

CB-65-2022 – Planning Board Analysis (Attachment 1)

A bill for the purpose of permitting certain industrial uses in the Residential Estate (RE) Zone under certain specified circumstances.

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

Policy Analysis:

CB-65-2022 amends the new Zoning Ordinance to allow Industrial, Heavy (IH) Zone uses in the Residential Estate (RE) Zone under limited circumstances, either as permitted uses or by special exception.

The Planning Board has serious planning and zoning concerns with the proposed legislation and the unintended consequences it could cause.

The purpose of the RE Zone is to facilitate one-acre large lot single-family detached residential homes. The IH Zone is the most intense non-residential base zone which permits intense industrial uses that involve adverse off-site impacts on the environment and surrounding properties. Those impacts include dust, fumes, smoke, odors, vibration, noise, and movement of heavy vehicles. Permitting heavy industrial uses on residentially zoned land is extremely inconsistent with the purposes of the residential zones and could result in adverse impacts on neighboring properties. This bill amends Sections 27-5101(c) (Principal Use Table for Rural and Agricultural and Residential Base Zones) and adds Section 27-5102(f)(6) Miscellaneous Industrial Uses in the RE Zone). The proposed amendment to Section 27-5101(c) allows all IH Zone uses in the RE Zone. This includes, for example, such permitted uses as adult book or video stores, nightclubs, concrete or brick manufacturing, sand and gravel wet processing facilities, commercial fuel depots, slaughterhouses, solid waste processing facilities, and heavy armament fabrication.

The proposed amendment to Section 27-5102(f)(6) adds language limiting IH Zones uses to properties (i) located on property with a total acreage of less than sixty-five (65) acres in size; (ii) contiguous to property in the IE (Industrial, Employment) and/or IH Zone that is developed with existing industrial uses; (iii) is adjacent to a railroad spur or line; and (iv) has frontage on a right-of-way shown on the current Master Plan.

The Planning Board believes this bill would only impact two properties. One property is located at 0 Celestial Court in Upper Marlboro, Maryland tax identification number 3152600 and the other is at 12316 Cherry Tree Crossing Road in Brandywine, tax identification number 3840527.

There are also structural and organizational issues with the bill that should be addressed. Those issues are as follows:

- Section 27-2400 Principal Use Classification should be added to the bill. The section should be amended to add a new description for the new/proposed Principal Use Category of "Miscellaneous Industrial Uses."
- Next subsection (g) Descriptions of Industrial Principal Use Categories should be amended to add a new number (7) Miscellaneous Industrial Uses.

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- On page 2, lines 3 and 32, and on page 3, lines 4 and 15, bold the number and subheadings. Also, bold the letters on page 3, lines 16, 20, 21, 25, and 28.
- On page 5 of the bill, add the Principal Use tables for the Nonresidential, Transit-Oriented/Activity Center and Other Base Zones (Section 27-5101(d)); Planned Development Zones Section 27-5101(e)), and Overlay Zones Section 27-5101(f)). Adding the additional tables will provide a parallel structure for the proposed uses and give the appropriate use permissions for the zones.
- Under the Use-Specific Standards column of the Principal Use Table for Agricultural and Residential Base Zones, delete references to Sections 27-5102 (f)(6) and 27-3604 for the “where not specifically permitted, any use allowed by Special Exception in the Industrial IH Zone” use. The reference to Section 27-5102 (f)(6) would only be appropriate when a use is permitted by right in a zone. Also, including the reference to Section 27-3604, which contains the administrative procedures for special exception applications, under the Use-Specific Standards column will never occur because it is not appropriate or necessary.
- Next, under the Use-Specific column, delete the reference to Section 27-5402 and replace it with the phrase "Refer to special exceptions standards". This amendment is needed for the consistency of the new Zoning Ordinance structure.
- On page 6, remove the language on lines 18 through 27 and page 7, lines 1 through 3, under the proposed (6)(B). Special exception regulations should not be listed under "Requirements for Permitted Principal Uses." Next, amend Section 27-5402. Additional Requirements for Specific Special Exception Uses to add a new subsection “where not specifically permitted, any use allowed by Special Exception in the Industrial IH Zone." Then add the language currently under proposed (6)(B) (i), (ii), (iii), and (iv) to the newly created subsection under Section 27-5402.
- On page 7, delete the repetitive proposed language under (6)(B)(vi), lines 4 through 5. The same language is already written under (6)(B)(v) on lines 1 through 3.

Impacted Property:

This bill will affect two properties. The properties are located at 0 Celestial Court, Upper Marlboro, Maryland, tax identification number 3152600, and 12316 Cherry Tree Crossing Road, Brandywine, Maryland, tax identification number 3840527.

Following discussion, the Planning Board voted to oppose CB-65-2022.