

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

**Meeting Date:** 3/26/96

**Reference No.:** CB-5-1996

**Proposer:** Council Member Del Giudice

**Draft No.:** 2

**Sponsors:** Council Member Del Giudice

**Item Title:** An Ordinance to clarify that uses which are certified as nonconforming through a validation of a permit issued in error are subject to the same requirements as uses which are certified as nonconforming through a change in regulations

**Drafter:** Joyce B. Nichols  
Principal Counsel to the  
District Council

**Resource Personnel:** Dana Grabiner  
Legislative Aide

**LEGISLATIVE HISTORY:**

**Date Presented:** 2/6/96

**Executive Action:** \_\_/\_\_/\_\_ \_\_

**Committee Referral:**(1) 2/6/96 PZED

**Effective Date:** 3/26/96

**Committee Action:**(1) 2/21/96 FAV

**Date Introduced:** 2/27/96

**Pub. Hearing Date:** (1) 3/19/96 1:30 P.M.

**Council Action:** (1) 3/19/96 Enacted

**Council Votes:** SD:A, DB:A, JE:A, IG:A, AMc:A, WM:A, RVR:A, AS:A, MW:A  
**Pass/Fail:** P

**Reconsidered - 3/26/96**

**Council Action:** (2) 3/26/96 Enacted

**Council Votes:** SD:A, DB:A, JE:A, IG:N, AMc:A, WM:-, RVR:A, AS:A, MW:A  
**Pass/Fail:** P

**Remarks:** \_\_\_\_\_

**PLANNING, ZONING & ECONOMIC DEV. COM. REPORT**

DATE: 2/21/96

Committee Vote: Favorable, 5-0 (In favor: Council Members Wilson, Estepp, MacKinnon, Maloney and Russell).

Staff explained that in most cases, nonconforming uses must remain in continuous operation, with no more than a six month lapse in operation, to retain their nonconforming status. There are four exemptions to this rule, and this legislation eliminates the fourth, which is uses for which a permit issued in error has been validated by the Council. It was further explained that in researching the origin of this exemption, it appeared to have been added during the 1984 reformatting of the Zoning Ordinance, without mention as a substantive change to the Ordinance. The impact of this exemption is to allow a use that never complied with Zoning regulations, but has a validation of a permit issued in error, to be reestablished after years of abandonment. Joyce Nichols noted that this type of case, involving a gas station, occurred in the second councilmanic district.

The Legislative Officer found the bill to be in proper legislative form, and the Department of Environmental Resources supports the bill. The Planning Board supports the legislation, noting that there does not appear to be a strong rationale for treating nonconforming uses which are the result of a permit issued in error differently than other nonconforming uses. The legislation was reported out without amendments.

**BACKGROUND INFORMATION/FISCAL IMPACT**

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

The reformed Zoning Ordinance, adopted 1984, contains a substantive amendment which exempts nonconforming uses created by validation of permits issued in error from the requirement, which is imposed on all other certified nonconforming uses, that the use must maintain its continuity or it will lose its nonconforming status. Thus, under current law these types of uses can never lose their right to exist despite years of nonuse. This amendment will require these types of nonconforming uses to conform to the same requirements of continuity as other nonconforming uses.

CODE INDEX TOPICS: