

Prince George's County Council Agenda Item Summary

Meeting Date: 7/13/2010
Reference No.: CB-026-2010
Draft No.: 3
Proposer(s): Park & Planning
Sponsor(s): Dernoga, Turner, Olson
Item Title: An Act updating the overall ordinance; amending the process for requesting impacts to regulated areas to apply countywide; clarifying the definition of regulated streams and their associated buffers; amending submittal requirements for minor, major and conservation subdivisions; and implementing the recommendations of the Countywide Green Infrastructure Functional Master Plan, approved June 14, 2005.

Drafter: C.J. Lammers, M-NCPPC Staff
Resource Personnel: C.J. Lammers, M-NCPPC Staff

LEGISLATIVE HISTORY:

Date Presented:	5/11/2010	Executive Action:	7/27/2010 S
Committee Referral:	5/11/2010 - PZED 5/18/2010 - C.O.W.	Effective Date:	9/1/2010

Committee Action: 6/8/2010 - FAV(A)

Date Introduced: 6/8/2010
Public Hearing: 7/13/2010 - 10:00 AM

Council Action (1) 7/13/2010 - ENACTED
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:

24-101, 24-118, 24-120, 24-130, 24-132, 24-152

COMMITTEE REPORTS:

Committee of the Whole

Date 6/8/2010

Committee of the Whole Report 6/8/2010

Committee Vote: Favorable, 9-0 (In favor: Council Members Dernoga, Harrison, Dean, Knotts, Bland, Olson, Exum, Turner and Campos.)

CJ Lammers, Supervisor, M-NCPPC Environmental Planning Section, provided a table which summarized questions and comments regarding CB-26-2010 (DR-1) discussed at the Committee of the Whole meeting held on May 27, 2010.

There was considerable discussion regarding the stream buffer, 50 feet versus 75 feet, in the Developed Tier. The recommendation provided in the legislation as transmitted by the Planning Board is 50 feet. The suggestion was

made to require a more stringent buffer, however, provide flexibility where it is deemed necessary. Some Council Members expressed concern regarding whether a 75-foot buffer encourages redevelopment in the Developed Tier which is a desire of the Members representing those areas of the County.

After consideration of the questions and comments during both Committee of the Whole meeting discussions, the Committee voted favorable with the following amendments:

1. Page 2, lines 19 and 20, change “Be likely” to “Are likely”.
2. Page 3, line 7, change “which are assumed to be present” to “which are likely to be present”.
3. Page 3, lines 29 and 30, add the definition for “Natural Regeneration” and renumber the remaining definitions.
4. Page 5, line 11, change “A vegetation buffer established or preserved” to “A vegetated buffer preserved and/or restored”.
5. Page 5, delete subsection (E) concerning all areas having highly erodible soils on slopes of 15% or greater adjacent to the regulated stream or stream buffer, the 100 year floodplain, or adjacent wetlands or wetland buffers and change(F) to (E).
6. Page 6, line 13, add “This definition includes “perennial” and “intermittent” streams.”
7. Page 6, line 15 after “in a typical year” change “are not regulated streams” to “are “ephemeral” streams and are not regulated.”
8. Page 6, line 20, change “fifty (50)” to “sixty (60)” and change “preserved or established vegetation” to “preserved and/or restored vegetation”.
9. Page 6, lines 22 and 24, change “preserved or established vegetation” to “preserved and/or restored vegetation”.
10. Page 6, line 25, add “A reduction to the minimum buffer Developed Tier to fifty (50) feet may be approved during the development approval process to support transit-oriented development or other revitalization projects on constrained sites.”
11. Page 7, line 18 delete the following: “(16) Regulated environmental features as shown on the approved NRI; (17) Delineation of the Primary Management Area, as depicted on the approved NRI; (18) Existing topography and slopes as depicted on the approved NRI” and renumber the remaining requirements.
12. Page 9, line 27 delete “No regulated environmental features shall be placed on lots or parcels less than one acre. On a lot where such placement is permitted, no more than fifty percent (50%) of any lot or parcel shall be encumbered by the regulated environmental features.”
13. Page 9, line 27 add “Any lot or parcel proposed for development shall provide a minimum of one acre of contiguous land area exclusive of any land within regulated environmental features in a configuration that will support the reasonable development of the property. This limitation does not apply to open space and recreational parcels.”
14. Page 12, lines 9 and 10 amend to read: “shall take effect on the effective date of CB-27-2010 and CB-28-2010.”

Committee of the Whole Report 5/27/2010

Held in committee.

CB-26-2010 was transmitted by the Planning Board to the County Council as part of a package of legislation to

implement the policies and strategies of the Countywide Green Infrastructure Plan, approved by the County Council in 2005. The package contains updates to a total of eight subtitles, with the primary focus on Subtitle 25, Division 2: Trees and Vegetation (CB-27-2010); Subtitle 24, the Subdivision Ordinance (CB-26-2010); and Subtitle 27, the Zoning Ordinance (CB-28-2010). Other updated subtitles include Subtitles 4, 10, 13, 21, and 30. These updates are centered on the definitions and practices to be in conformance with the new Woodland and Wildlife Habitat Conservation Ordinance (Subtitle 25).

CJ Lammers summarized the legislation and provided a power point presentation. The presentation noted the following identified needs for the legislation: attain COMAR conformance, reduce lot restrictions, improve water quality, and improve air quality.

The Bowie City Council submitted a letter dated May 18, 2010 to the Planning, Zoning, and Economic Development (PZED) Committee Chair Samuel H. Dean in support of CB-26-2010. The City's letter noted one recommendation regarding the definition of Primary Management Area as follows. "The proposed definition addresses vegetated buffers which include all areas having highly erodible soils on slopes fifteen percent (15%) or greater adjacent to the regulated stream or stream buffer, the one hundred (100) year floodplain, or adjacent wetlands or wetland buffers. The City suggests the inclusion of all 15%-25% slopes that are adjacent and contiguous to the buffered resource, rather than just those located on highly erodible soils. This would create a more implementable standard, since there are many uncertainties related to using generalized soils information to make the buffer determination. The City Council believes it is far more practical to use the slope of the land, in relation to the regulated resource and its buffer, to determine the extent of any additional buffer expansion.

The Maryland-National Capital Building Industry Association (MNCBIA) submitted a letter dated May 26, 2010 to Council Chair Dernoga providing the following comments concerning CB-26-2010:

- Sec. 24-101(b) (20) (30) – Definitions – Stream Buffer. Primary Management Area (PMA) buffers increase from 50' to 75' in the Developing Tier and 100' in the Rural Tier. We have consistently maintained that the current 50' dimension with all other expansions is sufficient and consistent and working fine with the existing regulations and would request no change. The wetland buffers with any erodible soils adjoining automatically jump to 100' in width (from 25') even if the erodible soils are less than 100' in width from the wetland. This adds requirements "adjacent to the stream buffer and associated wetland buffer" rather than just the stream itself.
- Sec. 24-120(b)(6)(K). Conservation easements should not include every woodland conservation area throughout the site or outside of the standard PMA conservation easement calculated and recorded on plats today. Every time a TCP2 must be revised due to field constraints, or even more significantly, for some projects where the plat comes before the TCP2, the recorded plats would have to be revised with each accompanying revision. This would involve new metes and bounds computations, getting signatures from all current owners, mortgage holders, etc., and require the land records division to revise the records, tax computations, etc.
- Sec. 24-130(b)(5) refers to "the preservation and/or restoration of regulated environmental features" in a natural state has been added throughout the legislation and manual. Restoration is a new requirement and has potential open-ended consequences.

Leo Brusio of Land & Commercial, Inc. submitted a letter dated May 25, 2010 to PZED Committee Chair Dean regarding his concerns with language in the legislation as follows: on page 3, line 6 which speaks of Forest Interior Dwelling Species which are described in the "Woodland and Wildlife Habitat Technical Manual"; on page 6, line 10 concerning definition of "Regulated Stream" being too broad; page 7, line 1 concerning the preclusion of grading of sites with steep slopes; page 8, line 30 which removes the ability to make changes to a Tree Conservation Plan (TCP), and page 9, line 5 also regarding changes to a TCP and the cost which will be associated with any modifications to the plan since it will be regulated on the Final Plat and there are fees associated with doing a new plat.

On behalf of Council Chair Dernoga, Council Vice-Chair Harrison suggested consideration of widening the stream buffer to 75 feet, where possible, in the Developed Tier to address water quality issues.

The legislation was held in Committee of the Whole to allow staff an opportunity to review suggested amendments and provide comment and recommendations.

BACKGROUND INFORMATION/FISCAL IMPACT:

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

The purpose of this bill is to update the overall ordinance, clarify design criteria concerning woodland, wildlife habitat and tree canopy conservation; amend the process for requesting and approving impacts to regulated environmental features; clarify the definition of regulated streams and their associated buffers; amend submittal requirements for minor, major and conservation subdivisions; and implement the recommendations of the Countywide Green Infrastructure Functional Master Plan, approved June 14, 2005.

The related bills include proposed revisions to Subtitles 4, 10, 13, 21, 25, 27 and 30. Division 2 of Subtitle 25-117 is the updated Woodland and Wildlife Habitat Conservation Ordinance.

7/13/2010 - After public hearing CB-26-2010 (DR-2) was amended on the floor as follows:

Motion for amendment #1 made by Council Member Olson; seconded by Council Member Turner; motion carried 9-0

On page 12, line 11 add:

SECTION 3. BE IT FURTHER ENACTED that a development project for which all required development applications have been approved by the Planning Board, Zoning Hearing Examiner, or District Council, and appeal periods have not expired, is grandfathered; or a development project that has an approved preliminary plan of subdivision, but has not completed subsequent processes such as final plat or site plan, is grandfathered for that portion of the project covered by the preliminary plan.

CODE INDEX TOPICS:

INCLUSION FILES:
