

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2019 Legislative Session

Reference No.: CB-002-2019

Draft No.: 2

Committee: PLANNING, HOUSING, AND ECONOMIC DEVELOPMENT

Date: 03/07/2019

Action: FAV (A)

REPORT:

Committee Vote: Favorable as amended, 4-0 (In favor: Council Members Glaros, Dernoga, Hawkins and Ivey)

The Planning, Housing, and Economic Development Committee Director summarized the purpose of the legislation and informed the committee as to comments received on referral. This legislation amends the County Zoning Ordinance to clarify the time for reconsideration of final decisions of the District Council. The Committee Director summarized amendments provided in a Proposed Draft-2 (DR-2), prepared at the sponsor's request, to address referral comments received on the bill as explained below. On page 2, Section 27-134 was revised as follows:

Sec. 27-134. Notice of decision.

The notice of final decision, findings, conclusions, and votes of the Council in any zoning case shall be served upon all persons of record and any public agency processing the application. For purposes of this Code, and, in accordance with Division II, Land Use Article, Annotated Code of Maryland, further review reconsideration of the final decision shall be filed within thirty (30) days of the date of mailing of the District Council's final decision after the date of service of the Notice of Final Decision by the Clerk of the Council.

Also, on page 2, Section 27-135 of the Zoning Ordinance, which addresses reconsiderations, was inserted and amended as follows:

Sec. 27-135. - Reconsideration and amendment of decisions.

(a) Reconsiderations and site plan amendments for Special Exceptions shall be as provided for in Part 4. All others are governed by this Section (except Zoning Ordinance text amendments).

(b) Once a final decision has been made by the District Council, the decision may be reconsidered upon a written request filed by either the applicant or other person of record

within thirty (30) days ~~of the final decision~~ after the date of service of the Notice of Final Decision by the Clerk of the Council if, based on the written request, the Council finds that there may have been an error in reaching the final decision that was caused by fraud, surprise, mistake, or inadvertence. The person of record filing the request for reconsideration shall, upon filing the request, send a copy to all other persons of record.

(1) If the District Council determines there may be grounds for reconsideration of their final decision, the Clerk of the Council shall schedule an evidentiary hearing on the request.

(2) After hearing, the District Council shall first vote to reconsider their final decision and, if an affirmative motion is adopted, vote on a new decision.

Stan Brown, People’s Zoning Counsel, submitted an electronic mail communication indicating that the words “further review” in Section 27-134 of Draft-1 are unclear and the bill should include a revision to 27-135 (Reconsiderations) so that it is clear that a party of record must file a “reconsideration” request within 30 days after the Clerk of the Council mails the District council final decision to parties of record.

The Office of Law reviewed CB-2-2019 and offered the following comments:

“The language that is being proposed should mirror the language in Division II of the Land Use Article as it relates to the time a petition should be filed. As currently written, the proposed language states that further review ‘shall be filed within thirty (30) days of the date of mailing.’ Please be advised that date of ‘service’ and ‘date of mailing’ are not synonymous. Service by mail triggers a different computation of time per the Maryland Rules. Rule 1-203(c) allows for three days to be added to a prescribed period to take action if service is made by mail.”

Dinora Hernandez, Associate County Attorney, informed the Committee that the amendments in Proposed DR-2 address the Office of Law comments discussed above. Candice Austin, representing the County Executive’s Office, indicated that the Executive had no comment on the legislation.

The Committee voted favorable on the legislation with the amendments provided in Proposed DR-2 as well as additional amendments to the bill title and purpose clause to reflect the term “reconsideration” instead of “appeal” of final decisions.