

## Prince George's County Council Agenda Item Summary

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**Meeting Date:** 11/10/2015  
**Reference No.:** CB-042-2015  
**Draft No.:** 2  
**Proposer(s):** Davis  
**Sponsor(s):** Davis  
**Item Title:** An Ordinance concerning the Military Installation Overlay Zone for the purpose of establishing the Military Installation Overlay (“M-I-O”) Zone, providing procedures and restrictions for designation and approval of the M-I-O Zone, and to provide use restrictions, development regulations, site plan provisions, and permitting requirements for the M-I-O Zone in the Zoning Ordinance.

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**Drafter:** Karen T. Zvakos, Zoning and Legislative Counsel  
**Resource Personnel:** Nellvenia W. Johnson, Chief of Staff District 6

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### LEGISLATIVE HISTORY:

<b>Date Presented:</b>	6/9/2015	<b>Executive Action:</b>	
<b>Committee Referral:</b>	6/9/2015 - PZED	<b>Effective Date:</b>	11/10/2015

**Committee Action:** 9/30/2015 - FAV(A)

**Date Introduced:** 10/13/2015  
**Public Hearing:** 11/10/2015 - 11:00 AM

**Council Action (1)** 11/10/2015 - ENACTED  
**Council Votes:** DLD:A, MRF:N, DG:A, AH:A, ML:N, OP:N, DT:A, KT:A, TT:A  
**Pass/Fail:** P  
**Remarks:**

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### AFFECTED CODE SECTIONS:

27-109, 27-111, 27-117, 27-143, 27-179, 27-198.02, 27-199, 27-213.23, 27-213.24, 27-213.25, 27-213.26, 27-213.27, 27-213.28, 27-213.29, 27-213.30, 27-223, 27-229, 27-242, 27-243, 27-254, 27-255, 27-260, 27-548.04, 27-548.05, 27-548.06, 27-548.21, 27-548.22, 27-548.23, 27-548.26, 27-548.50, 27-548.51, 27-548.52, 27-548.53, 27-548.54, 27-548.55, 27-548.56, 27-548.57

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### COMMITTEE REPORTS:

#### Planning, Zoning and Economic Development

**Date 9/30/2015**

Committee Vote: Favorable as amended, 3-0-1 (In favor: Council Members Harrison, Glaros, and Davis. Abstain: Council Member Toles)

Council staff informed the Council Members of additional correspondence received since the June 17 committee meeting. Letters in opposition to establishment of an M-I-O Zone were received from Reverend Willie L. Lampley, Jr. and Overseer Kevin R. Richardson. Edward Gibbs, representing Douglas Jemal, submitted a letter dated September 29, 2015 to Council Member Davis requesting an amendment to CB-42-2015 to provide for a process which would allow individual properties to propose uses which otherwise might be prohibited or listed as limited permitted uses.

Howard Stone, Chairman of the Joint Base Andrews Joint Land Use Study (JLUS) Implementation Committee, testified informing the Council Members that amendments are contained in a Proposed Draft-2 (DR-2) of the legislation to provide concessions for existing churches. Scott Rowe of the M-NCPPC Planning Department summarized the amendments in Proposed DR-2 and also suggested two additional amendments.

The following individuals testified regarding their concerns with the establishment of a Military Installation Overlay Zone: Dr. Melvin Wills, Sr., Laura Richards, Reverend Alfie Lewis, Mr. Willie Reaves, Reverend Nathaniel B. Thomas, Gerard McDonough, Reverend Prince Decker, Nakia Wright, and Pastor Lincoln Burrus. Thomas Haller testified requesting amendments to the legislation, in a new Section 27-548.58, to provide a mechanism allowing a property owner to demonstrate that a proposed use is not a health risk as also requested in the Edward Gibbs letter.

The committee had substantial discussion regarding the amendment requested by Mr. Haller. Council Member Davis expressed concern that it is contrary to the intent of the legislation. Ivy Lewis questioned what criteria the District Council would use in evaluating if a prohibited use should be allowed.

The Committee voted favorable on CB-42-2015 including amendments in Proposed DR-2 and additional amendments offered during the discussion as follows:

- Page 3, line 17, after “Study”, strike “or equivalent study” and insert “as amended from time to time”
- Page 8, lines 22 and 23, after “High Intensity Noise Area”, strike “must include certification by an Acoustical Engineer or qualified professional of competent expertise that any noise reduction measures required by Subtitle 4 for non-residential development are present” and insert “shall include the certifications set forth in Section 27-548.55”
- Page 8, line 25, after “must include a signed affidavit from”, strike “an authorized representative” and insert “the applicant”
- Page 12, line 28, strike Section 27-548.22 (e) in its entirety
- Page 13, line 7, strike the sentence “Where a property lies in both the M-I-O Zone and a D-D-O Zone, the height regulations are established by Section 27-548.54”
- Page 13, line 31, after “Zoning”, insert “Map Amendment” and strike “or Sectional Map Amendment”
- Page 14, lines 1 and 2, after “Air Installation Compatible Use Zone Study”, strike “or equivalent study” and insert “as amended from time to time”
- Page 14, , line 12, after “including” insert “as needed” and line 13, after “Air Installation Compatible Use Zone Study”, strike “or equivalent study” and insert “as amended from time to time”
- Page 14, line 27, after “Notice of”, insert “the date, time, and location of the Joint Public Hearing, and”, line 28, after “Overlay”, strike “Zone” and insert “Zoning Map Amendment, and any municipality within one (1) mile of the Military Installation Overlay Zoning Map Amendment boundary”
- Page 15, line 6, insert “hearing” before “record”, after “shall”, strike “close at the conclusion of” and insert “remain open at least fifteen (15) days after”
- Page 15, line 12, after “not more than thirty (30) days after the”, insert “close of the” and insert “Hearing” before “record”
- Page 16, line 12, after “for the M-I-O Zone”, insert “not requested by a property owner”
- Page 16, line 16, after “The District Council”, strike “may take final action on the Map Amendment at any time within thirty (30) days after receipt of the Planning Board’s resolution but”; after “shall not take final action”, insert “on the Map Amendment; and change “130” to “180”
- Page 17, line 21, strike “(c) The Military Installation Overlay Zone creates standards intended to promote the health, safety and welfare of existing and future base-area residents, workers and surrounding uses, while allowing Joint Base Andrews to fulfill its mission.”
- Page 18, line 11, change “areas” to “communities”
- Page 20, line 18, after (AICUZ), insert “as amended from time to time”, and lines 21-22, after “Official Impact Maps”, insert “shall be adopted by the District Council through a Military Installation Overlay Zoning Map Amendment and”
- Page 20, line 27, after “split”, insert “zoned” and after M-I-O Zone, strike “for either height, noise or safety as established by the Impact Maps”
- Page 21, line 5, strike “(4) Permits for properties for which a Preliminary Plan of Subdivision, Detailed Site Plan, Special Exception, or other development application was approved prior to the classification of the property in the

M-I-O Zone; however, if the validity period for the approved application has expired, this exemption shall not apply” and insert a new subsection (4) (A) through (E)

- Page 21, line 25 after “Safety Zones”, insert “that are either”, lines 22-23, insert “; or (B) on the Limited Permitted Use List in Section 27-548.56 but prohibited in the underlying zone or underlying overlay zone”; line 28, after “Impact Map for Height”, insert “are nonconforming structures”
- Page 22, line 10, after “No”, insert “development” and after “structure”, insert “or alteration of the land”
- Page 24, lines 8-17, insert “(i) through (vii)
- Page 25, lines 14-23, insert (H) (i) through (I)
- Page 27, line 4, strike “The use shall be located on property classified in the I-1 or U-L-I Zones”
- Page 27, lines 22-31, insert “(c) (1) through (4)
- Page 28, line 5, after “impact base operations”, strike “may” and insert “shall”
- Page 28, lines 19 and 20, strike “Planning Board” and insert “appropriate body” in lieu thereof
- Page 28, lines 22-29, insert new Sec. 27-548.58 Modification of Prohibited and Limited Permitted Uses
- Pages 30-32, insert Figures A, B, and C

The Committee voted favorable on CB-42-2015 including the amendments in Proposed DR-2 as well as the additional amendments suggested by the Planning Department staff and Mr. Haller.

Held in committee. 6/17/2015

Council staff summarized the purpose of the legislation and informed the Committee of written referral comments that were received. CB-42-2015 establishes the Military Installation Overlay (M-I-O) Zone and provides procedures, restrictions, development regulations, site plan provisions and permitting requirements for the M-I-O Zone. Howard Stone, JLUS Committee Chairman, informed the Council Members that the proposed legislation has been developed through a conscious process working with every stakeholder to provide the bare minimum in safeguarding the public health, safety and welfare in consideration of operations at Joint Base Andrews. Mr. Stone also informed the Council Members of his letter dated June 15, 2015 to Council Chair Franklin on behalf of the JLUS Implementation Committee requesting that the Council extend the Interim Land Use Controls (ILUC) to prohibit land uses that are incompatible with operations at Joint Base Andrews and increase the risk to the public health and safety until such time as permanent zoning controls can be enacted by the County Council.

Ivy Lewis and Scott Rowe of the M-NCPPC Planning Department provided additional background concerning the 2009 Joint Land Use Study requested by Joint Base Andrews. Mr. Rowe noted changes made in CB-42-2015 since the 2014 legislation (CB-55-2014) which was held in the Planning, Zoning and Economic Development (PZED) Committee in July 2014. The limited permitted use list is included in Section 27-548.56 (b) of the bill.

The Office of Law reviewed CB-42-2015 and determined that there is no legal impediment to its enactment. The Office of Law memorandum dated June 16, 2015 included a copy of the legislation with suggested technical amendments. The Chief Zoning Hearing Examiner submitted a memorandum dated June 16, 2015 with suggested changes.

Colonel Dean Hartman testified in support of legislation intended to balance the health, safety and welfare concerns related to Joint Base Andrews operations. The following individuals testified regarding their concerns with the establishment of a Military Installation Overlay Zone: Pastor G. Maria Livingston, Pastor Prince Decker, Reverend Charles McNeill, Bishop David Perrin, Reverend Alfie Lewis, Pastor Nathaniel B. Thomas, Reverend Lincoln Burrus, Nakia Wright, Gerard McDonough, and Marquez Ball. Thomas Haller and Edward Gibbs also testified requesting amendments to the legislation to allow more flexibility.

Letters in opposition to establishment of an M-I-O Zone were received from Bishop Donald A. Wright, Reynold C. Carr, Director of Missions for Prince George’s Baptist Association, and Pastor G. Marie Livingston. Colonel Dean Hartman, Department of the Air Force, submitted a letter dated June 16, 2015 to PZED Committee Chair Harrison providing key points of interest for Joint Base Andrews in the proposed legislation.

The legislation was held in committee to allow time for staff to incorporate amendments suggested during the meeting discussion as well as further outreach to stakeholders concerning the legislation and potential amendments.

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**BACKGROUND INFORMATION/FISCAL IMPACT:**

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

This bill establishes a Military Installation Overlay (M-I-O) Zone in the County, provides procedures for the classification of property in the M-I-O Zone for approval by the District Council, and sets forth use restrictions, development regulations, site plan provisions, and permitting requirements for the M-I-O Zone in the Zoning Ordinance for the protection of the public safety, health, and welfare of citizens in the surrounding areas of an M-I-O Zone and to further protect the air operations at Joint Base Andrews.

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**CODE INDEX TOPICS:**

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**INCLUSION FILES:**

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