

Prince George's County Council

Agenda Item Summary

Meeting Date: 5/15/2012
Reference No.: CB-013-2012
Draft No.: 3
Proposer(s): Patterson, Harrison, Olson, Lehman, Franklin, Davis
Sponsor(s): Patterson, Harrison, Olson, Lehman, Franklin, Davis
Item Title: An Ordinance concerning Commercial Zones – Department or Variety Stores for the purpose of amending the maximum permitted gross floor area for Department or Variety Stores in Commercial Zones

Drafter: Karen T. Zavakos, Legislative Officer
Resource Personnel: Ellis Watson, Legislative Aide

LEGISLATIVE HISTORY:

Date Presented:	3/20/2012	Executive Action:	
Committee Referral:	3/20/2012 - PZED	Effective Date:	7/3/2012
Committee Action:	4/3/2012 - HELD 4/10/2012 - FAV(A)		
Date Introduced:	4/17/2012		
Public Hearing:	5/15/2012 - 10:00 AM		
Council Action (1)	5/15/2012 - ENACTED		
Council Votes:	WC:N, DLD:A, MRF:A, AH:A, ML:A, EO:A, OP:A, IT:A, KT:A		
Pass/Fail:	P		
Remarks:			

AFFECTED CODE SECTIONS:

27-348.02, 27-461

COMMITTEE REPORTS:

PZED Committee Report

Date 4/10/2012

PLANNING, ZONING & ECONOMIC DEVELOPMENT COMMITTEE Date 4/10/2012

Committee Vote: Favorable with amendments, 4-0 (In favor: Council Members Franklin, Patterson, Harrison and Olson)

Staff presented a Proposed Draft-2 (DR-2) of CB-13-2012 with additional language and substitutions to address some of the concerns raised at the April 4th committee meeting.

- (1) On page 1, the title was enlarged to The title is enlarged to contemplate technical amendments needed to the Ordinance in existing law and as a result of the bill;
- (2) The references to “grocery component” in Draft 1 of the bill are removed in Section 27-348.02 because grocery stores are deemed “Food and Beverage Stores” as defined in the Ordinance;
- (3) Section 27-348.02 is amended to provide a special exception process for Department or Variety stores in excess

of 125,000 square feet of gross floor area with no food and beverage component

(4) The reference to Special Exception applications for Department or Variety Stores in the C-R-C Zone is removed because they are a permitted use in that Zone;

(5) The maximum gross floor area of department or variety stores with no food and beverage component is reinstated at 125,000 square feet;

(6) Food and Beverage stores not exceeding 85,000 square of gross floor area and no more than 10% of that gross floor area is food and beverage component are permitted by right in the C-S-C and C-M and C-R-C Zones;

(7) Footnote 52 is revised to include updated language necessary for the continued validity of exception in the current law without redundant or enlarging language; and

(8) Section 2 is revised to clarify that uses in existence on the date the law takes effect may continue and not be deemed nonconforming.

Arthur Horne testified in support of the proposed DR-2 and requested that the committee consider reinstating the language of subsection (c) of Footnote 52.

Leigh Williams testified in support of the proposed DR-2.

Rob Antonetti, Jr. testified in support of the proposed DR-2 with inclusion of the revisions offered during the April 4th work session to enlarge the exemption provided in Footnote 52 for development by his client, VOB Limited Partnership.

Andre Gingles renewed concerns raised during the April 4, 2012, work session and offered further amendments submitted in writing. Mr. Gingles further stated that the language of proposed DR-2 be modified to clarify that the requirements that department or variety stores exceeding 85,000 square feet of gross floor area are to be construed conjunctively with the 10% of that gross floor area used for a food and beverage component. The Legislative Officer stated that DR-2 could be revised to further ensure that the prescriptions of Section 27-461(b)(1)(E)(iii) be read conjunctively as follows: "Not exceeding 85,000 square feet of gross floor area and no more than 10% of gross floor area for food and beverage component." With respect to Section 2 of the bill, Mr. Gingles requested that the exemption from the provisions of the bill be enlarged to exempt projects that are subject to a Detailed Site Plan requirement by the Planning Board or the District Council, since a Special Exception process may duplicate efforts or be unduly burdensome. Rob Antonetti, Jr., and Maurene Webb, Chief Zoning Hearing Examiner, concurred with this statement. Council Member Turner suggested that the amendment to exempt projects subject to a Detailed Site Plan achieved the policy of review and would not unduly burden a development project. The Legislative Officer stated that such an amendment would not be an amendment of substance and may be considered at any time, including a time on or after the public hearing.

Held in committee. 4/4/2012

This Ordinance amends the maximum gross floor area for Department or Variety stores and sets a limitation on gross floor area for Department or Variety Stores with a certain percent grocery component permitted without a Special Exception in the Commercial Zones.

The Legislative Officer summarized the legislation and its background. The Office of Law provided a comment that the bill is in proper legislative form with no legal impediments to its adoption. Kerry Watson, Legislative Liaison, stated that the County had taken no position on the legislation.

The committee heard testimony from Arthur Horne in general support of the legislation with the recommendation that Footnote 52 applied to the C-S-C zone. Mr. Horne also raised concern with the applicability of Section 2 of the bill and requested the committee to consider stating that the existing uses continue and not be deemed nonconforming so as not to hinder the ability of existing uses to obtain financing.

Andre Gingles testified in opposition to the legislation and submitted written comments to the committee that the regulation of food and beverage sales is not sufficiently tied to land use.

Thomas Kleine testified in opposition to the legislation, stating that the regulation of the kind of merchandise offered for sale is not a sufficiently related to land use to meet applicable standards for land use and zoning regulation.

Maurene Webb, Chief Zoning Hearing Examiner, testified that the bill has unintended consequences to include having no process for department or variety stores that do not have a food and beverage component and could be constructively prohibited as not expressly permitted.

Leigh Williams testified in support of Draft 1 of the legislation.

Rob Antonetti, Jr. expressed concern over the impact of the bill on his client, VOB Limited Partnership, and submitted written amendments for consideration by the committee to enlarge the exemption in Footnote 52.

The bill was held in committee with direction by Council Member Franklin that a proposed Draft 2 be brought to the next PZED work session to address the concerns raised during the committee work session.

5/15/2012: Mr. Patterson moved Amendment No. 1 with second by Council Member Franklin, to strike “and” and substitute “or” on page 3 in Section 27-461(b)(1)(E)(iii) to render the provisions disjunctive, or independent legal prescriptions. CB-13-2012 (DR-3) was enacted.

BACKGROUND INFORMATION/FISCAL IMPACT:

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

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CODE INDEX TOPICS:

INCLUSION FILES:
