

PRINCE GEORGE'S COUNTY COUNCIL
AGENDA ITEM SUMMARY

Meeting Date: 5/6/2003

Reference No.: CB-10-2003

Proposer: Dean

Draft No.: 2

Sponsors: Dean

Item Title: An Ordinance modifying the requirements for eating or drinking establishments in the I-3 Zone.

Drafter: Jackie Brown, Director
PZED Committee

Resource Eugene Singleton
Personnel: Legislative Aide

LEGISLATIVE HISTORY:

Date Presented: 2/25/2003

Executive Action: ___/___/___

Committee Referral: 2/25/2003 PZED

Effective Date: 6/23/2003

Committee Action: 3/12/2003 FAV(A)

Date Introduced: 3/25/2003

Public Hearing: 5/6/2003 10:00 A.M.

Council Action: 5/6/2003 ENACTED

Council Votes: PS:A, MB:A, SHD:A, TD:A, CE:A, DCH:A; TH:A, TK:A, DP:A

Pass/Fail: P

Remarks: _____

PLANNING, ZONING & ECON. DEV. COMMITTEE REPORT DATE: 3/12/03

Committee Vote: Favorable with amendments, 3-0-2 (In favor: Council Members Harrington, Dernoga and Dean. Abstained: Council Members Exum and Knotts)

Staff summarized the purpose of the bill and explained the proposed modifications to the requirements for certain restaurants in the I-3 Zone. The modifications are proposed for restaurants within industrial parks containing between 25 and 99 acres of land. CB-10-2003 proposes to lower the minimum seating capacity from 150 to 100 seats and allow for some ancillary carryout service. The bill also would not permit counter- or cafeteria-style service, which is currently allowed, and change the hours of operation (starting time) from 11:00 A.M. to 5 A.M. These proposed requirements are different from those for larger parcels, on which limited types of this service are allowed and the starting time is prescribed at the time of site plan review.

The following referral comments were received on the bill. The Office of Audits and Investigations determined there should not be any negative fiscal impact on the County as a result of enacting CB-10-2003. The Legislative Officer and the Office of Law find the bill to be in proper legislative form. The Principal Counsel noted that the bill seems to be tailored to a specific use and specific user and that zoning bills are best suited to setting general rules for a number of uses or properties, not site-specific restrictions for a single user. But it should also be said that this proposed bill, user-specific or not, merely amends CB-21-1987, which was itself tailored to one or more specific users. That is, the present user-specific legislation is modifying earlier use-specific legislation, from 1987. The Principal Counsel also offered the following amendments for the Committee's consideration:

1. Section 27-473(b)(1)(A)(v)(cc) concerns eating or drinking establishments, within industrial parks of between "25 and 99" acres. But the next higher categories, (aa) and (bb), are for industrial parks "[o]f at least 100 acres," and there is an unintended, uncovered group, the parks between 99 and 100 acres. (A 99.5-acre park doesn't fit any category description.)

This oversight, encoded in the Zoning Ordinance many years ago, can be corrected (for all but parks of precisely 100.0000 acres) by changing "99" to "100" in (cc).

2. It is not clear what is intended in the amendment to paragraph (D) of footnote 10. The prohibition on "counter" and "cafeteria style" service is deleted, but then the general rule, that customer service is to be "at table side," is left alone, retained as is. The rule of the paragraph after approval of the bill will be the same as it was before.
3. The amendment to paragraph (E) of footnote 10 essentially eliminates the start-time restriction. Changing the opening-hour restriction from 11:00 A.M. to 5:00 A.M. means that all but 24-hour operations are allowed. If the intention is to allow any opening time, then perhaps paragraph (E) can be deleted, or replaced by language permitting all but 24-hour restaurants.

The Planning Board supports the bill and provided the following staff comments. The proposed change does not appear to apply only to one property, and, thus, would apply to all properties zoned I-3 of moderate size. Staff has no reason to think that the proposed changes would have an adverse impact on any of the other uses allowed in the I-3 Zone or preclude the use of the zone for its primary purposes of industry and employment any more than other permitted restaurants. Staff is not aware of any nonconforming situations that would result from approval of the bill. However, staff does not conclude that counter- or cafeteria-style service would be inappropriate on moderately sized parcels. For example, excluding counter service might preclude establishments such as the Silver Diner from locating in the I-3 Zones. Staff also believes that establishing earlier hours during the site plan review process would be appropriate and consistent with the requirements for restaurants on larger parcels.

Norman Rivera, of Rifkin, Livingston, Levitan & Silver, LLC, spoke in support of the legislation explaining that the bill is intended to facilitate the development of a sit-down restaurant on I-3 property, known as Largo Commons, adjacent to the Largo Town Center. Mr. Rivera

commented that in order to accommodate a restaurant that serves breakfast, as desired by the community, modifications to the existing requirements are necessary.

The Committee discussed the Principal Counsel and Planning Board comments in relation to whether there is still a need for the existing footnote “10” since it appears to have been originally added to the Code for the same property. Additionally, since Detailed Site Plan review is a requirement of the I-3 Zone, many of the limitations in the footnote, such as seating capacity and hours of operation can be addressed at that time, with no need for the footnote to be amended or to even remain in the Code. Council Member Dernoga commented that the language in the footnote that prohibits a fast food restaurant should remain and that it could be inserted in the table.

The Committee voted favorably on CB-10-2003 with the following amendments as shown in Draft 2: “delete footnote 10 in its entirety”, in Sec. 27-473(b)(1)(A)(v)(cc) change “99” to “100” and at the end of that line insert “, excluding fast food restaurant” so that the line reads: “Of between 25 and 100 acres, excluding a fast-food restaurant.

BACKGROUND INFORMATION/FISCAL IMPACT

(Includes reason for proposal, as well as any unique statutory requirements)

Eating or Drinking Establishments are permitted by right or by special exception in Industrial Zones. Within an industrial park of between 25 and 99 acres, the use is permitted by right, subject to certain requirements, in the I-3 Zone, and by special exception, in the I-1, I-2, I-4 and U-L-I Zones. This legislation modifies the requirements in the I-3 Zone.

CODE INDEX TOPICS: