

**PRINCE GEORGE'S COUNTY COUNCIL
AGENDA ITEM SUMMARY**

Meeting Date: 6/4/2002

Reference No.: CB-2-2002

Proposer: Hendershot

Draft No.: 1

Sponsors: Hendershot

Item Title: An Ordinance amending the commercial use tables
pertaining to food or beverage stores and department
or variety stores as permitted and special exception uses

Drafter: Jackie Brown, Director
PZED Committee

Resource Carol White
Personnel: Legislative Aide

LEGISLATIVE HISTORY:

Date Presented: 1/22/2002

Executive Action: __/__/____

Committee Referral: 1/22/2002 PZED

Effective Date: 7/22/2002

Committee Action: 4/24/2002 FAV

Date Introduced: 4/30/2002

Public Hearing: 6/4/2002 10:00 A.M.

Council Action: 6/4/2002 ENACTED

Council Votes: PS:A, DB:A, TD:A, JE:-, TH:A, TK:A; RVR:A, AS:A, MW:A

Pass/Fail: P

Remarks: _____

PLANNING, ZONING & ECONOMIC DEV. COM. REPORT

DATE: 4/24/02

Committee Vote: Favorable, 4-0. (In favor: Council Members Russell, Wilson, Shapiro and Hendershot; Absent: Council Member Bailey)

The Chairman of the Committee indicated that this bill was discussed during a previous Committee meeting and that it was not necessary to take additional testimony at this time. He indicated that any additional testimony should be reserved for the public hearing on the legislation. The Chairman also requested that staff provide an overview of the specifics of the bill for the Committee's benefit and to determine if there were outstanding questions or concerns.

The Committee received a copy of a memorandum from Frank Boston, representing Walmart Stores, Inc., containing proposed amendments as follows: on page 3, line 6, strike "thirty percent

(30%)” and substitute “fifteen percent (15%)”; and on page 4, under the department or variety store, excluding pawnshops section, in subsection (i), strike “125,000” and substitute “150,000.”

The Chairman asked if there was a motion by the Committee for either or both of the amendments. No motion was made.

PLANNING, ZONING & ECONOMIC DEV. COM. REPORT

DATE: 3/13/02

Held in committee.

Committee staff summarized the amendments to the regulations for department or variety store and food or beverage uses proposed by this legislation and indicated that the legislation is the same as CB-63-2001 that was the subject of a public hearing but failed enactment. The bill limits the gross floor area of department or variety stores to 125,000 square feet in the C-S-C and C-M Zones unless the property is within the Developed Tier (as designated by the Biennial Growth Policy Plan) or a Revitalization Tax Credit Area. If the store will exceed 125,000 square feet, a Special Exception is required. Also in the C-S-C and C-M Zones, a Special Exception is required for food or beverage stores in combination with a department or variety store on the same or adjacent site. The bill also provides criteria for a Special Exception review for this use. Footnote 38 on page 4 grandfathers existing stores that exceed the square footage limitation and provides that no nonconforming uses will be created. Additionally, any existing department or variety store that proposes to add food or beverage operations must obtain a Special Exception.

The sponsor of the bill provided copies of a staff memorandum prepared at his request that addressed concerns raised by Council Members during the review and public hearing on CB-63-2001. The memorandum addressed the bill’s impact, if any, on the following: specific commercial development projects planned for the County such as Greenbelt Station, Capital Centre and National Harbor, the County’s desire to attract “upscale” retailers, existing stores in the County such as Target, Walmart, K-Mart and other large “value” department stores such as Hecht’s at Bowie Town Center, and the opportunity for the “value” department stores to locate at centers such as Capital Plaza, Landover Mall, Beltway Plaza and other inner Beltway shopping centers.

The sponsor explained that this bill allows the Planning Department staff to review the impact of a large retail establishment on the surrounding area and provides due process by requiring a Special Exception review in suburban areas.

Toni Harold-Foster, representing United Food and Commercial Workers Union Local 400, spoke in support of the bill. Jason Todd, representing International Mass Retail Association, spoke in opposition. Also speaking in opposition were Frank Boston and Keith Morris, representing Walmart Stores, Inc. Mr. Boston commented that there had been discussions about a possible amendment to increase the square footage limitation from 125,000 to 175,000 square feet and that 150,000 square feet would also be acceptable to his client.

The County Executive takes no position on the bill. The Planning Board supports CB-2-2002 and provided comments that in some locations, “superstores” may be very appropriate, and the Special Exception process permits that determination to be made. Also, through the Special Exception process, existing businesses have an opportunity to comment on the impact of large variety stores, thus permitting this additional information to be available to decision makers. The Legislative Officer and the Office of Law found the bill to be in proper legislative form.

The Office of Audits and Investigations determined that there should not be any negative fiscal impact on the County as a result of enacting CB-2-2002. It should be noted however, that changes or amendments to the Zoning Ordinance have an unpredictable future affect on the County that may cause fiscal impact in later years. There are a number of variables which may be affected by Zoning Ordinance changes that cannot be determined at this time.

The Chamber of Commerce submitted a letter to the Committee Chairman, dated February 22, 2002, in opposition to the legislation. The City of Bowie also provided a letter to the Chairman, dated February 26, 2002, recommending a favorable report by the Committee.

BACKGROUND INFORMATION/FISCAL IMPACT

(Includes reason for proposal, as well as any unique statutory requirements)

The construction and expansion of certain large retail and grocery stores ("super stores") exacerbates sprawl in the developing and rural tiers of the County. The proposed amendments would limit the size of such stores as a matter of right and permit such stores under certain conditions imposed under the Special Exception process. The legislation requires Special Exception approval for such stores in the C-S-C and C-M Zones.

The size limitation and Special Exception requirement for these stores do not apply in the Mixed Use Zones (M-X-T and M-X-C) or in the M-A-C Zone, a Comprehensive Design Zone where these uses may also be permitted by right.

CODE INDEX TOPICS: