

Prince George's County Council

Agenda Item Summary

Meeting Date: 6/8/2010
Reference No.: CB-019-2010
Draft No.: 3
Proposer(s): Dernoga
Sponsor(s): Dernoga
Item Title: An Ordinance making clarifying amendments to the requirements for eating or drinking establishments.

Drafter: Karen T. Zavakos, Legislative Officer
Resource Personnel: Laura Moore, Director of Special Projects

LEGISLATIVE HISTORY:

Date Presented:	4/13/2010	Executive Action:	
Committee Referral:	4/13/2010 - PZED	Effective Date:	7/23/2010
Committee Action:	4/21/2010 - FAV(A)		
Date Introduced:	4/27/2010		
Public Hearing:	6/1/2010 - 10:00 AM		
Council Action (1)	6/8/2010 - ENACTED		
Council Votes:	MB:-, WC:A, SHD:A, TD:A, CE:A, AH:A, TK:-, EO:A, IT:A		
Pass/Fail:	P		
Remarks:			

AFFECTED CODE SECTIONS:

27-107.01, 27-350, 27-461, 27-473

COMMITTEE REPORTS:

PZED Committee Report

Date 4/21/2010

Committee Vote: Favorable with amendments, 5-0 (In favor: Council Members Dean, Bland, Dernoga, Knotts, and Olson)

Staff summarized the purpose of the legislation and informed the committee of written referral comments that were received. CB-19-2010 amends several sections of the Zoning Ordinance to clarify the provisions and requirements for eating or drinking establishments.

Council Chairman Dernoga, the bill's sponsor, informed the committee that he submitted this legislation as a corrective bill to CB-49-2005 which also amended requirements for eating or drinking establishments and inadvertently added a requirement for a Detailed Site Plan for sit-down restaurants. Mr. Dernoga indicated that this legislation will relieve this requirement in an effort to encourage this type of restaurant to locate in the County.

The Planning Board did not have an opportunity to review CB-16-2010 during a regularly scheduled meeting prior to the committee meeting; however, the Planning Department staff provided suggested amendments as follows:

- Amend 27-461 the Commercial Table of Uses to permit “Eating or Drinking Establishments excluding drive-through service” in the C-A, C-W and C-R-C Zones
- Amend the Commercial Table of Uses under “Eating or Drinking Establishment of any type, including music and patron dancing past the hours of 12:00 A.M., excluding adult-oriented uses” to require a Special Exception in the C-W Zone
- Add Section 27-568 (Schedule (number) of spaces required, generally) to the bill under Part 11 of the Parking Requirements.
- Under the table delete “Drive-in or fast food restaurant” and replace with “Eating or drinking establishment (including drive-through or carryout only)”
- The number of parking spaces in the table should remain the same. The language is “1.0” for the number of spaces and the unit of measurement should be “3 seats”
- Also the language for 50 GFA should remain the same. The language is “+1.0” for number of spaces and the unit of measurement should be “50 sq ft. of GFA (excluding any area used exclusively for storage or patron seating, and any exterior patron service area)”

The Chief Zoning Hearing Examiner reviewed CB-19-2010 and suggested the following technical amendments:

- The bill defines an “eating or drinking establishment” as one that is freestanding, attached to, or within a group of buildings. However, the use tables are amended to allow “Eating or drinking establishment[s], attached to ... another building, located within another building” This language is redundant given the definition, and should be stricken.
- The definition also allows the eating or drinking establishment to have a drive-through and live entertainment, excluding adult entertainment uses. However, the Table of Uses in the bill permit eating or drinking establishments, with drive-through service, excluding drive-through service, and with music and patron dancing. Again, if the use is defined to allow drive- through service and live entertainment, the table should not reiterate that language.
- The existing language in the Zoning Ordinance allows music and dancing to occur in eating or drinking establishments upon the approval of a special exception. The bill also allows music and dancing to be included by special exception, but allows “live entertainment” by right. I think this dichotomy should be clarified in the bill to avoid future disagreement as to what is permitted as “live entertainment”.

The Office of Law reviewed CB-19-2010 and found it to be in proper legislative form with no legal impediments to its enactment.

Daniel Lynch, Law Firm of Knight, Manzi, Nussbaum & LaPlaca, P.A., addressed the committee in support of CB-19-2010.

The committee voted favorable on the CB-19-2010 with amendments suggested by the Planning Department staff as well as clarifying amendments, as necessary, suggested by the Chief Zoning Hearing Examiner once further discussion can be held with the Examiner prior to introduction of the legislation.

BACKGROUND INFORMATION/FISCAL IMPACT:

(Includes reason for proposal, as well as any unique statutory requirements)

This bill will make clarifying amendments to the requirements for eating or drinking establishments, including the repeal of the requirement of a detailed site plan for an eating or drinking establishment excluding drive-through service.

6/8/2010 - CB-19-2010 (DR-2) was amended on the floor as follows:

1. On Page 5, in Footnote 24, after “Subtitle”, insert the following:

“Any fast-food restaurant operating pursuant to an approved Special Exception as of the effective date of CB-49-2005 shall remain valid, be considered a legal use, and shall not be deemed a nonconforming use. Such fast-food restaurants and their underlying special exceptions may be modified pursuant to the existing provisions relating to revisions or amendments to special exceptions generally and fast-food restaurants specifically as they exist in the Zoning Ordinance.”

2. On Page 8, in Footnote 54, after “Subtitle”, insert the following:

“Any fast-food restaurant operating pursuant to an approved Special Exception as of the effective date of CB-49-2005 shall remain valid, be considered a legal use, and shall not be deemed a nonconforming use. Such fast-food restaurants and their underlying special exceptions may be modified pursuant to the existing provisions relating to revisions or amendments to special exceptions generally and fast-food restaurants specifically as they exist in the Zoning Ordinance.”

CB-19-2010 (DR-3) was enacted.

CODE INDEX TOPICS:

INCLUSION FILES:
