

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2019 Legislative Session

Reference No.: CB-63-2019

Draft No.: 2

Committee: PLANNING, HOUSING AND ECONOMIC DEVELOPMENT

Date: 10/10/2019

Action: FAV (A)

REPORT:

Committee Vote: Favorable as amended, 3-0 (In favor: Council Members Glaros, Dernoga, and Hawkins)

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-63-2019 (DR-1) amends the Zoning Ordinance residential table of uses to permit general commercial uses in the R-T and R-18C Zones under certain specified circumstances provided in a new footnote to the use table. Council Vice-Chair Streeter, the bill's sponsor, indicated that this legislation includes provisions to facilitate commercial development in keeping with the County's efforts to maintain and expand the commercial base and community revitalization.

The Planning Board opposed CB-63-2019 (DR-1) as explained in the Planning Board Chairman's letter dated October 3, 2019 to the County Council Chairman. The Board commented that permitting commercial uses in the residential zones is incompatible with the stated purposes of those zones. It is not clear if the term "site" refers to a property. The Planning Board could not determine if the proposed site is split zoned. This bill permits regulations to be developed during Detailed Site Plan review. This process defeats the entire purpose of zoning by preventing the uniform application of objective development standards to all properties in these zones. Development standards are established by the District Council in coordination with its adopted future land use recommendations in master plans. If development standards are not established until Detailed Site Plan, there is a strong possibility that a development may exceed the recommended land use designation which would conflict with the District Council's approved master plans. Furthermore, it is within the District Council's authority to establish development standards including density and not the Planning Board.

The Chief Zoning Hearing Examiner (ZHE) reviewed the legislation and commented that there are over 100 commercial uses that would now be permitted by right in the R-T and R-18C Zones. Although there are currently some commercial uses permitted in these zones, the bill will introduce some that are currently prohibited. The development of the property will not have to satisfy any particular bulk regulation (setbacks, density, net lot area, etc.) since all requirements for development shall be as approved on the Detailed Site Plan. Given the District Council's determination that some of these uses could only be developed on a commercially zoned site if it

first obtains special exception approval, it is less defensible as a furtherance of the public health, safety and welfare to allow such uses to develop on a residentially zoned site by right. The ZHE suggested revisions to the bill to permit certain identified uses, on certain R-T/R-18C properties, under certain conditions, in lieu of the language in Draft-1 of the legislation.

The Committee Director presented a Proposed Draft-2 (DR-2) prepared at the bill sponsor's request to address the ZHE's suggested revisions to limit uses as well as provide some regulations, and to address the Planning Board's comment regarding use of the term "site" in the footnote to the use table. In Proposed DR-2, the table of uses was revised to strike "Where not otherwise specifically permitted, any use allowed in the C-S-C Zone (including uses allowed by Special Exception)" and insert "Food or beverage store in combination with a Gas Station," The bill title was revised accordingly to reflect the specific commercial use. On page 3, the footnote was revised as follows:

- 135 ~~(a) The use shall be permitted and a Special Exception shall not be required, p~~ Provided:
- ~~(A) — A Detailed Site Plan shall be approved in accordance with Part 3, Division 9, of this Subtitle;~~
- ~~(B)~~(A) The site property fronts on a roadways with a functional transportation classification of arterial or higher and collector or higher within the applicable Master Plan; and
- ~~(C)~~(B) The site property is split-zoned R-T and R-18C; and,
- ~~(D)~~(C) A Detailed Site Plan Shall be approved in accordance with Part 3, Division 9, of this Subtitle. Regulations of the R-T and R-18C Zones shall not apply; all requirements for development shall be established by and shown on the Detailed sSite pPlan approved by the Planning Board and/or the District Council; The proposed Gas Station use shall conform with all regulations set forth in Section 27-358 (a) and (b) of this Subtitle. Upon abandonment of the Gas Station, as defined in Section 27-358(c), the owner shall remove all structures, including underground storage tanks.

Thomas Haller, representing Mid-Atlantic Retail Partners, testified in support indicating that the provisions of the legislation will facilitate the relocation and modernization of a food or beverage store across the street from its existing location to a site containing five parcels. Mr. Haller commented that the new Zoning Ordinance will allow a broader range of commercial uses in these residential zones and once the new zones are in place, his client will seek community input regarding development of additional commercial uses on the site.

To clarify the language concerning a split zoned site, the Committee recommended further amendments to the footnote in (A) and (B) in Proposed DR-2 to read property "included within the Preliminary Plan of Subdivision" and "is zoned both R-T and R-18."

Rana Hightower, M-NCPPC Intergovernmental Affairs Coordinator, informed the Committee that the Planning Board did not have an opportunity to review Proposed DR-2, however, Planning staff commented that a standalone gas station is currently not permitted in the R-T or R-18C Zones. After discussion, the Committee determined that referencing a food and beverage store with a gas station was sufficient to permit the gas station, and that a separate listing of the

use was not necessary.

Council Member Hawkins made a motion for favorable recommendation on the legislation as amended, seconded by Council Member Glaros. The Committee unanimously voted for a favorable recommendation as to CB-63-2019, as amended.