

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

Meeting Date: 5/6/2003

Reference No.: CB-12-2003

Proposer: Dean, Knotts

Draft No.: 3

Sponsors: Dean, Knotts, Harrington, Shapiro, Dernoga, Peters, Exum

Item Title: An Ordinance requiring applicants to send informational mailings to civic associations, municipalities and adjoining property owners, and prior parties of record at least 30 days before filing applications, requiring civic associations to register before they are eligible to receive informational mailings.

Drafter: Steven M. Gilbert
Principal Counsel

Resource Eugene Singleton
Personnel: Legislative Aide

LEGISLATIVE HISTORY:

Date Presented: __/__/__

Executive Action: __/__/__

Committee Referral: 2/25/2003 PZED

Effective Date: 6/23/2003

Committee Action: 3/12/2003 FAV(A)

Date Introduced: 3/25/2003

Public Hearing: 5/6/2003 10:00 A.M.

Council Action: 5/6/2003 ENACTED

Council Votes: PS:A, MB:-, SHD:A, TD:A, CE:-, DCH:A, TH:A, TK:A, DP:A

Pass/Fail: P

Remarks: _____

5/6/2003 – CB-12-2003 (DR-2) amended on the floor; CB-12-2003 (DR-3) enacted

PLANNING, ZONING & ECON. DEV. COMMITTEE REPORT DATE: 3/12/03

Committee Vote: Favorable with amendments, 5-0 (In favor: Council Members Harrington, Dean, Dernoga, Exum and Knotts.)

The purpose of CB-12-2003, Draft 1, is to amend the Zoning Ordinance to require pre-application notification by zoning applicants of adjoining property owners, municipalities, and

civic associations. The new requirements are intended to apply in cases heard by the Zoning Hearing Examiner and Planning Board.

The bill makes three major changes to Zoning Ordinance application procedures. It imposes pre-application notification requirement in a broad group of cases, it adds civic associations to the list of persons to be notified, and it establishes a registration process for civic associations which want to receive notification. The bill also amends and adds definitions and deletes informational mailing provisions, for editing purposes, from various sections of the Ordinance.

Council Member Dean, the bill's sponsor, informed the Committee that he sponsored CB-12-2003 in an effort to require the development community to notify civic groups and the community of a proposed project in their neighborhood early in the process. Staff summarized the referral comments that were received as follows.

The Legislative Officer and the Office of Law find the bill to be in proper legislative form. The Office of Audits and Investigations determined there should be no negative fiscal impact on the County as a result of enacting CB-12-2003. The Principal Counsel provided comments on Draft 1 in three sections – technical errors, explanation of provisions, and staff suggestions.

Draft 1 Errors

1. Lines 4 and 5 on page 1 should be revised adding, before “and” on line 4, “requiring civic associations to register before they are eligible to receive informational mailings, making minor style and editing changes,” so that the purpose part of the title reads as follows:

“For the purpose of requiring applicants to send informational mailings to civic associations, municipalities, and adjoining property owners at least 30 days before filing applications, requiring civic associations to register before they are eligible to receive informational mailings, making minor style and editing changes, and making related amendments to the Zoning Ordinance.”

The title describes better what the bill does.

2. The “Person” definition on lines 4-10 of page 3 has typographical errors. On line 6, there should be a comma (not underlined) after “trust,” and there should also be a comma (underlined) after “entity.”
3. In line 10 on page 4, the colon should be a semicolon.
4. Line 20, on page 5 should read: “Before and application is accepted, the Commission shall...”
5. In lines 22-23 on page 5, the second clause of the sentence should read: “and an applicant’s filing of a signed waiver constitutes its compliance with the requirement, for the person signing.”

Explanation of Provisions

Some provisions of the bill require explanation:

Definitions: Section 27-107.01 has two new definitions and amendments to two others. The “Civic association” term is already used in the Zoning Ordinance, and the new definition refers to the registration requirement. The “Informational mailing” term is also in the present Ordinance, and the definition summarizes for readers what it is. The “Person” definition, in the Ordinance now and also in Subtitle 1 (which goes back at least to the 1967 Code of Public Local Laws of the County), is amended to include civic associations and municipalities and to edit and simplify the language. The amendments to the “Person of Record (Party of Record)” definition are to add civic associations and make minor style and editing changes.

Informational mailing provisions: This new language, from line 11 on page 4 to line 28 on page 5, is the first of two main parts of the bill. Subsection (a)(1) lists all the cases requiring mailings with the deletion (to avoid duplication) the mailing requirements from other Ordinance sections. The new mailing requirements include 30-day pre-application notification to adjoining owners, civic associations, and municipalities, and the filing of an affidavit of mailing an application. The notifications are called “informational mailings” to suggest (as is stated explicitly in lines 23-26 on page 5) that they are not legal notices whose absence creates a legal deficiency in a hearing or other proceeding.

Civic association registration: The other main part of the bill, from line 29 on page 5 to line 26 on page 6, establishes a registration process for civic associations which want to receive informational mailings. An association must register and then renew the registration once every year thereafter. Commission staff keeps and updates the list of associations and has some discretion to decline registration of associations which don’t meet Ordinance requirements. (For example, an association which says it represents a much larger geographical area than its members are associated with could be told it has to limit its area.)

Suggested Revisions

Planning Department staff which had suggestions for the initial draft of the bill, and it has several more which the committee might want to consider.

First, the filing limitations language on lines 25-26, page 4, should be modified, to allow civic associations more time to respond to mailings and to allow staff and applicants more time to do pre-application work and determine whether the case is one requiring Planning Board review. (Cases which the Board does not review, the cases approved administratively by the Planning Director, are not subject to the bill’s informational mailing requirements.)

If the committee agrees, then the bill’s new language in lines 25 and 26 should be changed so it reads: “At least 30 but no more than 90 days before the Commission accepts an application,”

Second, staff suggests that the mailing to prior parties of record required in Sections 27-285(a)(2), 27-304(b), 27-520(b), 27-546.05(d), 27-546.06(d), and 27-527.01(a) could be added in as part of this bill, to have applicants do the mailing to the prior parties at the same time they notify adjoining owners, municipalities, and civic associations. The cited sections were added in CB-13-1997, which provides that the Planning Commission must notify persons who were parties in earlier cases of the filing of a new case for the same property (a new special exception or site plan for the property, for example).

At the same time applicants obtain from Commission staff the names of civic associations entitled to notification of a filing, they could ask staff about the prior parties of record, and they (applicants) would then do all notifications at once. As it stands, by present procedures and those required in the first draft of the bill, the civic associations, municipalities, and adjoining owners will have notification of an application before it is filed, but the prior parties of record – those persons who may have been following the zoning of a property for years – will only get notification later, after the application is accepted and staff sends them the notice required by CB-13-1997.

Third, staff says that the informational mailings, whose required contents are in lines 10-16 on page 5, should include a notification that “no government agency has reviewed the application.” The purpose is to advise mailing recipients that the site plan and related materials in the mailing may be modified, after agency review.

The Planning Board supports CB-12-2003 with amendments and provided the following Planning staff comments. Staff believes that early notification of community and other groups of potential development review applications will help alleviate some of the difficulties residents and others experience when later notification is given nearer to the time of the actual hearing on the case. Early notification gives the community and the applicant an opportunity to discuss the matter prior to the actual application being filed and a hearing held. A better understanding of what the applicant proposes can enable the community to better formulate their position on the case. At the same time the applicant can gain some insight into community concerns, which may assist the applicant prior to submitting a formal application. It is the staff’s understanding that this approach to notification is increasingly being practiced in other jurisdictions throughout the country.

For some of the mailing the Planning Department currently makes to civic associations, the Department provides an option for the association to receive the “mailing” electronically. A number of the associations choose this method over regular mail. The staff suggests that Section 27-125.01(b)(5) be amended so as to not preclude electronic notification of renewal for those associations that choose this method. Staff’s experience with current electronic “mailings”, and with other development review information provided through the Commission’s web site, has been that efficiencies are realized over paper mailing practices.

CB-12-2003 also proposes to remove the current requirements that the Planning Board send notice to municipalities when an application has been filed. For some types of development review cases, such as zoning map amendments, there can be a significant time interval between the proposed informational notice prior to application filing and the eventual notice

the Zoning Hearing Examiner is required to give prior to the hearing. In some cases the information an applicant provides as a part of the early notification process may not be the same as the actual application submitted. Staff recommends that these provisions remain in the ordinance to give the municipalities this additional notice of potential development activity in order for them to carry out their formal role in the processes.

During the discussion of CB-12-2003, the Planning Board recalled that in the course of public hearings before the Planning Board, applicants have been encouraged to be mindful of the advantages of meeting with the community and municipalities early in the development process. The Board took special notice of this having occurred during hearings on Subdivision cases, which are subject to a limited statutory time period between application and final decision. However, the Board recognized that a separate Council bill would be needed to extend the proposed formal early notification process to Subdivision cases. If such additional early notification is desired, the Planning Board will direct Planning Department staff to assist in preparing such a bill.

Aisha Braveboy, representing the County's Executive's Office, indicated to the Committee that the Executive supports CB-12-2003. The City of Bowie provided a letter dated March 11, 2003 (Mayor Robinson to Chair Harrington) for the purpose of going on record as supporting this effort to expand current notification procedures and give the public a better opportunity to be involved in the development review process. In addition, the City recommends that the definition of person of record be revised to *automatically* include the municipalities, registered civic associations and any person listed as a party of record in any prior zoning or subdivision hearings involving the subject property.

The following individuals addressed the Committee concerning this legislation: Joe Meinert, Planning Director, City of Bowie, reiterating the City's position; Leo Bruso, of Land & Commercial, Inc., expressing concerns regarding the necessity of applicant's including a site plan(s) for the proposed development; certification (legal status) of associations; and the deadline for registration renewal for the associations (July 1 instead of December 31); Charles Renninger, President, Largo Civic Association, recommending that the applicant be required to provide a summary nature of the application or summary statement along with the application and not all of the paperwork that is required; Freddie Dawkins who indicated his support for the bill and a recommendation that the County government projects also be included in the list of projects for pre-application notice; Aurelio Nepa, representing the Prince George's Civic Association and the Crestview Area Citizens Association, supporting the bill and expressing concern regarding the language on page 6, line 13 concerning "substantial membership" for an association and the need to obtain staff reports for development projects sooner.

A letter was received from Sidney Wise, President, Collington Station Homeowners' Association, in support of CB-12. In addition, a letter was submitted by D. Michael Lyles, a resident of Collington Station, that included two recommendations. The first recommendation would be to add Homeowners' Associations as a separately defined group and to place the term throughout the legislation as proposed along with the term civic association. Secondly, it was recommended that § 27-125.01(b) be revised to read: "Association Registration" and under (3) add the following: Homeowners' Associations

which are duly organized and established in accordance with Maryland Code Ann. Section 11B-101 and whose organizational documents are on file in the County Office of Land Records shall be considered as registered with the Commission.

The Committee discussed the inclusion of Homeowners' Associations (HOA) in the legislation; a Council Member indicated that if a HOA falls within a civic association, notice should only be required to the civic association. A motion was made by Council Member Dean stating that if an organization is part of a civic association, the sub-organization does not have to be notified; the motion failed for lack of a second. No other motion concerning this issue was made.

The Committee voted favorably on the bill with the following amendments as reflected in Draft-2: amendments (technical errors and substantive amendments) recommended by the Principal Counsel and the Planning staff in the memorandum from the Principal Counsel and discussed above, the amendments suggested by the Planning Board; on page 2, line 12, change "An" to Any"; on page 5, line 13, delete "the site plan, if required with the application"; on page 6, line 7 after "the geographical area it represents", insert "and is interested in"; and remove the language in all sections of the bill requiring "return receipt requested".

BACKGROUND INFORMATION/FISCAL IMPACT

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

The bill amends and adds definitions to the Zoning Ordinance; it amends the informational mailings section, to require applicants to send informational mailings to civic associations, municipalities, and adjoining property owners at least 30 days before they file applications; and it amends related Zoning Ordinance sections.

CODE INDEX TOPICS: