



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Prince George's County Planning Department
Office of the Planning Director

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September 18, 2023

MEMORANDUM

TO: Prince George's County Council
FROM: Chad Williams, LEED AP BD+C, Master Planner
SUBJECT: **CB-70-2023 Proposed Draft 2**

Purpose: Proposed Draft 2 revises the purpose of CB-70-2023 to:

For the purpose of adding definitions and designating areas for Cannabis uses consistent with authority set forth in State law; prohibiting On-site cannabis consumption uses; setting forth regulations for permitted Cannabis uses and Special Exception Cannabis uses; providing parking regulations for cannabis uses; providing for the prospective application of provisions and amendments adopted herein; and providing a severability clause for the provisions related to Cannabis uses in Prince George's County.

Policy Analysis: CB-70-2023 initially sought to amend additional requirements for specific uses regulations for medical cannabis dispensaries under the prior Zoning Ordinance. There were numerous issues with the bill as originally drafted and the Planning Board voted to oppose CB-70-2023. The Board recommended the Council look to a more comprehensive bill that addresses all aspects of cannabis uses in the County.

Proposed DR-2 does exactly this. The Planning Department appreciates the Council's efforts in responding to the issues of CB-70-2023 and in taking on the approach recommended by the Planning Board to pursue a comprehensive bill on cannabis use.

The first revision made in proposed DR-2 is to ensure the bill revises the current Zoning Ordinance. Staff are in full support of this action.

Proposed DR-2 then turns to Section 27-11001, Prohibited Uses, and revises various Countywide prohibitions on "drug paraphernalia" to revisit prohibitions that touch on cannabis use. Next, the definitions in Section 27-2500 are expanded upon to incorporate several new uses that deal with cannabis-related activities. The principal use tables are revised to add these new uses and provide use treatments for each zone. Use-specific standards are also revised and added for these uses, as are special exception standards for when cannabis uses may be permitted with the issuance of a special exception. The parking schedule for required parking is amended to correspond with use revisions, and finally, uncodified Section 3 of Proposed DR-2 speaks to a transition clause and prospective application of the bill.

Staff, in consultation with the Planning Board's Legal Department, have several remaining concerns and suggestions with Proposed DR-2 for the Council's consideration:

1. A definition should be added for “Cannabis incubator” to read:

Cannabis Incubator

An entity licensed under the Alcoholic Beverages & Cannabis Article, Annotated Code of Maryland to operate a facility within which cannabis micro-dispensaries and/or cannabis micro-growers and/or processors may operate.

2. It is noted cannabis grower and cannabis micro-grower are proposed to be permitted in the IE Zone but are prohibited in the IE-PD Zone. Staff recommend these uses be “allowable” in the IE-PD Zone. The Council will have the ultimate authority, on a case-by-case basis, in any PD Zoning Map Amendment to the IE-PD Zone, to determine if these uses are appropriate.
3. Upon review of the use table, it appears that the use “cannabis dispensary” is only possible in the RTO-PD and MU-PD zones through the approval of a special exception. State law prohibits zoning regulations that would unduly burden cannabis licensees. This could potentially be seen as an undue burden on these cannabis licensees, as this would require both a rezoning to the RTO-PD or MU-PD zones and the approval of a special exception to allow a cannabis dispensary.
4. The revision of the State-required setback of 500 feet from educational and recreational uses to 300 feet for both cannabis dispensaries and cannabis micro-dispensaries is permitted by State law. By contrast, CB-70-2023 DR-1, proposed to greatly expand the setback requirements to 2,500 feet, which is not permitted under State law.
5. The language on Page 62, lines 21-23 is unnecessary since it simply consists of a reference to the parking minimums that would otherwise be required of any use that is proposed in the County. This entire provision should be deleted as surplusage because of course cannabis dispensaries will be subject to minimum parking requirements.
6. Staff continue to believe uncodified Section 3 of Proposed DR-2 on page 72 should instead be incorporated in the bill as a new Subsection in the transition and grandfathering provisions. However, should Council wish to retain this language as-is, staff recommends the Council consider clarifying language pertaining to special exceptions to make it clear medical cannabis dispensaries previously approved through issuance of a special exception may continue irrespective of current zoning. The following revision is suggested:

SECTION 3. BE IT FURTHER ENACTED the provisions of this Ordinance shall apply prospectively. Any uses that were permitted, or could be permitted, INCLUDING THROUGH APPROVAL OF A SPECIAL EXCPETION, and existing as of July 1, 6 2023, shall be deemed permitted uses and not nonconforming uses.

7. Table 27-6305(a): Minimum Number of Off-Street Parking Spaces is designed and intended to reflect all the uses embodied in the use tables. Therefore, while

the use “cannabis on-site consumption establishment” is proposed to be prohibited in all zones and does not appear in the parking table in Proposed DR-2, it should be added to the parking table in this bill with a single combined row that reads: “Not applicable” for all locations. This is the standardized phrase for when a use in the parking table is not permitted in a given location.

8. The following minor drafting issues should be corrected:
 - a. On Page 59, lines 26 and 28 propose the “addition” of new Sections (f) Industrial Uses and (3) Manufacturing Uses but both Sections already exist. Also, while uncodified Section 2 of Proposed DR-2 calls for renumbering per convention of the bill’s contents if it should pass, Page 59, Line 29 would propose Cannabis Processor uses as new Subsection (A), which already exists; the correct new Subsection would be (E) and this revision should be made now to minimize confusion. This would also make Cannabis Micro-Processor on Page 60, line 27 (F) instead of (B).
 - b. Some minor table cell consolidation should be made in Table 27-6305(a): Minimum Number of Off-Street Parking Spaces starting on Page 64. Specifically, the rows for Cannabis Dispensary and Cannabis micro-dispensary on Page 68 should make the three cells with “Not Applicable” one cell instead on each row.
 - c. On page 38, the row for Cannabis micro-dispensary shows the letter “Z” in the column for the IE-PD Zone. Staff assume this should be “A” instead since a Cannabis micro-dispensary is proposed to be permitted in the IE base zone and it makes sense to allow it in IE-PD.

Impacted Property:

It is impossible to determine the number of properties affected by the proposed legislation because certain locational elements of the bill, including the location of recreational programs, and before and after-school land uses, are challenging to map.

Recommendation:

Support with amendments