

Prince George's County Council Agenda Item Summary

Meeting Date: 10/26/2010
Reference No.: CB-069-2010
Draft No.: 2
Proposer(s): Knotts
Sponsor(s): Knotts
Item Title: An Ordinance concerning the R-R Zone for the purpose of modifying development requirements for commercial uses, institutional uses, and multifamily dwellings and permitting certain commercial uses, institutional uses and multi-family dwellings in the R-R Zone, subject to Detailed Site Plan under certain circumstances

Drafter: Legislative Officers
Resource Personnel: Betty Horton-Hodge, Legislative Aide

LEGISLATIVE HISTORY:

Date Presented:	7/13/2010	Executive Action:
Committee Referral:	7/13/2010 - PZED	Effective Date:
Committee Action:	9/20/2010 - FAV(A)	
Date Introduced:	9/28/2010	
Public Hearing:	10/26/2010 - 10:00 AM	
Council Action (1)	10/26/2010 - RECOMMIT	
Council Votes:	MB:A, WC:A, SHD:A, TD:A, CE:A, AH:A, TK:A, EO:A, IT:A	
Pass/Fail:	P	
Remarks:		

AFFECTED CODE SECTIONS:

27-441

COMMITTEE REPORTS:

PZED Committee Report

Date 9/20/2010

Committee Vote: Favorable with amendments, 3-0-1 (In favor: Council Members Dean, Bland, and Knotts. Abstain: Council Member Dernoga)

Staff summarized the purpose of the legislation and informed the committee of referral comments that were received. CB-69-2010 modifies development requirements for commercial uses, institutional uses, and multifamily dwellings and permitting certain commercial uses, institutional uses and multifamily dwellings in the R-R Zone subject to a Detailed Site Plan under certain circumstances.

The Office of Law reviewed CB-69-2010 and found it to be in proper legislative form with no legal impediments to its enactment. The Planning Board opposes the legislation and provided written comments concerning errors within the bill as drafted and suggestions for amending the errors if the bill moves forward in the legislative process.

The Chief Zoning Hearing Examiner (ZHE) reviewed CB-69-2010 and raised the following concerns in a September

20, 2010 memorandum to the committee director:

This bill drastically amends the Residential Table of Uses to permit over thirty commercial uses to operate by right in the R-R (Rural Residential) Zone. This is counter to the usual practice of approving a Mixed Use Zone application to comprehensively review the effect that the “mix” could have on the surrounding community or approving a Special Exception for a particular property to, again, review the effect that the use would have on the surrounding community. Under either scenario the Council also has the benefit of community input prior to the introduction of a commercial operation in a residential enclave.

The ZHE suggested the following amendments to Footnote 91 on page 11:

- Delete the second “permitted” on the first line and insert “provided”
- Insert the word “and” at the end of the first subsection (E) right after “parking facility”
- Add some directional language as to when the Planning Board can modify the minimum distance setback from adjacent roadways (found in the second subsection (B)), since the Council cannot delegate its authority without providing sufficient guidelines.
- Similarly, the language in the second subsection “D” must be amended; as drafted it gives the applicant total authority to propose all regulation standards.
- The language in the second subsection “E” must be refined. First, the uses are now considered permitted by right and therefore may be developed “regardless of the kind and extent of adverse impact (from a land use perspective) it will create in the particular location proposed.” *Hayfields, Inc. V. Valleys Planning Council, Inc.*, 122 Md. App. 616, 716 A. 2d 311, 322 (1998). The bill appears to require a modified special exception test prior to development. Assuming, arguendo, this is proper, it is unclear how an applicant will show that the use is in harmony with the adjacent hospital since many of the uses listed have nothing to do with medical services.
- Finally, as drafted it appears that an applicant will need 60 acres for any of the uses. If that is not the Council’s intent language needs to be added to clarify how many uses could be approved on one Detailed Site Plan, and/or clarify that the 60 acres can accommodate several uses, etc.

Richard Krueger, a resident of Tantallon, addressed the committee expressing concern that citizen community representatives were not aware of the proposed legislation and the community needs to understand the proposal and be invited to comment during this process.

Mike Nagy, of Rifkin, Livingston, Levitan and Silver, spoke in support of CB-69-2010 indicating that the bill would implement a number of issues in the Approved Henson Creek Master Plan which recognized that existing mixed use zones are not applicable for certain properties in the area covered by the Plan. William Chesley also spoke in support of the legislation which he believes would facilitate the development of condominium medical use offices or an assisted living facility.

Council Member Bland commented on her understanding the community’s concern with providing input to what means the most to them and encourages the developer to include the community in their discussions.

The committee voted favorably with amendments to address the Planning Board and ZHE comments. In response to the issues raised by M-NCPPC, the Office of the Zoning Hearing Examiner and Mr. Dick Krueger at the Planning Zoning and Economic Development Committee hearing on Monday September 20, 2010, the following revisions have been made to CB-69-2010:

1. The following eight (8) uses have been removed from the uses permitted by CB-69: “Artist residential studios”; “Bicycle repair shop: (ii) All others”; “Building supply store”; “Bulk retailing”; “Hardware store”; “Motel”; “Paint or wall covering store”; “Pet (sales) shop”; and “Parking lot or garage, or loading area, used in accordance with Part 11 to serve: (i)...(ii)...”. This revision was made to ensure that the character of the commercial center as envisioned will be that of neighborhood and local convenience commercial.
2. The maximum square footage of the majority of the retail shops have been quantified: (Department or variety store, excluding pawnshop (max. 20,000 s.f.); Drug store (max. 15,000 s.f.); Household appliance or furniture store (max 20,000 s.f.); Retail shop or store (not listed) similar to one permitted in the C-S-C Zone, (not exceeding 10,000 s.f. of

gross floor area per shop or store); Seafood market (max. 15,000 s.f.) and Sporting goods shop (max. 20,000 s.f.). This revision was made to address concerns that the legislation would allow a big box “power center”.

3. All of the medically related special exception residential uses permitted by special exception in the R-R Zone would be permitted by right on a property which meets the locational requirements of CB-69-2010. Footnote 92 spells out those uses and the superscript would appear in the Table of Uses. This revision was made to address the question of “uniformity” as raised by the Examiner in her comments.

4. The Use Tables for the R-T through R-H Zones have been corrected to eliminate any of the unintended consequences raised by M-NCPPC. This legislation will not affect any uses in the R-T through R-H category.

5. Footnote 92 has been revised to include a specific requirement for a new preliminary plan of subdivision and a new detailed site plan. This is in response to M-NCPPC’s concerns and the concerns raised by a number of the surrounding civic associations. This revision reiterates the requirement that the Applicant must demonstrate adequacy of public facilities (including transportation) in order to move forward.

6. The maximum density for residential dwelling units has been reduced to 18 dwelling units per acre for 20 acres or a maximum number of 360 dwelling units. Eighteen dwelling units per acre is accordance with the standards of the R-18 Zone and can be achieve utilizing “stacked” 2 over 2 townhomes.

7. The detailed site plan language used in the M-U-I Zone suggested by M-NCPPC has been incorporated into Footnote 92. The addition of his standard affords the community and the review agencies same protections and controls as other mixed use zones in the County.

BACKGROUND INFORMATION/FISCAL IMPACT:

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

CODE INDEX TOPICS:

INCLUSION FILES:
