

## **CB-70-2023 – Planning Board Analysis (Attachment 2)**

A bill to amend the additional requirements for cannabis use in the R-A, R-E, R-L, R-R, R-S, and R-55 Zones.

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

### **Background:**

CB-70-2023 seeks to amend the additional requirements for specific uses regulations for medical cannabis dispensaries under the prior Zoning Ordinance. The bill requires the boundaries of properties used as “medical or recreational cannabis dispensaries” to be limited to the IH (Industrial, Heavy) Zone and be at least 2,500 feet from the R-A (Residential-Agricultural), R-E (Residential-Estate), R-L (Residential Low Development), R-R (Rural Residential), R-S (Residential Suburban Development), R-80 (One-Family Detached Residential) or R-55 (One-Family Detached Residential) zones, any land owned by the Maryland-National Capital Park and Planning Commission, daycare centers for children or recreational programs, before-and-after school land uses, and any school land uses.

The bill also adds regulations prohibiting on-site consumption and hours of operation and requires existing cannabis uses to comply with the proposed regulations within 24 months or be subject to civil fines.

### **Policy Analysis:**

The Planning Board has numerous concerns with the bill as drafted. The bill attempts to amend the prior Zoning Ordinance, which is no longer in effect and cannot be amended. The District Council would need to amend the current Zoning Ordinance to address concerns that arise from a property owner's entitlement to use processes in the prior Ordinance.

Additional concerns with the bill are as follows.

On page 1, line 19, the bill adds the limitation only permitting medical and recreational cannabis dispensaries to the “IH” Zone. This zone does not exist in the prior Zoning Ordinance. It is essential to note that neither the prior Zoning Ordinance (in the I-2 Zone) nor the current Zoning Ordinance (in the IH Zone) permit “medical or recreational cannabis dispensaries” and CB-70-2023 would have no effect since the use tables are not proposed to be amended to permit cannabis dispensaries in the heavy industrial zone.

On line 20, the “R-A, R-E, R-L, R-R, R-S, R-80, and R-55” zones no longer exist in the current Zoning Ordinance and are not applied to any property in the County.

The terms “recreational cannabis dispensary” or “recreational cannabis uses” are not defined in the prior Zoning Ordinance. There are definitions for “medical cannabis” and “medical cannabis dispensary,” and three other medical cannabis uses, with five definitions in the prior Zoning Ordinance. The current Zoning Ordinance has four definitions. This bill tweaks the current medical cannabis references in the additional regulations Section to either “medical or recreational cannabis,” which is problematic because there is no definition for “recreational cannabis” in either Zoning Ordinance. Most importantly, the bill does not amend the tables of uses to include either “medical cannabis dispensary” or “recreational cannabis dispensary”, as a permitted use in the I-2 or IH zones or address other potential recreational cannabis uses. If it is the Council’s intent to begin to incorporate laws pertaining to recreational cannabis in the Zoning Ordinance, at minimum, definitions and use permissions need to be addressed.

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On page 2, lines 18 through 20 requires any established cannabis dispensary to come into compliance within 24 months of enactment. This language is essentially transition language that should be added to the transitional and grandfathering provisions of the Zoning Ordinance, not within the Section that includes standards for cannabis uses. Locating this provision in the standards, it becomes extremely easy to lose track of or forget about this requirement since the standards would only be referenced when an application for the use is pending or there is an active code enforcement investigation underway.

On page 2, line 21, there is extremely confusing language that discusses special exceptions that should be deleted from the bill. This sentence is incomplete, and it appears to the Planning Board that instead of referencing the special exception procedures it may instead be conflating special exceptions and variances or departures, in that it references an apparent prohibition against granting special exceptions to revise zoning requirements – this is not what special exceptions do; revising or modifying zoning requirements are more typically associated with variance or departure requests.

The language on page 2, lines 22 through 24, requiring any cannabis dispensary that does not comply with the regulations of this bill should be placed under Section 28-110 of the Code and not under the standards for cannabis uses in the Zoning Ordinance.

Rather than pursue CB-70-2023, the Planning Board recommends that the District Council draft an omnibus bill to comprehensively address the growing, processing, sale, and use of cannabis in Prince George's County. Planning Board staff are available to work with the District Council and Council staff to assist in achieving the Council's legislative goals.

### **Impacted Property:**

It is impossible to determine the number of properties affected by the proposed legislation because the zones included in this bill no longer exist and other locational elements of the bill, including the location of recreational programs, and before and after-school land uses, are challenging to map.

Following discussion, the Planning Board voted to oppose CB-70-2023. Instead of CB-70-2023, the Council should look to a more comprehensive bill that addresses all aspects of cannabis uses in the County.