



Office of the Chairman
Prince George's County Planning Board

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July 9, 2020

The Honorable Todd M. Turner
Chair
Prince George's County Council
County Administration Building
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: CB-39-2020, CB-40-2020, CB-41-2020,
CB-49-2020, CB-51-2020 and CR-56-2020

Dear Chairman Turner:

Thank you for providing the Planning Board an opportunity to review and comment on proposed District Council legislation. During the July 9, 2020, 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-39-2020** permits a vehicle or camping trailer storage yard by Special Exception in the Commercial Shopping Center (C-S-C) Zone, under certain circumstances.*

Planning Board Recommendation: Oppose.

(See Attachment 1 for a full analysis)

CB-39-2020 appears to be drafted for a specific property. The Planning Board is unable to identify all properties meeting the criteria of Footnote 84. The Planning Board does not maintain a listing of gas station locations. We cannot determine how many properties are "located on property adjacent to an existing gas station."

The bill could apply to numerous other properties creating unintended consequences. It can have a destabilizing effect on competing businesses and property investments.

The bill does not add additional specific requirements for this use. The Zoning Ordinance regulations require Additional Requirements for Specific Special Exceptions. Similar uses such as "vehicle, boat, mobile home, trailer, and camping trailer salesroom or a lot" and "vehicle and trailer rental display" are required to adhere to additional regulations. Language requiring additional Special Exception requirements for the proposed use should be added to the bill.

CB-40-2020 permits eating or drinking establishments, excluding drive-through service in the Residential Estate (R-E) Zone, under certain circumstances.

Planning Board Recommendation: Oppose.

(See Attachment 2 for a full analysis)

CB-40-2020 appears to be drafted for a specific property. The Planning Board is unable to identify all properties meeting the criteria of Footnote 138.

The Planning Board does not maintain an inventory or listing of vacant buildings with former use permissions and has no way to determine how long buildings may have been vacant. The R-E Zone has numerous properties that are more than ten acres with a building on the property. As drafted, the bill could lead to many unintended consequences.

The R-E Zone permits low-density, single-family detached dwelling units on lots at least 40,000 square feet in size. The zone encourages a variation in the size, shape, and width of a single-family detached residential subdivision, large lot development, and an estate-like atmosphere. As commercial enterprises with large traffic volumes, eating or drinking establishments in the R-E Zone are contrary to the stated purposes of this zone.

CB-40-2020 would only permit an eating or drinking establishment within a building that has been vacant at least 20 years. The age of the building could cause approval problems. The building may not be able to meet many of the lot coverage, parking, loading, landscaping, signage, and building setback regulations in the current Zoning Ordinance; additionally, buildings that have been vacant for such a significant period of time may experience structural issues that would complicate adaptive reuse. The applicant may be required to file multiple Departures from Design Standards (DDS), Departures from Sign Design Standards (DSDS), or Departures from Parking and Loading Standards (DPLS). Alternative Compliance from landscape regulations or a variance from the Board of Zoning Appeals could also be required.

If the legislation moves forward, the District Council should consider the following amendments:

The bill contains the text of Footnote 138 but does not affix the footnote next to the new P in the table. Letter (C) under Footnote 138 is not necessary, as the letter (D) explains that Detailed Site Plan approval will be needed for an enlargement, expansion, or increase in the gross floor area.

Also, the bill should add development regulations to, at minimum, address parking, landscaping, signage, and building setbacks. Authorizing the Planning Board to set the development regulations for a property during Detailed Site Plan review, without any legislative guidance, defeats the entire purpose of zoning. This type of review process denies the District Council and the Planning Board the ability to apply objective standards.

***CB-41-2020** increases the maximum lot coverage from 30% to 40% in the Rural Residential Zone under certain circumstances.*

Planning Board Recommendation: Oppose.
(See Attachment 3 for a full analysis)

While there may be cluster subdivisions that would benefit from the proposed greater lot coverage, the effect of the text amendment will be to allow more lot coverage by right in all such subdivisions.

The Planning Board believes the existing Detailed Site Plan (DSP) amendment process under Section 27-289 is a more appropriate process to increase lot coverage within a cluster subdivision. The required findings for a DSP amendment include a review of the location, size, and design of all buildings and structures, parking, green areas, open spaces, other physical features of the site, and the type and layout of recreation facilities. This allows the Planning Board to assess the impact of greater lot coverage on the overall community. The DSP amendment process also requires mailed notice to adjacent homeowners and registered associations.

The DSP amendment process will provide superior planning and notice for the community, as compared to the by-right lot coverage increase proposed by CB-41.

***CB-49-2020** amends development regulations for Mixed-Use Zones located in a FEMA floodplain to address severe flooding in portions of Prince George's County, Maryland.*

Planning Board Recommendation: Oppose. The bill is unnecessary for stated reasons.
(See Attachment 4 for a full analysis)

A "floodplain study" is not a clearly defined document under the Prince George's County Code. However, the County Code already has detailed regulations governing development in the floodplain, as discussed below. It appears to the Planning Board that the additional study required by this bill is duplicative of existing regulations.

Subtitle 32, entitled Water Resources Protection and Grading, is responsible for establishing the minimum requirements for grading, drainage, pollution, surface structures, erosion control of land, and stormwater management within Prince George's County.

Subtitle 32 is administered and enforced by the Department of Permitting, Inspections, and Enforcement (DPIE). There is a Floodplain Ordinance under Subtitle 32, Division 4. The Floodplain Ordinance defines a floodplain and establishes the County Floodplain areas and boundaries.

DPIE is responsible for reviewing permit applications to determine if proposed development activities will flood hazard areas and if the development will be reasonably safe from flooding. New construction and improvements must adhere to the Floodplain Ordinance. The agency also advises applicants on necessary permits required from Federal, State, or local agencies.

Development in the M-X-T Zone requires a Conceptual Site Plan (CSP). Before a CSP application can be accepted, it must include an approved Natural Resources Inventory (NRI).

To determine if a floodplain is present on-site, the applicant must first submit a Floodplain Information Request form to DPIE. Next, DPIE will determine if there is an approved floodplain study for the property. Also, DPIE will assess the property to determine whether a County-approved watershed study, an approved private floodplain study, or the effective Flood Insurance Study (FIS) prepared by FEMA governs the property.

If there is an approved floodplain study, a letter from DPIE must be provided before it can be used to delineate the 1-percent annual chance (100-year) floodplain on the NRI.

If there is no approved floodplain study for a site, an approved floodplain study must be completed by an engineer or the Prince George's County Department of Environment (DoE) and be approved by DPIE before acceptance of any NRI plan application.

If a floodplain easement has been established on the property, verification from DPIE that the boundaries of the easement are still valid for the area may be required.

The study prepared by the engineer or DoE must be approved by DPIE before the Environmental Planning Section's approval of the NRI.

If no area of the one percent annual chance (100-year) floodplain is shown on the NRI, then documentation regarding the absence of the floodplain must be obtained from DPIE stating that there is no one percent annual chance (100-year) floodplain existing on-site.

CB-51-2020 ensures safe, sustainable, and inclusive housing options for all county residents regardless of ability, functionality, stature, age, or stability, in a safe, sustainable, and universally designed environment.

Planning Board Recommendation: Support in concept.
(See Attachment 5 for a full analysis)

The Planning Board supports the concept to create Universal Design and Visitability Design regulations. *Plan 2035* recommends developing a variety of high-quality housing options, such as co-housing and eco-communities, which allow seniors to age in place and all residents to explore alternative housing arrangements.

The Planning Board will defer to the Department of Permitting, Inspections and Enforcement (DPIE) on the operational specifics of the bill. DPIE is the agency charged with providing oversight of construction and development under Subtitle 4 (Building).

The Planning Board would like to recommend a few comments for consideration:

On page 4, line 11, there should be information added to explain who, when, and how a phasing plan will be implemented. In line 14 does the language "next annual renewal" mean a multifamily dwelling license?

This bill should be amended to use consistent terms. For example, the words "home or homes" are used interchangeably with the words "dwelling units" throughout the bill.

Also, the words “slip-resistant,” “firm,” “smooth,” “well-lit,” “key function areas,” “easy to grasp,” “reachable range” and “easy to use” should be defined. These terms are subjective.

Section 4-365 of the proposed bill permits a District Council Member to review and approve waivers in certain circumstances. This section should be revised to provide that DPIE is the agency responsible for approving any waivers.

CR-56-2020 declares the intent of the Prince George’s County Council to commence a stormwater assessment, performed by the Army Corps of Engineers to assist in future planning to consider the impact of bioretention and sprawl.

Planning Board Recommendation: Support with an amendment.
(See Attachment 6 for a full analysis)

The Planning Board supports in concept this resolution to request an Army Corps of Engineers study to identify Best Management Practices for mitigation and a plan of action for stormwater management that identifies causes of flooding, and mapping of stormwater management systems to inform and guide future development.

The Planning Board recommends that the language on page 3, lines 3 through 8, be revised to expand the study to the entire County. We believe this expansion of the study areas would be beneficial for future planning and development in Prince George’s County.

The Planning Board recommends that the Council consult with DPIE and the county’s Department of the Environment to confirm that the Army Corps is the best agency to complete such a study, and to identify other agencies and stakeholders that should be involved in the study.

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-39-2020–Planning Board Analysis (Attachment 1)

A bill to permit a vehicle or camping trailer storage yard by Special Exception in the Commercial Shopping Center (C-S-C) Zone, under certain circumstances.

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

Policy Analysis:

CB-39-2020 appears to be drafted for a specific property. The Planning Board is unable to identify all properties meeting the criteria of Footnote 84. The Planning Board does not maintain a listing of gas station locations. We cannot determine how many properties are “located on property adjacent to an existing gas station.”

The bill could apply to numerous other properties creating unintended consequences. It can have a destabilizing effect on competing businesses and property investments.

The bill does not add additional specific requirements for this use. The Zoning Ordinance regulations require Additional Requirements for Specific Special Exceptions. Similar uses such as “vehicle, boat, mobile home, trailer, and camping trailer salesroom or a lot” and “vehicle and trailer rental display” are required to adhere to additional regulations. Language requiring additional Special Exception requirements for the proposed use should be added to the bill.

New Zoning Ordinance:

The newly adopted Zoning Ordinance renamed the C-S-C Zone the Commercial General Office (CGO) Zone. The vehicle or camping trailer storage yard is prohibited in the CGO Zone.

Impacted Property:

The bill would impact all properties in the C-S-C Zone located on a property adjacent to an existing gas station on no more than two acres of land with frontage on a road with a transportation classification of Collector or higher.

Following discussion, the Planning Board voted to oppose CB-39-2020.

CB-40-2020–Planning Board Analysis (Attachment 2)

A bill to permit eating or drinking establishments, excluding drive-through service in the Residential Estate (R-E) Zone, under certain circumstances.

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

Policy Analysis:

CB-40-2020 appears to be drafted for a specific property. The Planning Board is unable to identify all properties meeting the criteria of Footnote 138. The Planning Board does not maintain an inventory or listing of vacant buildings with former use permissions and has no way to determine how long buildings may have been vacant. The R-E Zone has numerous properties that are more than ten acres with a building on the property. As drafted, the bill could lead to many unintended consequences.

The R-E Zone permits low-density, single-family detached dwelling units on lots at least 40,000 square feet in size. The zone encourages a variation in the size, shape, and width of a single-family detached residential subdivision, large lot development, and an estate-like atmosphere. As commercial enterprises with large traffic volumes, eating or drinking establishments in the R-E Zone are contrary to the stated purposes of this zone.

CB-40-2020 would only permit an eating or drinking establishment within a building that has been vacant at least 20 years. The age of the building could cause approval problems. The building may not be able to meet many of the lot coverage, parking, loading, landscaping, signage, and building setback regulations in the current Zoning Ordinance; additionally, buildings that have been vacant for such a significant period of time may experience structural issues that would complicate adaptive reuse. The applicant may be required to file multiple Departures from Design Standards (DDS), Departures from Sign Design Standards (DSDS), or Departures from Parking and Loading Standards (DPLS). Alternative Compliance from landscape regulations or a variance from the Board of Zoning Appeals could also be required.

If the legislation moves forward, the District Council should consider the following amendments:

The bill contains the text of Footnote 138 but does not affix the footnote next to the new P in the table. Letter (C) under Footnote 138 is not necessary, as the letter (D) explains that Detailed Site Plan approval will be needed for an enlargement, expansion, or increase in the gross floor area.

Also, the bill should add development regulations to, at minimum, address parking, landscaping, signage, and building setbacks. Authorizing the Planning Board to set the development regulations for a property during Detailed Site Plan review, without any legislative guidance, defeats the entire purpose of zoning. This type of review process denies the District Council and the Planning Board the ability to apply objective standards.

New Zoning Ordinance:

The adopted Zoning Ordinance prohibits both “restaurant” and “restaurant, quick service (without a drive-through)” in the RE Zone. The accessory use “drive-through service” is also prohibited.

Impacted Property:

The bill would impact all R-E zoned properties that are more than 10 acres in size and contain a building that operated as an eating or drinking establishment 20 or more years ago.

Following discussion, the Planning Board voted to oppose CB-40-2020.

CB-41-2020–Planning Board Analysis (Attachment 3)

A bill to increase the maximum lot coverage from 30% to 40% in the Rural Residential Zone under certain circumstances.

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

Policy Analysis:

This legislation increases the lot coverage percentage regulations for One-Family, detached dwelling units in a cluster subdivision in the Rural Residential (R-R) Zone.

The purposes of cluster subdivisions are to encourage a variety of designs of dwellings, compatibility with historic resources, and preservation of open space to serve recreational, scenic, and public service purposes within the densities established for the cluster net tract area. The R-R Zone only permits one-family detached dwelling units in a cluster development if a Preliminary Plan of Subdivision was approved before July 1, 2006.

While there may be cluster subdivisions that would benefit from the proposed greater lot coverage, the effect of the text amendment will be to allow more lot coverage by right in all such subdivisions. The Planning Board believes the existing Detailed Site Plan (DSP) amendment process under Section 27-289 is a more appropriate process to increase lot coverage within a cluster subdivision. The required findings for a DSP amendment include a review of the location, size, and design of all buildings and structures, parking, green areas, open spaces, other physical features of the site, and the type and layout of recreation facilities. This allows the Planning Board to assess the impact of greater lot coverage on the overall community. The DSP amendment process also requires mailed notice to adjacent homeowners and registered associations.

The DSP amendment process will provide superior planning and notice for the community, as compared to the by-right lot coverage increase proposed by CB-41.

New Zoning Ordinance:

The new Zoning Ordinance provides a maximum of 25 percent lot coverage for single-family detached dwelling units in the Residential, Rural (RR) Zone. In appropriate circumstances it also allows for conservation subdivisions, which are similar to cluster subdivisions.

Impacted Property:

The bill would impact all R-R zoned properties in the County that develop One-Family, detached dwelling units in cluster development.

Following discussion, the Planning Board voted to oppose CB-41-2020.

CB-49-2020–Planning Board Analysis (Attachment 4)

A bill to amend development regulations for Mixed-Use Zones located in a FEMA floodplain to address severe flooding in portions of Prince George’s County, Maryland.

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

Policy Analysis:

This bill requires a floodplain study as a prerequisite for the residential development of Mixed Use-Transportation Oriented (M-X-T) zoned land located in a FEMA Floodplain.

A “floodplain study” is not a clearly defined document under the Prince George’s County Code. However, the County Code already has detailed regulations governing development in the floodplain, as discussed below. It appears to the Planning Board that the additional study required by this bill is duplicative of existing regulations.

Subtitle 32, entitled Water Resources Protection and Grading, is responsible for establishing the minimum requirements for grading, drainage, pollution, surface structures, erosion control of land, and stormwater management within Prince George's County.

Subtitle 32 is administered and enforced by the Department of Permitting, Inspections, and Enforcement (DPIE). There is a Floodplain Ordinance under Subtitle 32, Division 4. The Floodplain Ordinance defines a floodplain and establishes the County Floodplain areas and boundaries.

DPIE is responsible for reviewing permit applications to determine if proposed development activities will flood hazard areas and if the development will be reasonably safe from flooding. New construction and improvements must adhere to the Floodplain Ordinance. The agency also advises applicants on necessary permits required from Federal, State, or local agencies.

Development in the M-X-T Zone requires a Conceptual Site Plan (CSP). Before a CSP application can be accepted, it must include an approved Natural Resources Inventory (NRI). To determine if a floodplain is present on-site, the applicant must first submit a Floodplain Information Request form to DPIE. Next, DPIE will determine if there is an approved floodplain study for the property. Also, DPIE will assess the property to determine whether a County-approved watershed study, an approved private floodplain study, or the effective Flood Insurance Study (FIS) prepared by FEMA governs the property.

If there is an approved floodplain study, a letter from DPIE must be provided before it can be used to delineate the 1-percent annual chance (100-year) floodplain on the NRI.

If there is no approved floodplain study for a site, an approved floodplain study must be completed by an engineer or the Prince George’s County Department of Environment (DoE) and be approved by DPIE before acceptance of any NRI plan application.

If a floodplain easement has been established on the property, verification from DPIE that the boundaries of the easement are still valid for the area may be required.

To summarize, an approved floodplain request form from DPIE must be provided before the required floodplain information and the NRI plan application can be accepted for review. The floodplain source for the NRI can be one of the following, but must be approved by DPIE:

1. A floodplain easement less than 10 years old, or
2. A watershed study or effective FIS, whichever has the higher water surface elevation, or
3. An existing floodplain study, or
4. A new floodplain study prepared by a licensed engineer or DoE

The study prepared by the engineer or DoE must be approved by DPIE before the Environmental Planning Section's approval of the NRI.

If no area of the one percent annual chance (100-year) floodplain is shown on the NRI, then documentation regarding the absence of the floodplain must be obtained from DPIE stating that there is no one percent annual chance (100-year) floodplain existing on-site.

Impacted Property:

The bill would impact all M-X-T properties in the County that are proposed for residential development.

Following discussion, the Planning Board voted to oppose CB-49-2020. The bill is unnecessary for the above-mentioned reasons.

CB-51-2020–Planning Board Analysis (Attachment 5)

A bill to ensure safe, sustainable, and inclusive housing options for all county residents regardless of ability, functionality, stature, age, or stability, in a safe, sustainable, and universally designed environment.

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

Policy Analysis:

The Planning Board supports the concept to create Universal Design and Visitability Design regulations. *Plan 2035* recommends developing a variety of high-quality housing options, such as co-housing and eco-communities, which allow seniors to age in place and all residents to explore alternative housing arrangements.

The Planning Board will defer to the Department of Permitting, Inspections and Enforcement (DPIE) on the operational specifics of the bill. DPIE is the agency charged with providing oversight of construction and development under Subtitle 4 (Building).

The Planning Board would like to recommend a few comments for consideration:

On page 4, line 11, there should be information added to explain who, when, and how a phasing plan will be implemented. In line 14 does the language “next annual renewal” mean a multifamily dwelling license?

This bill should be amended to use consistent terms. For example, the words “home or homes” are used interchangeably with the words “dwelling units” throughout the bill. Also, the words “slip-resistant,” “firm,” “smooth,” “well-lit,” “key function areas,” “easy to grasp,” “reachable range” and “easy to use” should be defined. These terms are subjective.

Section 4-365 of the proposed bill permits a District Council Member to review and approve waivers in certain circumstances. This section should be revised to provide that DPIE is the agency responsible for approving any waivers.

Impacted Property:

The bill would impact all dwelling unit types in the County after a certain date.

Following discussion, the Planning Board voted to support CB-51-2020 in concept.

CR-56-2020–Planning Board Analysis (Attachment 6)

A resolution to declare the intent of the Prince George’s County Council to commence a stormwater assessment, performed by the Army Corps of Engineers to assist in future planning to consider the impact of bioretention and sprawl.

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

Policy Analysis:

The Planning Board supports in concept this resolution to request an Army Corps of Engineers study to identify Best Management Practices for mitigation and a plan of action for stormwater management that identifies causes of flooding, and mapping of stormwater management systems to inform and guide future development.

The Planning Board recommends that the language on page 3, lines 3 through 8, be revised to expand the study to the entire County. We believe this expansion of the study areas would be beneficial for future planning and development in Prince George’s County.

The Planning Board recommends that the Council consult with DPIE and the county’s Department of the Environment to confirm that the Army Corps is the best agency to complete such a study, and to identify other agencies and stakeholders that should be involved in the study.

Impacted Property:

The resolution as drafted would impact areas that are five linear miles inland ranging from the northern area beginning in Oxon Hill/Eastover, MD in the East into Prince George’s County from the high tide mark on the deep-water Potomac River, including Broad Creek and Swan Creek inlets, but to include other impact areas from the waterline area within the County extending to just beyond the WSSC Water Filtration plant in Accokeek, MD.

Following discussion, the Planning Board voted to support CR-56-2020 with an amendment.