

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2020 Legislative Session

Reference No.: CB-040-2020

Draft No.: 2

Committee: COMMITTEE OF THE WHOLE

Date: 07/14/2020

Action: FAV (A)

REPORT:

Committee Vote: Favorable as amended, 9-0-2 (In favor: Council Members Turner, Davis, Franklin, Glaros, Harrison, Ivey, Hawkins, Streeter, and Taveras. Abstain: Council Members Anderson-Walker and Dernoga)

The Committee of the Whole met on July 14 to consider CB-40-2020. The Planning, Housing, and Economic Development Committee Director summarized the purpose of the legislation and informed the Committee of written referral comments received. This legislation permits Eating or Drinking Establishment, Excluding Drive-through Service in the R-E Zone, under certain specified circumstances.

Council Member Harrison, the bill's sponsor, informed the Committee that CB-40-2020 is intended to facilitate the reopening of a restaurant on a site formerly used as a hotel and restaurant prior to the R-E Zone designation. The sponsor commented that this use will bring more eating options to an area that is currently a food desert within his district.

The Planning Board submitted a letter dated July 9, 2020 to the Council Chair indicating opposition to CB-40-2020 including a staff analysis and explanation of this position as follows. "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." The Planning Board recommended the following amendments if the legislation moves forward:

"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 a 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.”

The Chief Zoning Hearing Examiner (ZHE) submitted a July 10, 2020 memorandum to the Committee of the Whole indicating that as drafted, the bill raises a few concerns. First, the building is over 20 years old, and the use is currently prohibited. Surrounding development may no longer be compatible with an eating or drinking establishment, or certain safeguards may be necessary to ensure compatibility. While the Detailed Site Plan language addresses this, to a degree, it will only be required if the existing vacant building is expanded. If there’s no expansion, there is a possibility that access/hours of operation/etc. could adversely impact the surrounding neighborhood. The ZHE suggests that the use be permitted by Special Exception whether expansion occurs or not and (C) and (D) in footnote 138 be deleted.

The Department of Permitting, Inspections, and Enforcement (DPIE) reviewed the legislation and commented that property being vacant for 20 years probably needs to be improved to today’s standards and regulations with third party and fire certifications.

The Office of Law reviewed CB-40-2020 and finds it to be in proper legislative form. The Office of Law believes potential legal impediments exist within this Bill as currently drafted and shares the same concerns outlined in the Maryland-National Capital Park and Planning Commission Planning Board’s Memo. The County Council Liaison informed the Committee that the Executive takes no position on the legislation.

Nate Forman, of Law Offices of O’Malley, Miles, Nylén & Gilmore, P.A., testified in support of CB-40-2020. Tamara Davis Brown testified in opposition to the legislation.

After discussion of referral comments, on a motion by Council Member Glaros, and second by Council Member Hawkins, the Committee voted favorable 9-0-2 on the legislation with amendments to affix “138” next to the P in the table and add development regulations in (D) concerning parking, landscaping, signage, and building setbacks.