

(301) 952-3561

May 2, 2019

The Honorable Todd M. Turner
Chair
Prince George's County Council
County Administration Building
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: CB-13-2019, CB-14-2019, CB-17-2019,
CB-18-2019 and CB-19-2019

Dear Chairman Turner: *Yoddd*

Thank you for providing the Planning Board an opportunity to review and comment on proposed District Council legislation. During the May 2, 2019 Planning Board meeting, the following positions were adopted after very close consideration in accordance with the planning staff's recommendations on the proposed legislation. **A Planning Board Analysis of each bill is attached for your consideration and a brief excerpt from each report is provided below:**

***CB-13-2019** amends Section 27-461 (Uses Permitted in Commercial Zones.) by adding a new footnote to the Commercial Office (C-O) Zone under "Eating or Drinking establishment, with drive-through service".*

Planning Board Recommendation: With the inclusion of the amendment(s) the Planning Board supports the bill.

(See Attachment 1 for full analysis)

The Planning Board believes this bill was drafted for a specific property. There are approximately seven (7) properties that could be impacted by this bill.

The Planning Board would like to add two (2) technical amendments. On page 2 under footnote 76 add the word "a" in front of the words "functional transportation classification".

***CB-14-2019** amends Section 24-107.01 (Definitions.) by reusing the definition for "Urban farm" to align with the definition under the Zoning Ordinance Rewrite.*

Planning Board Recommendation: With the inclusion of the amendment(s) the Planning Board supports the bill.

(See Attachment 2 for full analysis)

Perhaps the title and purpose statement should be amended by adding the word "generally" in front of the word "align".

This change would clarify that the proposed definition “generally aligns” with the “Urban farm” definition enacted under CB-13-2018, as the Planning Board notes minor revisions have been incorporated in the proposed definition.

On page 1, line 4 delete the word “farm” behind the word “urban” and replace with the word “Agriculture”. The new Zoning Ordinance renamed the “Urban farm” use to “Urban Agriculture”.

CB-17-2019 amends Section 27-441(b) (Uses Permitted in Residential Zones) by adding a new footnote under “Dwelling, One-family detached (in general)” and “Townhouse, all others” in the Residential Agricultural (R-A) Zone.

Planning Board Recommendation: Oppose with amendments

(See Attachment 3 for full analysis)

The Planning Board believes this bill was drafted for a specific property. There are approximately two hundred sixty-two (262) properties that meet the criteria of (a) (i), (ii), and (iv) of the footnote. The Planning Board has been unable to identify all properties meeting the criteria of (a)(iii) because the Department does not have records which list land “formerly used as an airport.” The Planning Board believes there are four (4) operating airports in the County currently. One (1) operating airport, Freeway Airport, contains land zoned R-A and would meet the criteria of CB-17-2019 if the airport ceased to operate.

The purposes of the R-A Zone are to provide large lot one-family detached dwellings, while encouraging the retention of agriculture as a primary land use; and to encourage the preservation of trees and open spaces. Permitting townhouses in this zone is not appropriate.

If the District Council intends to enact this bill the language under footnote 134(b) should be deleted and replaced with new language.

CB-18-2019 amends Section 27-107.01(a) (Definitions.) by adding a new definition for “Merchandise Logistics Center”. Next, the bill amends the definition for “Regional Urban Community” by adding language which permits employment or a major employment use or center consistent with County economic development strategies as permitted uses.

Planning Board Recommendation: With the inclusion of the amendment(s) the Planning Board supports the bill.

(See Attachment 4 for full analysis)

The Planning Board recommends adding the use to the M-X-T Zone and the Comprehensive Design Zones Tables of Uses if the District Council would like to permit the use in those zones.

CB-19-2019 amends Section 27-554 (Regulations.) and 27-546 (Site Plans.) in the Mixed Use – Transportation (M-X-T) Zone. Section 27-544 adds regulations for a major employment use or center identified after the adoption of the applicable Sector Plan. The Conceptual Site Plan may be amended to provide appropriate guidelines for the development to be applied at Detailed Site Plan (DSP) review to integrate the use into the surrounding development pattern. Next, Section 27-546 amends the site plan requirements by including language for a major employment use or center which is consistent with the economic development strategies of the Sector Plan or General Plan.

Planning Board Recommendation: With the inclusion of the amendment(s) the Planning Board supports the bill.

(See Attachment 5 for full analysis)

On page 3, lines 18 through 23, the sentences "The Planning Board or the District Council shall find that the proposed guidelines will not adversely affect the surrounding residential community. The Planning Board or the District Council shall consider noise, height of the building, setbacks from surrounding properties, street frontages and sufficiency of green area when determining the proposed development's effect on surrounding residential communities" are not regulations but instead seem to be a required finding for approval. It is not appropriate to incorporate findings in regulations; therefore, the Planning Board recommends the Council relocate (and adapt as may be necessary) this language to the required findings for the approval of Conceptual Site Plans in Section 27-276(b) of the Zoning Ordinance.

On page 4, lines 4 through 6 should be amended. Delete the words "or include a major employment use or center which is consistent with the economic development strategies of the Sector Plan or General Plan" and replace with the words "or alternate guidelines approved pursuant to Section 27-544(f)(2)(I)." This revised language clarifies the language under this section should mirror the language under the M-X-T Zone regulations.

Next, the Planning Board believes that Sections 27-544(c)(1) and 27-548 (j) of the M-X-T Zone regulations should be added to the bill and the language under these sections should be amended. It will be challenging for design standards commensurate with and supportive of certain types of major employment use or center, such as a Merchandise Logistics Center, for example, to meet the current requirement under Section 27-544(c) the "design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or the Sectional Map Amendment Zoning Change, and a referenced exhibit of record for the property shall provide guidance for the development regulations to be incorporated into the Conceptual Site Plan" or the requirement in Section 27-548(j) that such design standards "be based on the design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or the Sectional Map Amendment Zoning Change and any referenced exhibit of record for the property."

The provisions of the Zoning Ordinance addressed by this bill pertain solely to property within the 2007 Approved Westphalia Sector Plan and Sectional Map Amendment; the development concept recommended for the Westphalia Core is a vertical mixed-use, urban, transit-oriented development.

This development concept, or the design guidance provided for this concept in the Sector Plan, cannot be amended through approval of a Conceptual Site Plan. While Conceptual Site Plan applications are required to be guided by [27-544(c)] and “be based on” these guidelines, there are many types of “major employment use or center” uses, such as a Merchandise Logistics Center, whose design may be incongruent with a vertical mixed-use, walkable neighborhood. The purpose of CB-19-2019 is to accommodate such uses; this is challenging without amending these provisions. The Planning Board recommends adding references to alternate development regulations pursuant to Section 27-544(f)(2)(I) to Sections 27-544(c)(1) and 27-548(j), as follows:

Section 27-544(c)(1) would read: For property not subject to the provisions of Section 27-44(f)(2)(I), the [The] design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or the Sectional Map Amendment Zoning Change, and a referenced exhibit of record for the property shall provide guidance for the development regulations to be incorporated into the Conceptual Site Plan.

Section 27-548(j) would read: As noted in Section 27-544(b), which references property placed in the M-X-T Zone through a Sectional Map Amendment approved after October 1, 2006, and for which a comprehensive land use planning study was conducted by Technical Staff prior to initiation, regulations for Conceptual or Detailed Site Plans (such as, but not limited to density, setbacks, buffers, screening, landscaping, height, recreational requirements, ingress/egress, and internal circulation) should be based on the design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or the Sectional Map Amendment Zoning Change and any referenced exhibit of record for the property. This regulation also applies to property readopted in the M-X-T Zone through a Sectional Map Amendment approved after October 1, 2006 and for which a comprehensive land use planning study was conducted by Technical Staff prior to initiation of a concurrent Master Plan or Sector Plan (see Section 27-226(f)(3) of the Zoning Ordinance). Notwithstanding the above, this regulation does not apply to property subject to the provisions of Section 27-544(f)(2)(I).

This change would delete the conflicts that would exist in the Zoning Ordinance between Sections 27-544(c)(1) and 27-548(j) and Section 27-544(f)(2)(I).

As always, Planning Department staff members are available to work with the Council and your legislative staff on any pertinent legislative matters. Please let us know if we may be of further assistance.

Should you have questions, please do not hesitate to contact the Office of the Planning Director at 301-952-3595. Thank you, again, for your consideration.

Sincerely,



Elizabeth M. Hewlett
Chairman

Attachments

CB-13-2019 – Planning Board Analysis (Attachment 1)

CB-13-2019 amends Section 27-461 (Uses Permitted in Commercial Zones.) by adding a new footnote to the Commercial Office (C-O) Zone under “Eating or Drinking establishment, with drive-through service”. Footnote 76 permits the use by right provided: (A) the use is located on a lot(s) or parcel(s) of less than one (1) acre in size; (B) the property has frontage on both a roadway with a functional transportation classification of arterial and a roadway with a function transportation classification of collector on the applicable Master Plan; (C) the drive-through service facility shall be designed to avoid obstruction to pedestrian movement along sidewalks, through public use areas, or between parking spaces and building entrances, and to provide a minimum of six (6) stacking spaces measured from the order box; and (D) the design of any roof or awning over the drive-through service facility and lanes, including any supporting columns and brackets, shall match the design and exterior building materials of the principal building.

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

The Planning Board believes this bill was drafted for a specific property. There are approximately seven (7) properties that could be impacted by this bill. There are three (3) properties in Council District 4, one (1) property located in Council Districts 3, 5, 7 and 8. Zero (0) properties located in Council Districts 1, 2, 6, and 9.

The Planning Board would like to add two (2) technical amendments. On page 2 under footnote 76 add the word “a” in front of the words “functional transportation classification”. The language would read: “The property has frontage on both a roadway with a functional transportation classification of arterial and a roadway with a functional transportation classification of a collector”.

The new Zoning Ordinance will consolidate the C-O Zone into the Commercial General and Office (CGO) Zone. “Eating or Drinking Establishment” uses – restaurant, quick-service” will be permitted by right subject to specific – use standards.

Following discussion, the Planning Board voted to support CB-13-2019 with the inclusion of the amendment(s).

CB-14-2019 – Planning Board Analysis (Attachment 2)

CB-14-2019 amends Section 24-107.01 (Definitions.) by reusing the definition for “Urban farm” to align with the definition under the Zoning Ordinance Rewrite.

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

Perhaps the title and purpose statement should be amended by adding the word “generally” in front of the word “align”. This change would clarify that the proposed definition “generally aligns” with the “Urban farm” definition enacted under CB-13-2018, as the Planning Board notes minor revisions have been incorporated in the proposed definition.

On page 1, line 4 delete the word “farm” behind the word “urban” and replace with the word “Agriculture”. The new Zoning Ordinance renamed the “Urban farm” use to “Urban Agriculture”.

On page 2, line 18 delete the words “Urban farm” and replace with the words “Urban Agriculture”. Line 27 the roman numeral “II” behind the word “Part” should be deleted and replaced with the number “11”. The Planning Board realizes this language is bracketed for deletion, but if the District Council decides to retain parts of the existing definition the language should be corrected to read “Part 11”.

Line 29 add the word “of” behind the word “raising”. The language would read: “the limited keeping and raising of bees”.

Line 31 delete the words “Urban farm” and replace with the words “Urban Agriculture”.

In addition, on page 3, lines 3, 6 and 8 delete the words “Urban farm” and replace with the words “Urban Agriculture”.

Following discussion, the Planning Board voted to support CB-14-2019 with the inclusion of the amendment(s).

CB-17-2019 – Planning Board Analysis (Attachment 3)

CB-17-2019 amends Section 27-441(b) (Uses Permitted in Residential Zones.) by adding a new footnote under “Dwelling, One-family Detached (in general)” and “Townhouse, all others” in the Residential Agricultural (R-A) Zone. Footnote 134 permits the uses and the uses may be developed pursuant to the density and net lot area requirements of the Residential Townhouse (R-T) Zone provided: (a) the use is located on an assemblage of land that (i) is no more than one hundred forty (140) acres in size; (ii) is located within one (1) mile of a municipal boundary; (iii) all or a portion of the land was formerly used as an airport; and (iv) has frontage on a public right-of-way classified as an arterial or higher in the Master Plan Transportation and is maintained by the State Highway Administration; (b) a Detailed Site Plan (DSP) shall be approved in accordance with Part 3, Division 9, of this Subtitle. Regulations concerning the net lot area, lot coverage and green area, lot/width frontage, yards, building height, density, accessory buildings, private streets, minimum area for development, and other requirements of the R-A Zone shall not apply. All other development requirements shall be established by and shown on the approved DSP.

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

The Planning Board believes this bill was drafted for a specific property. There are approximately two hundred sixty-two (262) properties that meet the criteria of (a) (i), (ii), and (iv) of the footnote. The Planning Board has been unable to identify all properties meeting the criteria of (a)(iii) because the Department does not have records which list land “formerly used as an airport.” The Planning Board believes there are four (4) operating airports in the County currently. One (1) operating airport, Freeway Airport, contains land zoned R-A and would meet the criteria of CB-17-2019 if the airport ceased to operate.

The purposes of the R-A Zone are to provide large lot one-family detached dwellings, while encouraging the retention of agriculture as a primary land use; and to encourage the preservation of trees and open spaces. Permitting townhouses in this zone is not appropriate.

If the District Council intends to enact this bill the language under footnote 134(b) should be deleted and replaced with new language. The current language is not clear and does not seem to include compliance with the Landscape Manual, signage, and the Park and Loading Standards. In addition, the R-T Zone regulation language contradicts the language establishing all regulations on the DSP. The revised language would read: "A Detailed Site Plan shall be approved in accordance with Part 3, Division 9, of this Subtitle. Regulations concerning the net lot area, lot coverage and green area, lot/width frontage, yards, building height, density, accessory buildings, private streets, and minimum area for development of the R-A Zone shall not apply, but all R-T Zone development regulations shall apply and be shown on the approved Detailed Site Plan."

Following discussion, the Planning Board voted to oppose CB-17-2019 with amendments.

CB-18-2019 – Planning Board Analysis (Attachment 4)

CB-18-2019 amends Section 27-107.01(a) (Definitions.) by adding a new definition for “Merchandise Logistics Center”. Next, the bill amends the definition for “Regional Urban Community” by adding language which includes employment or a major employment use or a center consistent with the County economic development strategies as permitted uses.

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

The Planning Board recommends adding the use to the M-X-T Zone and the Comprehensive Design Zones Tables of Uses if the District Council would like to permit the use in those zones.

Following discussion, the Planning Board voted to support CB-18-2019 with the inclusion of the amendment(s).

CB-19-2019– Planning Board Analysis (Attachment 5)

CB-19-2019 amends Sections 27-544 (Regulations.) and 27-546 (Site Plans.) in the Mixed Use -- Transportation (M-X-T) Zone. Section 27-544 adds regulations for a major employment use or center identified after the adoption of the applicable Sector Plan. The Conceptual Site Plan (CSP) may be amended to provide appropriate guidelines for the development to be applied at Detailed Site Plan (DSP) review to integrate the use into the surrounding development pattern. The guidelines may include architecture, streetscape, amenities, buffering and landscaping. The guidelines shall be flexible to accommodate the requirements of the proposed employment use or center.

Next, Section 27-546 amends the site plan requirements by including language for a major employment use or center which is consistent with the economic development strategies of the Sector Plan or General Plan.

The Planning Board has the following comments, suggestions and amendments for consideration by the District Council:

On page 3, lines 18 through 23, the sentences "The Planning Board or the District Council shall find that the proposed guidelines will not adversely affect the surrounding residential community. The Planning Board or the District Council shall consider noise, height of the building, setbacks from surrounding properties, street frontages and sufficiency of green area when determining the proposed development's effect on surrounding residential communities" are not regulations but instead seem to be a required finding for approval. It is not appropriate to incorporate findings in regulations; therefore, the Planning Board recommends the Council relocate (and adapt as may be necessary) this language to the required findings for the approval of Conceptual Site Plans in Section 27-276(b) of the Zoning Ordinance.

On page 4, lines 4 through 6 should be amended. Delete the words "or include a major employment use or center which is consistent with the economic development strategies of the Sector Plan or General Plan" and replace with the words "or alternate guidelines approved pursuant to Section 27-544(f)(2)(I)." This revised language clarifies the language under this section should mirror the language under the M-X-T Zone regulations.

Next, the Planning Board believes that Sections 27-544(c)(1) and 27-548 (j) of the M-X-T Zone regulations should be added to the bill and the language under these sections should be amended. It will be challenging for design standards commensurate with and supportive of certain types of major employment use or center, such as a Merchandise Logistics Center, for example, to meet the current requirement under Section 27-544(c) the "design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or the Sectional Map Amendment Zoning Change, and a referenced exhibit of record for the property shall provide guidance for the development regulations to be incorporated into the Conceptual Site Plan" or the requirement in Section 27-548(j) that such design standards "be based on the design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or the Sectional Map Amendment Zoning Change and any referenced exhibit of record for the property."

The provisions of the Zoning Ordinance addressed by this bill pertain solely to property within the 2007 *Approved Westphalia Sector Plan and Sectional Map Amendment*; the development concept recommended for the Westphalia Core is a vertical mixed-use, urban, transit-oriented development.

CB-19-2019 – Planning Board Analysis (Attachment 5)

Page 2

This development concept, or the design guidance provided for this concept in the Sector Plan, cannot be amended through approval of a Conceptual Site Plan. While Conceptual Site Plan applications are required to be guided by [27-544(c)] and “be based on” these guidelines, there are many types of “major employment use or center” uses, such as a Merchandise Logistics Center, whose design may be incongruent with a vertical mixed-use, walkable neighborhood. The purpose of CB-19-2019 is to accommodate such uses; this is challenging without amending these provisions.

The Planning Board recommends adding references to alternate development regulations pursuant to Section 27-544(f)(2)(I) to Sections 27-544(c)(1) and 27-548(j), as follows:

Section 27-544(c)(1) would read:

For property not subject to the provisions of Section 27-544(f)(2)(I), the [The] design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or the Sectional Map Amendment Zoning Change, and a referenced exhibit of record for the property shall provide guidance for the development regulations to be incorporated into the Conceptual Site Plan.

Section 27-548(j) would read:

As noted in Section 27-544(b), which references property placed in the M-X-T Zone through a Sectional Map Amendment approved after October 1, 2006, and for which a comprehensive land use planning study was conducted by Technical Staff prior to initiation, regulations for Conceptual or Detailed Site Plans (such as, but not limited to density, setbacks, buffers, screening, landscaping, height, recreational requirements, ingress/egress, and internal circulation) should be based on the design guidelines or standards intended to implement the development concept recommended by the Master Plan, Sector Plan, or the Sectional Map Amendment Zoning Change and any referenced exhibit of record for the property. This regulation also applies to property readopted in the M-X-T Zone through a Sectional Map Amendment approved after October 1, 2006 and for which a comprehensive land use planning study was conducted by Technical Staff prior to initiation of a concurrent Master Plan or Sector Plan (see Section 27-226(f)(3) of the Zoning Ordinance). Notwithstanding the above, this regulation does not apply to property subject to the provisions of Section 27-544(f)(2)(I).

This change would delete the conflicts that would exist in the Zoning Ordinance between Sections 27-544(c)(1) and 27-548(j) and Section 27-544(f)(2)(I).

Following discussion, the Planning Board voted to support CB-19-2019 with the inclusion of the amendment(s).