



Memo

To: City Council
CC: Tracey Nicholson, City Administrator
From: Jim Chandler, Assistant City Administrator and Director, Community & Economic Development
Kate Powers, City Planner
Date: October 26, 2020
Re: Prince George's County Zoning Rewrite – Sectional Map Amendment

Detailed Summary

On November 19, 2020, the Prince George's County Council and Maryland-National Capital Park & Planning Commission are scheduled to host a Joint Public Hearing to consider the County Zoning Rewrite and Sectional Map Amendments. As part of this hearing, the bodies will consider testimony from the public. The text below outlines both background information as well as Staff's recommended comments to be communicated during the Joint Public Hearing if adopted by Council.

Definitions of Part-27-5 – Eating or Drinking Establishment Uses

The Prince George's County's Zoning Rewrite includes a focus on reducing the need for legal interpretation of regulatory terms and definitions. In its effort to eliminating the regulatory grey area subject to interpretation, the updated zoning ordinance will eliminate the term 'non-conforming use' and apply best practices specific to the regulation of alcohol through §27-05 – Eating or Drinking Establishment Uses.

Conforming Uses

Current land-use regulations allow for the "grandfathering" of uses, where "non-conforming" uses are permitted if in existence prior to the adoption of applicable land-use regulations. As an example, if a gas station existed in a transit-district, prior to the adoption of that transit-district, the gas station use would be permitted to continue to operate and would be designated as a 'permitted non-conforming' use. The new Countywide Map Amendment does not include this same terminology as it relates to existing businesses. Instead, legally existing business uses that were previously considered "non-conforming" will be deemed "conforming" at the time of amendment adoption and the rights to continue operation will run concurrent with the property. Taking the gas station example, this establishment existing at the time of the new zoning ordinance would be deemed a 'conforming' use, as opposed to a 'permitted non-conforming' use per current regulations.

City staff is supportive of the County’s methodology to eliminate non-conforming use language and incorporation of ‘conforming uses’, however it is Staff’s opinion that the elimination of ‘non-conforming use’ language requires specificity regarding the continuation of existing uses and adaptive reuse of existing structures.

§27-05 – Eating or Drinking Establishment Uses

City staff acknowledges M-NCPPC’s intention behind the new proposed definitions and understands that the new regulations will not retroactively apply to existing permitted business uses. However, there is considerable concern that there may be unintended consequences due to uncodified intent, or that language to remain open to legal and/or administrative interpretation, resulting in negative impacts to existing businesses that possess a valid Use & Occupancy (U&O) permit.

In an effort to clarify the County’s intent and for the purposes of reducing the possibility of misinterpretation of intent, Staff is requesting the City Council consider the adoption of a request to the Prince George’s County Council for the following modifications to language. The intent of the additional language is to (1.) utilize language already included in section 27-05 B(ii) and (2.) apply that language to other applicable sections of §27 -05. Proposed revisions to the pending language are provided in **red**:

(A) Any Eating or Drinking Establishment Use:

(i) If the establishment includes drive-through service, it also shall comply with the accessory use standards in Section 27-5203(b)(4), Drive-Through Service.

(B) Alcohol production facility, small-scale

(i) The minimum area of the eating, drinking, and entertainment area of the alcohol production facility, small-scale, shall be 45 percent of the total square footage for the establishment, or a minimum of 1,500 square feet, whichever is greater, **unless the building in which it is located is an adaptive reuse or the interior layout of the building makes compliance impracticable.**

(ii) The establishment shall have building façade fenestration/transparency through vision glass, doors, or active outdoor spaces along a minimum of 50 percent of the length of the building side that fronts the street, unless the building in which it is located is an adaptive reuse, the building makes compliance impracticable, or if the building is a County historic site or within a County historic district and this minimum standard would conflict with direction given by the Historic Preservation Commission acting under Subtitle of the County Code.

(iii) Off-site distribution of manufactured beer is allowed, as long as it is done from the rear of the building, and adequate loading and access for the activity is provided, **unless the building in which it is located is an adaptive reuse or the exterior of the building makes compliance impracticable.**

(iv) Crushing and fermentation operations are managed in such a way that by-products are contained and disposed of in a way that does not result in spill-over impacts on adjacent property, public spaces, or public rights-of-way.

(v) Outdoor storage is prohibited.

(C) Catering or Food Processing for Off-Site Consumption

(i) This is permitted as an accessory to a place of worship, private club or lodge, or or private school subject to the issuance of a use and occupancy permit and other permits as may be necessary.

(ii) All catering and food processing activities shall occur within a facility duly authorized for commercial food preparation.

(D) Shared Commercial Kitchen

(i) Shared commercial kitchens shall be approved by the Prince George's County Department before a use and occupancy permit may be issued.

(ii) Shared commercial kitchens may only be permitted in Residential zones if the subject property also includes a place of worship, private school, private club or lodge, or indoor recreation facility.

If adopted by the City Council at its meeting on November 16, 2020, City staff will submit written and oral testimony at the Joint Public Hearing for the Sectional Map Amendment (SMA) scheduled for November 19, 2020.