

Prince George's County Council

Agenda Item Summary

Meeting Date: 11/23/2004
Reference No.: CB-110-2004
Draft No.: 2
Proposer(s): Dean
Sponsor(s): Dean, Harrington, Exum
Item Title: An Ordinance to permit assisted living facilities in the R-R Zone under certain circumstances.

Drafter: Steven M. Gilbert, Principal Counsel
Resource Personnel: Nell W. Johnson, Legislative Aide

LEGISLATIVE HISTORY:

Date Presented:	10/12/2004	Executive Action:	
Committee Referral:	10/12/2004 - PZED	Effective Date:	1/10/2005
Committee Action:	10/20/2004 - FAV(A)		
Date Introduced:	11/1/2004		
Public Hearing:	11/23/2004 - 10:00 AM		
Council Action (1)	11/23/2004 - ENACTED		
Council Votes:	MB:A, WC:A, SHD:A, TD:A, CE:A, DCH:A, TH:-, TK:A, DP:A		
Pass/Fail:	P		
Remarks:			

AFFECTED CODE SECTIONS:

27-441

COMMITTEE REPORTS:

PLANNING, ZONING & ECONOMIC DEVELOPMENT COMMITTEE

Date 10/20/2004

Committee Vote: Favorable, with amendments, 5-0 (In favor: Council Members Dernoga, Bland, Dean, Exum, and Harrington)

Staff summarized the purpose of the bill and the referral comments that were received. The legislation will permit assisted living facilities in the R-R Zone, where "adjacent to and operated by the same organization as an adult day care use, approved by special exception." It also provides that the assisted living use must meet all standards and requirements for this use currently provided in Part 6, Division 5, of the Zoning Ordinance, including detailed site plan approval.

The Principal Counsel reviewed CB-110-2004 and provided the following comments. The Council should approve the bill if it agrees that on all R-R land adjacent to approved adult day care centers, assisted living facilities should be allowed by right. In the Zoning Ordinance, the term "adjacent" means near; adjacent properties need not touch one another. It may be suggested that the bill should be amended so that it does not apply to all R-R properties near adult day care uses. One way to narrow the bill's applicability slightly would be to change "adjacent to" to "adjoining," so that the assisted living facilities property must touch the adult day care property. Another would be to allow the

assisted living facilities use only for adult day care centers of a certain size.

The Office of Law recommended that both uses, assisted living facilities and adult day care, be allowed by special exception. An assisted living facility will likely have more of an impact on the surrounding community because the residents live there full-time, and such facilities are heavily regulated by the State.

The Planning Board opposes CB-110-2004 as drafted and submitted the following written comments for the committee's consideration. There currently is a use listed in the use tables of the Zoning Ordinance called a congregate living facility which is permitted in the R-R Zone for up to eight occupants and allowed by Special Exception for eight or more occupants. A congregate living facility is defined as a residential facility for 4-20 elderly or physically handicapped residents, within which sheltered care services are provided including living, sleeping, meals, etc. There is very little difference between this use and an assisted living facility except that the definition for an assisted living facility is for more than 20 residents.

All similar uses, such as nursing and care homes, adult day care, group residential facility, and congregate living for more than eight residents, are only allowed in the R-R Zone by Special Exception. The Planning Board indicated that it would support the bill if assisted living facilities were to be allowed by Special Exception. If it were a Special Exception use, there would not be the need to associate it with an adult day care and could be located anywhere in the County.

Fern Piret, Planning Director, informed the committee that the Planning Department had not had an opportunity since the bill's presentation to determine the impact on other adult day care centers in the R-R Zone located in the County.

Chairman Dernoga expressed concern that the bill does not provide a dwelling unit limitation for the facility and that it is likely the surrounding area would be developed with half acre, single-family detached lots. The Chairman indicated that it is difficult for communities to challenge the density of a project based on compatibility at the time of special exception because special exception designation creates a presumption that the Council has determined that it is appropriate to allow the use.

Andre Gingles of Gingles, LLC, spoke in support of the bill.

The Office of Audits and Investigations determined there should be no negative fiscal impact on the County as a result of enacting CB-110-2004.

The bill's sponsor suggested the following amendments to address comments made by the Principal Counsel, Office of Law, the Planning Board and the Chairman:

On page 2, in the use table, change the "P" to "SE" for the assisted living facility use.

On page 2, in footnote 75, add language to allow a maximum of 75 dwelling units.

On page 2, in footnote 75, change "adjacent to" to "adjoining."

BACKGROUND INFORMATION/FISCAL IMPACT:

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

This bill will allow by right assisted living facilities in the R-R Zone. The use must be adjacent to and operated by the same organization as an adult day care use approved by special exception. All present Zoning Ordinance standards will apply to the assisted living facilities use, including detailed site plan.

CODE INDEX TOPICS:

INCLUSION FILES:
