

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

Meeting Date: 6/18/2002**Reference No.:** CB-35-2002**Proposer:** Scott**Draft No.:** 2**Sponsors:** Scott

Item Title: An Ordinance permitting certain uses in the C-O Zone under certain circumstances, permitting assisted living facilities in the C-O Zone, and amending requirements for assisted living facilities

Drafter:**Resource** Betsy Burian
Personnel: Legislative Aide

LEGISLATIVE HISTORY:**Date Presented:** 4/30/2002**Executive Action:** __/__/____**Committee Referral:** 4/30/2002 PZED**Effective Date:** __/__/____**Committee Action:** 5/14/2002 FAV(A)**Date Introduced:** 5/21/2002**Public Hearing:** 6/18/2002 10:00 A.M.**Council Action:** 6/18/2002 TABLED**Council Votes:** PS:A, DB:A, TD:A, JE:A, TH:A, TK:N; RVR:A, AS:A, MW:A**Pass/Fail:** P**Remarks:** _____

PLANNING, ZONING & ECONOMIC DEV. COM. REPORT

DATE: 5/14/02

Committee Vote: Favorable with amendments, 5-0 (In favor: Council Members Russell, Bailey, Hendershot, Shapiro and Wilson).

Staff summarized the purpose of the bill and comments that were received from referral agencies. This legislation allows any use permitted in the C-S-C Zone, including Special Exception uses, to also be permitted in the C-O Zone under certain conditions; permits assisted living facilities in the C-O Zone and amends certain requirements for assisted living facilities. C-S-C uses may be permitted in the C-O Zone if the land is at least 10 acres but not more than 20, abuts land that is zoned C-M and is located at the intersection of two arterial or higher classification roadways as shown on the Master Plan. CB-35-2002 requires Detailed Site Plan review for proposed uses in accordance with existing site plan review procedures in Part 3, Division 9 of the Zoning

Ordinance.

The bill's sponsor informed the Committee that the legislation is narrow in scope and would allow a retail center to be developed on property located at the intersection of MD450 and MD193. The sponsor indicated that she was aware of concerns raised by the Planning Department staff and that the applicant was in the process of preparing possible amendments to address these concerns.

The Planning Board opposes the legislation and provided the following comments. CB-35 would allow every kind of retail use, including those currently permitted only by Special Exception, by right (with a Detailed Site Plan). This could result in an unattractive strip shopping center with undesirable retail uses such as a convenience store, gas station, liquor store, massage parlor or pool hall, at an important County gateway. An assisted living facility could also be constructed on the site, directly adjoining the commercial uses with no buffer yard in between the vastly different uses. The requirement for a Detailed Site Plan is not adequate to address the use issue, because Detailed Site Plans address appearance issues only.

Also, CB-35 is counter to the purpose of the Zoning Ordinance, which organizes zones based on compatible uses. The Zoning Ordinance is designed to separate higher intensity and lower intensity zones, and to exclude the lowest intensity uses, which are residential, from commercial and industrial zones. However, CB-35 would combine higher and lower intensity uses in a single zone. This has the potential for creating incompatible uses.

CB-35 would also eliminate some important criteria for the assisted living use in any zone. The requirement that the facility must be adjacent to a residential zone has been eliminated, and the bill decreases the minimum size for a facility from 3.5 acres to 1 acre. As a result, an assisted living facility could be located on a one-acre parcel surrounded by commercial office, retail and other uses that previously required a Special Exception, such as a massage establishment or pool hall. These are not compatible uses for the C-O Zone, and CB-35 could open the door for further coupling incompatible and undesirable uses in the future.

The C-O property impacted by CB-35 is in the Glenn Dale-Seabrook-Lanham Master Plan. The property was specifically placed in the C-O Zone in the Glenn Dale SMA for compatibility purposes with the adjacent residential community. This area was not intended to become a retail center, despite the C-M zone on the parcel abutting the C-O properties.

CB-35 would be counter to the principles of the Interim General Plan. One of the three Guiding Principles of the Interim General Plan (compiled from the Biennial Growth Policy) is "Quality." This principle states that each planning decision should be made with the intent of enhancing residents' pride in their neighborhoods and the County in general. The second highest priority of the Interim General Plan is "Quality Economic Development."

Finally, an historic site, the Magruder-Brannon House, is located on a C-M zoned parcel south of the C-M zoned property in question. CB-35 could negatively impact this historic property by locating an incompatible use close to the house.

Bill Shipp, of Fossett & Brugger, spoke in support of the legislation and displayed a rendering of

the retail center proposed for the site. Mr. Shipp also provided copies of proposed amendments that he prepared to address the Planning Board comments. He indicated that alternatives are being discussed concerning protection of the historic site.

Ed Gibbs, of Gibbs and Haller, representing the Rouse Company, addressed the Committee regarding his concerns with the matter of process associated with this legislation. Mr. Gibbs indicated that the bill allows a rezoning of the property in a much shorter timeframe than that associated with a zoning map amendment and does not have specific criteria concerning transportation issues or a needs analysis for such potential uses as a gas station that currently requires a special exception.

The County Executive takes no position on CB-35. The Legislative Officer provided written comments indicating that the proposed residential uses are incompatible with the stated purposes of the Commercial Zones articulated in Section 27-446, and the specific purposes articulated for the C-O Zone in Section 27-453. There is also inconsistency between the purposes of the C-O Zone and the C-S-C Zone. The Office of Law found the bill to be in proper legislative form with no legal impediments to its adoption. The Office of Audits and Investigations determined there should not be any negative fiscal impact on the County as a result of enacting CB-35.

The Committee accepted the amendments proposed by Mr. Shipp as follows. On page 2, a new use was added, “Gasoline pumps affiliated with an allowed use....” At the end of the paragraph for this use, new language was also included to address design, especially architectural compatibility and pedestrian circulation at the time of Detailed Site Plan. Additionally, based on the discussion concerning a needs analysis during the meeting, a sentence was added to require a finding at Detailed Site Plan review that the proposed gasoline pumps are necessary to the public in the surrounding area. Also, on page 3, on the second line of the new language, the word “including” was deleted and replaced with “excluding” so the language reads: “Where not otherwise specifically permitted, any use allowed in the C-S-C Zone (excluding those permitted by Special Exception) is permitted,.....”.

BACKGROUND INFORMATION/FISCAL IMPACT

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

This bill amends the Commercial Zone Use Tables to permit certain uses, generally allowed in the C-S-C Zone, in the C-O Zone under certain circumstances. The bill also permits assisted living facilities in the C-O Zone and amends certain requirements for this use.

CODE INDEX TOPICS: