purposes and other regulations of Section 27-1900.

The Planning Board recommends this phrase be reworded to read: “shall be reviewed in accordance with the prior Zoning Ordinance and Subdivision Regulations [in existence at the time of the acceptance of a development application.]”

Impacted Property:

The legislation will affect future gas station development applications when the applicant wishes to use the provisions of Section 27-1900 to develop under the regulations of the prior Zoning Ordinance.

Following discussion, the Planning Board voted to take no position with technical amendments on CB-5-2023. Limiting the development of gas station uses is a policy decision for the District Council.