

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2023 Legislative Session

Reference No.: CB-005-2023

Draft No.: 2

Committee: PLANNING, HOUSING AND ECONOMIC DEVELOPMENT

Date: 1/19/2023

Action: FAV (A)

REPORT:

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

The Planning, Housing and Economic Development (PHED) Committee convened on January 19, 2023, to consider CB-5-2023. 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 concerning the time that applications for gas station uses can be reviewed in accordance with the provisions of the prior Zoning Ordinance.

The Planning Board voted to take no position with technical amendments on the bill as explained in a January 12, 2023, letter to the Council Chairman:

“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 and not others 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.

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.]”

The Chief Zoning Hearing Examiner (ZHE) submitted a January 10, 2023, memorandum to the PHED Committee Director with the following suggested technical revisions:

1. The bill does not amend the most recent version of Sec. 27-1903 which was revised upon the enactment of CB-68-2022. That bill deleted “in existence at the time of the acceptance of a development application” still shown on p. 2, lines 18- 19.
2. On p, 2, line 10 some revision is required to the language being added (“development use development proposals”). Perhaps it would be less subject to interpretation to say “Except for Gas Station development proposals or permit applications, development proposal or permit applications of any type”
3. Finally, the new language on page 2, lines 19-23 can be interpreted to allow the use of the prior Zoning Ordinance for the development of a Gas Station for a period of one year after the effective date of CB-5-2023. That date would probably occur relatively close to April 1, 2024. If this is not the sponsors intent, further revision is necessary.

The Committee reviewed a Proposed Draft-2 (DR-2) prepared at the bill sponsor’s request to address the comments and suggested amendments from the Planning Board and ZHE with the following revisions on page 2:

(c) ~~[Development] Except for Gas Station development use development proposals,~~ 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.

(d) Notwithstanding the abrogation provisions in Section 27-1901, if an application that elects to utilize the prior ordinance for development of uses other than a gas station PRINCIPAL use is filed and accepted within 2 years from the effective date of this ordinance, the development project 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] . For applications electing to utilize the prior ordinance for development of a gas station PRINCIPAL use, if the application is filed and accepted within 1 year from the effective date of this Ordinance, the development project shall be reviewed in accordance with the PRIOR Zoning Ordinance and Subdivision Regulations in existence at the time of the acceptance of the Gas Station development application

Angie Rodgers, Deputy Chief Administrative Officer for Economic Development, addressed the Committee indicating that the County Executive takes no position on the legislation and awaits additional legislation concerning the new Zoning Ordinance grandfathering provisions.

Edward Gibbs, Daniel Lynch and Robert Antonetti provided testimony expressing their concerns with the bill’s potential effect on pending applications for gas station uses.

Based on comments and concerns expressed during public testimony, Council Chair Dernoga, the bill sponsor, suggested additional amendments to Section 27-1903 (d) in Proposed DR-2 to clarify the time period for existing gas station renovation applications to use the prior Zoning Ordinance.

On a motion by Council Chair Dernoga and second by Council Vice-Chair Blegay, the Committee voted favorable on CB-5-2023 Proposed DR-2 including direction to Zoning and Legislative Counsel to incorporate additional amendments concerning gas station renovation applications.