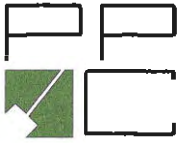


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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION



Office of the Chairman  
Prince George's County Planning Board

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September 13, 2018

The Honorable Dannielle Glaros  
Chairwoman  
Prince George's County Council  
County Administration Building  
14741 Governor Oden Bowie Drive  
Upper Marlboro, Maryland 20772

Re: CB-82-2018, CB-83-2018, CB-84-2018

Dear Chairwoman Glaros.

Thank you for providing the Planning Board an opportunity to review and comment on proposed District Council legislation. During the September 13, 2018 Planning Board meeting, the following positions were adopted in accordance with the planning staff's recommendations on the proposed legislation. **A Planning Board Analysis of each bill is attached for your consideration and a brief excerpt from each report is provided below:**

***CB-82-2018** amends Section 27-461 (Uses Permitted in Commercial Zones.) by amending the use column of the table of uses to add the words "with minor sales" behind the existing use "vehicle, mobile home or camping trailer repair and service station". Next, the bill adds a new footnote under the use column in the Commercial Miscellaneous (C-M) Zone.*

**Planning Board Recommendation: Oppose with Amendments**  
(See Attachment 1 for full analysis)

**It is believed the property impacted by this bill is located within the Addison Road Metro Town Center Development District Overlay Zone (DDOZ) or the Capitol Heights Transit District Development Overlay Zone (TDOZ). All properties adjacent to a divided state highway and adjacent to the Metrorail Blue Line are within either of the above-mentioned overlay zones.**

**The term "minor sales" under the use column is not defined. Many vehicle, mobile home or camping repair service stations sell vehicle parts and accessories as a matter of practice. The term should be clarified. It is not clear if the term refers to the sale of vehicles, vehicle parts or accessories.**

**Delete the words "and is adjacent to METRO Blue-Line between two train stations, both of which are less than 3,000 feet from the property;". This language appears to convey a change in policy that Prince George's County promotes this use near Metrorail stations.**

**This use is prohibited in the Addison Road Metro Town Center DDOZ and in the Capitol Heights TDOZ because the District Council did not believe the use should be promoted near Metrorail stations. The use is not a transit-friendly or transit-serving use.**

**Under letter (B) it should be noted that the only way to “reclassify” a use from permitted to prohibited “through a Sectional Map Amendment” is through the approval of a DDOZ or a TDOZ. The bill as drafted cannot amend the table of uses within a DDOZ or a TDOZ. The District Council may only amend a DDOZ table of uses through the minor amendment process in the Zoning Ordinance. Sections 27-642 (Minor Amendment to an Approved Master, Sector, Functional Plans, and Development District Overlay Zones.) or 27-548.26 (Amendment of Approved Development District Overlay Zone.). In addition, under Section 27-548.26 a property may request District Council approval to make changes to the underlying zones or the list of allowed uses, as modified by the Development District Standards.**

**The TDOZ table of uses can only be amended through approval of a new Transit District Development Overlay Zoning Map Amendment (TDOZMA). Pursuant to Section 27-548.09.01 (Amendment of Approved Transit District Overlay Zone.), a property owner may request District Council approval to make changes to the underlying zones or the list of allowed uses, as modified by the Transit District Standards.**

**When the application for this project is reviewed and processed, the Department of Permitting, Inspections and Enforcement (DPIE) and/or the Planning Department are going to refer to the TDOZ or DDOZ table of uses to determine the legally-permissible use, not the underlying zone’s table of uses. A use that is permitted in the C-M Zone but prohibited in a DDOZ or a TDOZ is prohibited.**

**Under letter (C) it should be noted that after the abrogation of this bill, the use will revert to prohibited and become a nonconforming use.**

***CB-83-2018 amends Section 27-107.01 (Definitions.) by revising the definition for “Business Advancement and Food Access Infill” to also permit the use by Special Exception (SE) in the Commercial Shopping Center (C-S-C) Zone.***

**Planning Board Recommendation: No Position with an Amendment**  
(See Attachment 2 for full analysis)

**The “Business Advancement and Food Access Infill” use is only permitted in the Multifamily High Density Residential (R-10) Zone. There are approximately two hundred and seventy-four (274) properties that are located in the R-10 Zone. The Planning Board would like to recommend a technical amendment to the definition. Delete the word “and” behind the word “food” and replace with the word “or”. The revised language would read “food or beverage store”.**

**Lastly, it should be noted that the newly proposed Zoning Ordinance will reclassify the R-10 Zone to the Residential, Multifamily-48 (RMF-48) Zone.**

CB-84-2018 amends Section 27-461 (Uses Permitted in Commercial Zones.) by adding a new footnote in the Commercial Office (C-O) Zone for "gas station (in the C-M Zone, subject to Detailed Site Plan (DSP) review in accordance with Section 27-358 (a)(1), (2), (4), (5), (6), (7), (8), (9) and (10))" and "food or beverage store in combination with gas station, subject to DSP review in accordance with Part 3, Division 9".

**Planning Board Recommendation: Support with Amendments**  
(See Attachment 3 for full analysis)

On page 1, line 4, under the purpose statement, delete the word "and" and replace it with the word "or". The phrase would read "food or beverage store".

The Planning Board believes this bill may have been drafted for a specific property located in the C-O Zone. The uses permitted by this bill are generally incompatible with the purposes of the C-O Zone and limit the ability of the Planning Board and District Council to determine whether the gas station use meets certain conditions specific to the nature of the use. DSP review is not a review of a use; it is a review, by the Planning Board, of the site and buildings.

In addition, the gas station use contains underground fuel storage tanks, making it extremely difficult to redevelop at a future date when the intended office uses may be viable or in demand.

It should be noted that a food or beverage store in combination with a gas station is permitted by Special Exception and requires DSP approval in the Commercial Shopping Center Zone (C-S-C) and Commercial Warehouse (C-W) Zones where both uses are often located. The bill should be amended to permit a gas station in combination with a food or beverage store subject to a footnote.

Under the use column for the Commercial Table of Uses, add the "gas station in combination with a food or beverage store" use to the bill. Permit the use subject to a footnote in the C-S-C and C-W Zones. Next add Sections 27-355 (Food or beverage store.) and 27-358 (Gas station.) to the bill and amend each title to permit either a standalone gas station or food or beverage store or a combination of the uses in accordance with the regulations.

As always, Planning Department staff members are available to work with the Council and your legislative staff on any pertinent legislative matters. Please let us know if we may be of further assistance.

Should you have questions, please do not hesitate to contact the Office of the Planning Director at 301-952-3595. Thank you, again, for your consideration.

Sincerely,



Elizabeth M. Hewlett  
Chairman

Attachments

## **CB-82-2018 – Planning Board Analysis (Attachment 1)**

CB-82-2018 amends Section 27-461 (Uses Permitted in Commercial Zones.) by amending the use column of the table of uses to add the words “with minor sales” behind the existing use “vehicle, mobile home or camping trailer repair and service station”. Next, the bill adds a new footnote under the use column in the Commercial Miscellaneous (C-M) Zone. Footnote 71 permits the use by right if: (A) the property is located adjacent to three (3) public maintained roadways, with one (1) being a divided state highway classified as arterial or higher within the 2009 Countywide Master Plan of Transportation, and is adjacent to METRO Blue-Line between two (2) train stations, both of which are less than 3,000 feet from the property; and (B) the use was reclassified from “P” permitted use to “X” prohibited use through a Sectional Map Amendment approved after June 1, 2000; and (C) the business is being located within a structure previously occupied by a vehicle, mobile home, or camping trailer repair and service station that was legally existing, lawful and not nonconforming, with a valid use and occupancy permit prior to the date of the Sectional Map Amendment approval.

### **The Planning Board has the following amendments and comments for consideration by the District Council:**

It is believed the property impacted by this bill is located within the Addison Road Metro Town Center Development District Overlay Zone (DDOZ) or the Capitol Heights Transit District Development Overlay Zone (TDOZ). All properties adjacent to a divided state highway and adjacent to the Metrorail Blue Line are within either of the above-mentioned overlay zones.

The term “minor sales” under the use column is not defined. Many vehicle, mobile home or camping repair service stations sell vehicle parts and accessories as a matter of practice. The term should be clarified. It is not clear if the term refers to the sale of vehicles, vehicle parts or accessories.

On page 1, in the purpose statement, remove all language referencing the Commercial Shopping Center Zone (C-S-C) Zone; the bill amends the C-M Zone. Next, add the word “a” in front of the word “vehicle”.

On page 2, footnote 71 should be renumbered. The same footnote number was used for CB-25-2018 (DR-2). Under the letter (A) delete the words “public maintained” and replace with the words “publicly-maintained”. The language as amended is standard terminology. Next, delete the words “and is adjacent to METRO Blue-Line between two train stations, both of which are less than 3,000 feet from the property;”. This language appears to convey a change in policy that Prince George’s County promotes this use near Metrorail stations. This use is prohibited in the Addison Road Metro Town Center DDOZ and in the Capitol Heights TDOZ because the District Council did not believe the use should be promoted near Metrorail stations. The use is not a transit-friendly or transit-serving use.

Under letter (B) it should be noted that the only way to “reclassify” a use from permitted to prohibited “through a Sectional Map Amendment” is through the approval of a DDOZ or a TDOZ. The bill as drafted cannot amend the table of uses within a DDOZ or a TDOZ. The District Council may only amend a DDOZ table of uses through the minor amendment process in the Zoning Ordinance. Sections 27-642 (Minor Amendment to an Approved Master, Sector, Functional Plans, and Development District Overlay Zones.) or 27-548.26 (Amendment of Approved Development District Overlay Zone.).

## **CB-82-2018 – Planning Board Analysis (Attachment 1)**

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In addition, under Section 27-548.26 a property may request District Council approval to make changes to the underlying zones or the list of allowed uses, as modified by the Development District Standards.

The TDOZ table of uses can only be amended through approval of a new Transit District Development Overlay Zoning Map Amendment (TDOZMA). Pursuant to Section 27-548.09.01(Amendment of Approved Transit District Overlay Zone.), a property owner may request District Council approval to make changes to the underlying zones or the list of allowed uses, as modified by the Transit District Standards.

When the application for this project is reviewed and processed, the Department of Permitting, Inspections and Enforcement (DPIE) and/or the Planning Department are going to refer to the TDOZ or DDOZ table of uses to determine the legally-permissible use, not the underlying zone's table of uses. A use that is permitted in the C-M Zone but prohibited in a DDOZ or a TDOZ is prohibited.

Under letter (C) it should be noted that after the abrogation of this bill, the use will revert to prohibited and become a nonconforming use.

On page 3, line 2, the bill has an abrogation date of December 31, 2018. This language raises numerous questions. Does use in the C-M Zone revert back to being prohibited when this bill expires?

The Planning Board does not believe this bill will have the intended effect. When an applicant applies for a use and occupancy permit, it is likely that the applicant would be directed to pursue a DSP to amend the table of uses in the applicable DDOZ or TDOZ. The enactment of this may cause confusion for the impacted property owner(s) prohibiting them from obtaining a valid use and occupancy permit before the December 31, 2018 abrogation date. The Planning Board recommends an amendment to the DDOZ or TDOZ through the proper process.

Following discussion, the Planning Board voted to oppose CB-82-2018 with amendments.

## **CB-83-2018– Planning Board Analysis (Attachment 2)**

CB-83-2018 amends Section 27-107.01(Definitions.) by revising the definition for “Business Advancement and Food Access Infill” to also permit the use by Special Exception (SE) in the Commercial Shopping Center (C-S-C) Zone.

### **The Planning Board has the following amendments and comments for consideration by the District Council:**

The "Business Advancement and Food Access Infill" use is only permitted in the Multifamily High Density Residential (R-10) Zone. There are approximately two hundred and seventy-four (274) properties that are located in the R-10 Zone. There are fourteen (14) properties located in Council District 1, one hundred thirty-two (132) in Council District 2, thirty-six (36) in Council District 3, three (3) in Council District 4, twenty-seven (27) in Council District 5, zero (0) in Council District 6, fifty-seven (57) in Council District 7, two (2) in Council District 8, and three (3) in Council District 9.

The Planning Board would like to recommend a technical amendment to the definition. Delete the word “and” behind the word "food" and replace with the word "or". The revised language would read “food or beverage store”.

Lastly, it should be noted that the newly proposed Zoning Ordinance will reclassify the R-10 Zone to the Residential, Multifamily-48 (RMF-48) Zone.

Following discussion, the Planning Board voted to take no position with an amendment on CB-83-2018.

### **CB-84-2018 – Planning Board Analysis (Attachment 3)**

CB-84-2018 amends Section 27-461 (Uses Permitted in Commercial Zones.) by adding a new footnote in the Commercial Office (C-O) Zone for “gas station (in the C-M Zone, subject to Detailed Site Plan (DSP) review in accordance with Section 27-358 (a)(1), (2), (4), (5), (6), (7), (8), (9) and (10))” and “food or beverage store in combination with gas station, subject to DSP review in accordance with Part 3, Division 9”. Footnote 71 permits the use by right if: (A) the proposed use is on property that has frontage on a roadway with a functional transportation classification of arterial or higher and abuts land in the Light Industrial (I-1) Zone; (B) the proposed development shall be subject to a DSP approval process in accordance with Part 3, Division 9 of this Subtitle; and (C) the Planning Board and/or the District Council finds that the proposed gas station use conforms with all regulations set forth in Section 27-358 (a) of this Subtitle.

#### **The Planning Board has the following amendments and comments for consideration by the District Council:**

On page 1, line 4, under the purpose statement, delete the word “and” and replace it with the word “or”. The phrase would read “food or beverage store”.

On page 2, renumber footnote 71. Footnote 71 was used for CB-25-2018 (DR-2).

The Planning Board believes this bill may have been drafted for a specific property located in the C-O Zone. The uses permitted by this bill are generally incompatible with the purposes of the C-O Zone and limit the ability of the Planning Board and District Council to determine whether the gas station use meets certain conditions specific to the nature of the use. DSP review is not a review of a use; it is a review, by the Planning Board, of the site and buildings.

In addition, the gas station use contains underground fuel storage tanks, making it extremely difficult to redevelop at a future date when the intended office uses may be viable or in demand.

It should be noted that a food or beverage store in combination with a gas station is permitted by Special Exception and requires DSP approval in the Commercial Shopping Center Zone (C-S-C) and Commercial Warehouse (C-W) Zones where both uses are often located. The bill should be amended to permit a gas station in combination with a food or beverage store subject to a footnote.

Under the use column for the Commercial Table of Uses, add the “gas station in combination with a food or beverage store” use to the bill. Permit the use subject to a footnote in the C-S-C and C-W Zones.

Next, add Sections 27-355 (Food or beverage store.) and 27-358 (Gas station.) to the bill and amend each title to permit either a standalone gas station or food or beverage store or a combination of the uses in accordance with the regulations.

These changes would be consistent with the current law for a food or beverage store in combination with a gas station.

**CB-84-2018 – Planning Board Analysis (Attachment 3)**

Page 2

Under the proposed Zoning Ordinance in CB-13-2018, it should be noted that the Commercial, General and Office (CGO) Zone is proposed to replace the C-O Zone. The proposed definition for "gas station" includes the following, which is analogous to the current definition for "food or beverage store": "Retail sale of convenience items such as cold drinks, packaged foods, tobacco, prepared foods, and similar convenience goods". The "gas station" use would be permitted by right in the CGO Zone with use-specific standards that are similar to the current Special Exception requirements for gas stations.

Following discussion, the Planning Board voted to support CB-84-2018 with amendments.