



City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

145 Gorman Street, 3rd Floor, Annapolis, Maryland 21401

Chartered 1708 Annapolis 410-260-2200 • FAX 410-263-1129 • TDD 410-263-7943

November 21, 2022

MEMORANDUM

To: Planning Commission

From: Michael La Place, Director of Planning & Zoning

Re: Ordinance O-11-22: FOR the purpose of authorizing a parking fee in lieu for certain businesses required to provided parking spaces ZTA2022-006

**Attachments: O-11-22 First Reader
Maps of B1 Districts**

SUMMARY

The purpose of this ordinance is to modify the requirements related to standard restaurants in the B1, Community Shopping District. Currently, in the B1 District a standard restaurant is allowed as a use subject to standards with up to 50 seats. Through special exception in the B1, only “more than fifty seats” may be allowed by special exception. The special exception process requires review and approval by the Board of Appeals.

This ordinance would make the B1 Districts consistent with the B2, B3, B3-CD and PM Districts by adding the following items that may be allowed by special exception:

- Bar, dancing, and live entertainment indoors;
- Hours of operation extending past midnight;
- Rooftop dining, subject to the following:
 - i. Alcoholic beverages shall be served only in conjunction with the service of food
 - ii. Hours of operation shall be limited to 10:00 p.m., seven days a week.
 - iii. No bar, dancing or live entertainment and no speakers or public address system shall be allowed.
 - iv. No portion of a rooftop dining area may be located any closer than seventy-five feet from a residential structure, measured horizontally at grade.
 - v. The rooftop dining area may not exceed twenty-five percent of the floor area of the indoor restaurant area and may not have more than twenty-five percent of the number of seats in the indoor restaurant area.

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- vi. Access to the rooftop dining area shall be through the interior of the restaurant. An exterior access shall be allowed only as an emergency access for fire and life safety purposes.
- vii. Lighting shall be directed away from adjoining properties and streets and designed to minimize glare. All lighting shall be at or below railing level.
- viii. The design of the rooftop dining area shall include noise mitigation measures that will minimize adverse impacts on adjoining properties.

ANALYSIS AND RECOMMENDATION

The special exception process requires review and approval by the Board of Appeals subject to a set of standards. It should be noted that food service establishments are subject to a more rigorous set of standards, as delineated in G below.

21.26.050 - Review criteria and findings.

The decision by the Board of Appeals must be based upon written findings with respect to the following:

A. The establishment, maintenance or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, convenience or general welfare.

B. The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the neighborhood.

C. The establishment of the special exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

D. Adequate utilities, access roads, drainage and necessary facilities have been or are being provided.

E. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion in the public streets.

F. The special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located, including any use provisions or standards set forth in [Chapter 21.64](#) and be consistent with the Comprehensive Plan.

G. In the case of food service establishments, the following additional standards for review apply. The review of the proposed food service operation shall be based upon an analysis of the proposed use's impact in the following areas:

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1. Environmental:

- a. Noise, including the noise of the mechanical equipment and of the patrons while on the premises,*
- b. Odors: control of odors from the cooking process and from the storage of garbage,*
- c. Trash and litter: the type of trash and garbage the food service operation will generate; the precautions to be taken to prevent littering of the streets.*

2. Traffic:

- a. Streets: adequacy of the street system to handle additional traffic,*
- b. Loading/unloading: off-street loading facilities available and adequate to handle the intensity and the type of trucks needed to service the proposed use; if on-street loading facilities are used, whether the use will impede traffic flow,*
- c. Parking: adequate parking available either on-site or within the area for employees and patrons.*

3. Neighborhood :

- a. Hours: the hours of operation are compatible with the surrounding commercial and/or residential neighborhood,*
- b. Loitering: the measures the restaurant will employ to discourage loitering; whether the type of use is compatible with the surrounding commercial and residential neighborhood.*

4. Adequacy of public facilities:

- a. Water and sewer: excess capacity exists and is available,*
- b. Police: police coverage is available,*
- c. Fire: the Fire Department has access to the site; sufficient water pressure for firefighting purposes is available and the building meets life safety standards.*

5. Community need: a community need for the use has been established.

CODE COMPLIANCE

Chapter 21.34 Zoning Text Amendments establishes the process for enacting amendments to the zoning code. It requires, in accordance with section 21.32.010 Purpose and authority that amendments shall be in accordance with the following:

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For the purpose of promoting the public health, safety, morals and general welfare, and conserving the value of property throughout the city, the city council, from time to time, in the manner set forth in this chapter, may amend the regulations imposed in the districts created by this title; provided, that in all amendatory ordinances adopted under the authority of this chapter, due allowance shall be made for existing conditions, the conservation of property values, the direction of building development to the best advantages of the entire city and the uses to which property is devoted at the time of the adoption of the amendatory ordinance.

The 2009 Comprehensive Plan provides a number of policy recommendations which support this ordinance. Chapter 1 (Introduction) states that “Economic Vitality” shall be a key component of the plan’s approach. Among the objectives stated for a vibrant local economy are to “Provide sufficient opportunities for diverse commercial and industrial development and redevelopment; Encourage development that responds to local market needs and induces desirable land use patterns that advances other civic goals; Recommend development decisions that add to the convenience of residents; Maintain municipal financial stability by balancing residential and non-residential uses, acknowledging that healthy tax base supports City investments that contribute to quality of life; and Encourage local businesses that provide employment opportunities for local residents.”

Policy 5 in Chapter 3 (Land Use and Economic Development) is “Protect and promote the neighborhood commercial retail centers” and Policy 5.2 is “The City’s economic development efforts should focus on business retention, intensification and expansion within areas zoned for neighborhood business.”

Further, one area currently zoned as B1 is located adjacent to the “West Annapolis Opportunity Area”, one of four identified Opportunity Areas in Chapter 3 of the 2009 Comprehensive Plan where infill redevelopment is prioritized. For the West Annapolis area, a recommendation is to “Acknowledge that the current zoning of the area may not enact the desired character for West Annapolis and should be reviewed for its appropriateness. Review of, and change to zoning could be done as part of an area planning effort.” This planning effort has in fact recently happened through the *West Annapolis Master Plan*, which was completed in July 2021 in conjunction with the *Annapolis Ahead 2040 Comprehensive Plan* update. Through this planning effort, there was a strong community desire for additional restaurants and bars, and a recommendation to transition the B1 zoning district in West Annapolis to a “Village Main Street” zone, which would allow for more flexibility in regard to land uses coupled with more predictable architectural guidelines to ensure a vibrant mixed-use district.

RECOMMENDATION

Staff recommends APPROVAL of O-11-22, having determined that the existing process for special exception allows sufficient review criteria to ameliorate any impacts that the proposed legislation might facilitate.