

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2019 Legislative Session

Reference No.: CB-45-2019

Draft No.: 2

Committee: PLANNING, HOUSING AND ECONOMIC DEVELOPMENT

Date: 10/03/2019

Action: FAV (A)

REPORT:

Committee Vote: Favorable as amended, 4-0-1 (In favor: Council Members Glaros, Davis, Hawkins, and Ivey. Abstain: Council Member Dernoga)

The Planning, Housing, and Economic Development Committee Director summarized the purpose of the legislation and informed the committee as to comments received on referral. CB-45-2019 amends the Zoning Ordinance to allow gas station, food or beverage store in combination with a gas station, and apartment housing for the elderly or physically handicapped in the C-S-C (Commercial Shopping Center) Zone under certain circumstances. Council Chair Turner, the bill's sponsor, indicated that CB-57-2019 is intended as a stopgap measure in that the C-S-C Zone will become the CGO (Commercial General Office) Zone in the Zoning Ordinance Rewrite and CB-45 incorporates many of the uses and use regulations as those proposed for the CGO Zone.

Rana Hightower, Planning Department Intergovernmental Affairs Coordinator, informed the Committee that the Planning Board supports CB-45-2019 with amendments. The Planning Board provided the following analysis in a September 26, 2019 letter to Council Chair Turner. "The Planning Board agrees with the required architectural standards and development standards added to the bill to avoid adverse effects on the adjacent neighborhood. This bill will impact approximately two properties in the County. Those properties are Mill Branch Crossing and Curtis Farm (7911 Cedarville Road Brandywine). The Planning Board believes this bill was drafted for the Mill Branch Crossing property. Both properties are eligible for the Commercial General Office (CGO) Zone under the Countywide Map Amendment (CMA). Many of the uses proposed in this bill would be permitted either by SE or by right in the CGO Zone.

The District Council should note the CMA is a more orderly process to rezone property. The proposed bill does anticipate the adopted Zoning Ordinance (regarding DSP procedures, development standards, and residential density), and the proposed bill could serve as a useful stopgap until the new, modernized ordinance takes effect, if the Council believes this property cannot wait for the CMA.

The Council's adopted Zoning Ordinance includes a modernized definition for "gas station" that incorporates the food or beverage store component common to modern gas stations; there is no

need to treat the food or beverage store (renamed “grocery store” or “food market” in the adopted code) component separately in the adopted code unless such a store is envisioned as a stand-alone use separate from a gas station (e.g. a cheese shop in a different building). Additionally, the adopted Zoning Ordinance eliminates the situation today wherein both a SE and DSP may be required for the same application. The CGO Zone use permissions in the adopted Zoning Ordinance were a product of four years of community discussions and Council deliberations.

The Planning Board recommends that the bill be amended to apply use permissions consistent with those found in the new Zoning Ordinance or defer consideration and enactment of this bill in favor of the CMA process. If the bill moves forward now, “gas station” and “apartment housing for elderly or handicapped” should be amended from P to SE, to conform with the new Zoning Ordinance.”

The Zoning Hearing Examiner reviewed the legislation and offered the following comments:

1) The uses are already permitted in the C-S-C Zone, by Special Exception. Accordingly, its purpose clause on p. 1, line 3 should be revised by inserting “by right” after “permitting.” 2) On p. 1, line 3, put the end quote after “store” and delete the end quote after “station” on line 4. 3) The remainder of the bill permits, by right, four uses that are currently permitted by Special Exception in the C-S-C Zone. These uses will be subject to Detailed Site Plan approval. Section 22-201(b) of the State Land Use Article mandates that zoning laws “be uniform for each class or kind of development throughout a district or zone.” However, the main basis for treating these uses differently from the same uses elsewhere in the zone that require Special Exception approval appears to be the fact that the property on which the use is located “is a minimum of fifty acres in size at the time of preliminary plan of subdivision”. Is each use the sole use of the fifty acres; are all four uses sharing the fifty acres; or, are any combination of the four uses on the fifty acres with additional uses? Once these questions are addressed, it will be easier to ascertain whether there is a violation of the uniformity requirements.

The Office of Law reviewed CB-45-2019 and determined that it is in proper legislative form with no legal impediments to its enactment.

The Committee discussed a Proposed Draft-2 (DR-2) prepared by staff, in consultation with the Zoning Hearing Examiner and at the bill sponsor’s request, to address comments received on Draft-1. The revisions provided in Proposed DR-2 are as follows:

- On page 1, line 3, insert “by right” after “permitting”.
- On page 2, in (E) (iv), after “Part 3, Division 9”, insert “unless the gas station requires special exception approval”. This change is consistent with the new Zoning Ordinance in that a detailed site plan will not be required for a food or beverage store if the gas station where the store will be located requires special exception approval.
- On pages 2 and 3, in number 2 of footnotes 76, 77, 78, and 79, after “A Detailed Site Plan”, insert “is required as a condition of preliminary plan of subdivision and”.
- On page 2, in number 1 of footnote 77, after “preliminary plan of subdivision”, insert “and the apartment use shall contain at least two (2) contiguous acres.”

The City of Bowie submitted a letter (Mayor Robinson to PHED Committee Chair Glaros) dated September 19, 2019 in support of CB-45-2019. Michele LaRocca and William F. Chesley,

representing Mill Branch, LLC, and Joe Meinert, representing the City of Bowie, testified in support of the legislation. Peter Goldsmith, representing BJs Wholesale Club, testified regarding the proximity of residential development to an existing BJs Wholesale Club and the potential for future resident concerns with the operation of an adjacent commercial establishment.

Council Member Hawkins made a motion for favorable recommendation on the legislation as amended, seconded by Council Member Davis. The Committee voted for a favorable recommendation, 4-0-1, as to CB-45-2019, as amended.