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FISCAL AND POLICY NOTE
Revised

House Bill 938 (Montgomery County Delegation and Prince George's
County Delegation)

Environment and Transportation Education, Health, and Environmental Affairs

**Prince George's County - Maryland-Washington Regional District - Fairness in
Zoning
MC/PG 112-15**

This bill modifies State law governing the availability of judicial and district council review of certain land use decisions, including subdivision approval decisions, in Prince George's County. The bill also addresses actions of the district council in Prince George's County with respect to an appeal from a decision of a zoning hearing examiner and the timing of decisions by the zoning hearing examiner in Prince George's County.

Fiscal Summary

State Effect: The bill does not directly affect State finances.

Local Effect: The bill is not expected to have a direct, material impact on Prince George's County finances, provided additional resources are not needed to meet the time limitations on zoning hearing examiner decisions.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Judicial Review

The bill requires that existing specified persons or entities authorized to request judicial review of a final decision of the district council in Prince George's County be aggrieved by the decision in order to request judicial review. The bill also includes the owner of the property that is the subject of the decision among those authorized to request judicial review of a final decision, if aggrieved.

Also in Prince George's County, the bill repeals the ability of a person that appeared at a hearing on an application for subdivision approval in person, by attorney, or in writing, but is not aggrieved by the county planning board's final action, to request judicial review.

District Council Review

In Prince George's County, the bill requires that a person be aggrieved and have appeared at the hearing before the zoning hearing examiner or planning board in person, by an attorney, or in writing in order to make a request to the district council for the review of a decision of the zoning hearing examiner or the planning board. The review must also be expressly authorized under Division II of the Land Use Article (which consists of land use provisions applicable to Montgomery and Prince George's counties).

Zoning Hearing Examiner Decisions

The bill requires, in Prince George's County, that the zoning hearing examiner issue a decision on a zoning matter not more than 100 days after the date of the last hearing held by the hearing examiner. When the district council in Prince George's County is hearing an appeal from a decision of a zoning hearing examiner, it (1) may remand the zoning matter back to the zoning hearing examiner only one time and (2) must specify that the zoning hearing examiner take action within 30 days after the matter is remanded and relevant information is received from the applicant or the district council.

Current Law:

District Council in Prince George's County

The district council in Prince George's County (the county council, when acting on planning and zoning matters within the portion of the Maryland-Washington Regional District located in Prince George's County) is given specified authority under Division II

of the Land Use Article to adopt and amend the text of the zoning law for the county, including specified procedures, and any map accompanying the text of the zoning law. The Maryland-Washington Regional District consists of, in Prince George's County, the entire area of the county except for the City of Laurel as it existed on July 1, 2013.

Judicial review in the circuit court, of a final decision of the district council, including an individual map amendment or a sectional map amendment, may be requested by (1) any municipal corporation, governed special taxing district, or person in the county; (2) any civic or homeowners association representing property owners affected by the final decision; or (3) if aggrieved, the applicant.

Planning Board

In Montgomery County and Prince George's County, a county planning board is responsible for planning, subdivision, and zoning functions that are primarily local in scope and exercises, within the county planning board's jurisdiction, the following powers: (1) planning; (2) zoning; (3) subdivision; (4) assignment of street names and house numbers; and (5) any related matter. A county planning board has exclusive jurisdiction over local functions, including (1) the administration of subdivision regulations; (2) the preparation and adoption of recommendations to the district council with respect to zoning map amendments; and (3) the assignment of street names and house numbers in the regional district.

Within 30 days after the county planning board takes final action on an application for subdivision approval, judicial review may be requested by a person aggrieved by the action or a person or municipal corporation that appeared at the hearing in person, by attorney, or in writing. A petition for judicial review may be made to the circuit court for the appropriate county.

Zoning Hearing Examiner

Procedures and zoning laws established by a district council may include provisions for hearings and preliminary determinations by an examiner, a board, or any other unit. An Office of the Zoning Hearing Examiner is established under the Prince George's County zoning ordinance, and the zoning hearing examiner is authorized to conduct hearings and issue decisions on various zoning matters subject to specified procedural requirements.

Background:

Planning and Zoning in Prince George's County

A citizen's handbook published by the Maryland-National Capital Park and Planning Commission (M-NCPPC), describes planning and zoning functions in Prince George's County as being administered by multiple entities, including the Prince George's County Planning Board (made up of the 5 Prince George's County members of the 10-member M-NCPPC) and its Planning Department staff; the district council; the Office of the Zoning Hearing Examiner; and the Board of Zoning Appeals. The information in the handbook is identified as being largely drawn directly from the county's zoning ordinance and subdivision regulations.

The handbook explains that the Planning Board, Planning Department, district council, and zoning hearing examiner all have a role in the approval of zoning map amendments applicable to single parcels of land. The zoning hearing examiner, however, holds the official county zoning hearings (the record for which includes the Planning Department's technical staff report and the Planning Board's recommendation) and makes a decision on the application that is forwarded to the district council, which takes the final action on the application. The district council's action may be appealed to circuit court. The county government can also initiate broader rezoning of geographic areas through "sectional map amendments." Applications for special exceptions (for the use of a property) are processed in a similar manner as zoning map amendments for single parcels of land, although the zoning hearing examiner makes the final decision, which may be appealed to the district council. Variances (allowing for relief from strict application of certain zoning requirements) are authorized by the Board of Zoning Appeals, and the Planning Board and district council may also grant variances associated with development applications on which they take final action.

Some developments can be subject to an in-depth review process called "site plan review" as a result of a requirement in the county's zoning ordinance, or as a condition of a preliminary plan (initial step in the subdivision process), special exception, or zoning map amendment approval. The Planning Board holds public hearings on site plan reviews and may approve, approve with conditions, or deny the site plan. The board's decision can be appealed to the district council, or the district council may, on its own motion, choose to review the decision.

Local Fiscal Effect: The bill is not expected to have a direct, material impact on Prince George's County finances, assuming the time limitations on zoning hearing examiner decisions can be handled with existing resources. To the extent additional personnel are needed to meet those requirements, county expenditures increase.

Small Business Effect: To the extent the bill's changes affect the outcome and/or length of the process of the approval or denial of a zoning/development request, a small business involved in the request or that is otherwise affected by the outcome may be meaningfully impacted.

Additional Information

Prior Introductions: None.

Cross File: SB 564 (Senator Peters, *et al.*) - Education, Health, and Environmental Affairs.

Information Source(s): Maryland Department of Planning; Judiciary (Administrative Office of the Courts); Maryland-National Capital Park and Planning Commission, *A Citizen's Handbook: Planning, Zoning, and Development Review in Prince George's County*; Department of Legislative Services

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