

CB-80-2022 – Planning Board Analysis (Attachment 5)

This bill is described as a bill to amend the Zoning Ordinance to clarify the definition of convenience store uses; to amend the Use Regulations to add a minimum distance requirement between specific convenience store uses and other specified uses; renumbering Section 27-5102 of the Zoning Ordinance; and generally relating to convenience store use regulations in furtherance of the general health, safety, and welfare of the residents of Prince George's County.

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

Policy Analysis:

The Planning Board notes the description of the bill is not fully reflective of the conventions appropriate for the new Zoning Ordinance. There is no need to capitalize “convenience” in the purpose statement. The reference to “use regulations” should not be capitalized and should instead read “use-specific standards.” Finally, it is unnecessary to mention “renumbering Section 27-5102 of the Zoning Ordinance” because the bill already indicates amending the use-specific standards (“use regulations”), of which any numbering in Section 27-5102 is a consequence of adding use-specific standards and should not be called out in the purpose statement.

CB-80-2022 amends the definition of convenience store to prohibit more than 50 percent of the retail sales to be garnered from the sale of tobacco, tobacco products or accessories, electronic cigarettes, or other electronic devices for on or off-site consumption.

The prohibition of sales of tobacco and tobacco products is a policy decision to be made by the District Council. The District Council should also note that the proposed legislation could be difficult to enforce. How will a determination be made on how sales within the convenience store relate to tobacco, tobacco products or accessories, electronic cigarettes, or other electronic devices? Who will measure and enforce the proposed distance criteria to other convenience stores? How are “convenience stores” to be determined – by use and occupancy permit review? By another means? The Planning Department defers to the Department of Permitting, Inspections, and Enforcement staff for additional comments on these important operational issues.

If the District Council moves forward with the proposed legislation the language on page 3, lines 13 through 14, prohibiting a convenience store from being within 2,000 feet of another convenience store, tobacco shop, electronic cigarette shop or retail tobacco business should be amended. The proposed use-specific standard should require the permit site plan or detailed site plan to show that the boundaries of the convenience store property are not within 2,000 feet of another convenience store, tobacco shop, electronic cigarette shop or retail tobacco business.

Importantly, should the Council move forward with CB-80-2022, the bill must be revised to incorporate all four principal use tables in Part 27-5 to provide the necessary cross reference in the “use-specific standards” column of the use tables to the proposed new Section 27-5102(e)(9)(D) use-specific standards.

Finally, staff notes the new Zoning Ordinance already requires special exception approval for any proposed tobacco, electronic cigarette, or retail tobacco business, which provides the maximum opportunity to regulate these uses through zoning. No zone permits these uses by-right.

Impacted Property:

This bill will affect 109 convenience stores in the County, of which 41 are within 2,000 feet of another convenience store.

CB-80-2022 is a policy decision to be made by the District Council. Should the Council wish to proceed with this bill, amendments should be made to properly cross-reference the convenience store use to the proposed new use-specific standard and to require the permit site plan or detailed site plan to show that the boundaries of the convenience store property are not within 2,000 of another convenience store, tobacco shop, electronic cigarette shop or retail tobacco business.

Following discussion, the Planning Board voted to take no position on CB-80-2022 with amendments.