

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2021 Legislative Session

Reference No.: CB-050-2021

Draft No.: 2

Committee: COMMITTEE OF THE WHOLE

Date: 10/07/2021

Action: FAV(A)

REPORT:

Committee Vote: Favorable as amended, 9-0 (In favor: Council Members Hawkins, Anderson-Walker, Davis, Franklin, Glaros, Harrison, Ivey, Taveras, and Turner)

The Committee of the Whole convened on September 28, 2021 and October 7, 2021 to consider CB-50-2021. The Planning, Housing and Economic Development Committee Director summarized the purpose of the legislation and informed the Committee of written comments received on referral. CB-50-2021 amends the Residential Table of Uses in the Zoning Ordinance to permit the development of a mix of residential, commercial/retail uses in the R-E (Residential Estate) Zone of the County, subject to certain minimum acreage and location requirements.

The Planning Board opposed the legislation and provided an analysis and explanation of their position by letter dated July 15, 2021 to Council Chair Hawkins. The Zoning Hearing Examiner (ZHE) submitted the following comments by memorandum dated October 6, 2021 to the Committee Director:

“According to the purpose clause on p. 1, this bill will allow a mix of residential and commercial uses allowed by right in the M-X-T Zone to be developed in the R-E Zone under certain circumstances.

I would suggest the following revisions to the footnote following the Table of Uses to ensure the purpose clause is satisfied.

1. Include a minimum acreage since some minimum would be required for a mix of uses.
2. Add language to the footnote that actually requires a mix of uses.”

The Office of Law reviewed CB-50-2021 as it was presented on July 6, 2021 and found it to be in

proper legislative form. The Office of Law concurred with the Zoning Hearing Examiner memorandum and found the vague intent of the legislation and corresponding potential spot zoning challenges to be potential legal impediments to the enactment of CB-50-2021.

During the September 28, 2021 Committee meeting, Matthew Tedesco testified in support of the legislation. On a motion by Council Member Davis and second by Council Member Franklin, the Committee voted to hold CB-50-2021 for one week to allow time for preparation of amendments to address comments received during discussion.

During the October 7, 2021 Committee meeting, the Zoning and Legislative Counsel summarized revisions in a Proposed Draft-2 (DR-2) prepared at the bill sponsor's request to address the Planning Board, ZHE and Office of Law comments. Proposed DR-2 contained the following amendments to the new Footnote 143 as follows:

143 Provided, and notwithstanding any other provision of this Subtitle, that:

- (a) The PROPOSED DEVELOPMENT INCLUDES A MIX OF uses THAT are located on property that:
- (1) Prior to its subdivision to create any residential and commercial parcels or lots had a land area of at least twenty (20) acres;
 - (2) Is located at, and has frontage on, two intersecting roadways with a functional transportation classification of arterial or higher on the applicable area Master Plan of Transportation;
 - (3) Is adjacent to property that is located in a mixed-use ZONE OR planned community zone.
- (b) 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, minimum area for development, and any other requirements of the R-E Zone shall not apply. THE MAXIMUM RESIDENTIAL DENSITY SHALL NOT EXCEED 200 DWELLING UNITS. The applicable regulations for the M-X-T Zone as set forth in Sections 27-544(a) and 27-548(h) shall apply to residential and commercial/retail uses.
- (c) Notwithstanding the Table of Uses for the M-X-T Zone in Section 27-547(b), a gas station shall be prohibited. ALL OTHER USES MUST BE CONSISTENT WITH USES IN THE M-X- C ZONE.

Council Member Glaros suggested a further revision to the language of proposed Footnote 143

(a)(1) to reorder the clauses so as to lead with the reference to a “land area of at least 20 acres”.

On a motion by Council Member Davis and second by Council Member Franklin, the Committee voted favorable with the amendments as contained in Proposed DR-2 and the additional revision suggested by the Zoning and Legislative Counsel and Council Member Glaros.