

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

Meeting Date: 4/8/2003

Reference No.: CB-4-2003

Proposer: Shapiro

Draft No.: 2

Sponsors: Shapiro

Item Title: An Ordinance permitting retail, general offices, and parking lots and amending lot coverage requirements in the R-10 Zone under certain circumstances.

Drafter: Jackie Brown, Director
PZED Committee

Resource Cheryl Harrington
Personnel: Legislative Aide

LEGISLATIVE HISTORY:

Date Presented: 1/28/2003

Executive Action: __/__/____

Committee Referral: 1/28/2003 PZED

Effective Date: 5/27/2003

Committee Action: 2/12/2003 FAV(A)

Date Introduced: 2/25/2003

Public Hearing: 4/8/2003 10:00 A.M.

Council Action: 4/8/2003 ENACTED

Council Votes: PS:A, MB:A, SHD:A, TD:A, CE:A, DCH:A; TH:A, TK:A, DP:-

Pass/Fail: P

Remarks: _____

PLANNING, ZONING & ECON. DEV. COMMITTEE REPORT

DATE: 2/12/03

Committee Vote: Favorable with amendments, 4-0 (In favor: Council Members Harrington, Dernoga, Dean and Exum)

Staff summarized the legislation and the referral comments that were received. The bill permits C-S-C Zone uses on R-10 properties which meet certain criteria. The use must be (1) located on a parcel which is surrounded by commercial and institutional uses; (2) said parcel does not abut any property that is improved with single-family detached residential dwellings; and (3) the site has frontage on a street shown on the applicable Master Plan as an arterial or higher classification. The bill also amends the lot coverage requirements in the R-10 Zone in the same circumstances.

The Planning Board opposes the bill and provided the following discussion in written correspondence from the staff dated February 5, 2003. The staff believes that this legislation is being proposed to apply only to a four-acre parcel located on University Boulevard in the commercial area of Langley Park. This property adjoins commercial uses to the west and east and the Carole Highlands Elementary School to the south. While the staff believes this may be the only property in the county for which CB-4 would be applicable, they are continuing to analyze the existing R-10 zoned properties for current applicability.

The subject property was rezoned from C-1 to R-10 via a ZMA (A-6488) on July 20, 1965. The rezoning is in conformance with the 1964 *Adopted Takoma Park-Langley Park and Vicinity Master Plan*. The 1990 SMA for the *Langley Park-College Park-Greenbelt Area (Planning Areas 65, 66 and 67)* retained the property in the R-10 Zone:

- 1) to support the Langley Park Major Community Activity Center concept shown as a floating symbol on the master plan map, and
- 2) to discourage the forming of a strip commercial development along University Boulevard.

The property is located in an area of the county known as the International Corridor, which also includes a substantial area within Montgomery County. This is an area in which a number of significant initiatives are being undertaken by state and county agencies, community groups, and public/private partnerships for the purposes of revitalization and community improvement. The staff understands that there have been recent discussions with the Redevelopment Authority and the local CDC concerning the desirability of promoting mixed use within this area, (including on this site), similar to those encouraged in the M-U-I (Mixed Use Infill) Zone. One of the purposes of the M-U-I Zone is to create a community environment enhanced by a mix of residential, commercial, recreational, open space, employment and institutional uses.

The effect of CB-4-2003 will be to effectively rezone the subject property to a combination of the R-10 Zone and the C-S-C Zone without going through any customary rezoning process such as a piecemeal application or comprehensive rezoning (SMA) following a Sector or Master Plan.

The approval of CB-4 could also have unintended consequences for other properties zoned R-10 including those that are developed with residential uses. The criteria for properties to qualify under CB-4 are specific with regard to surrounding commercial and institutional uses. While other properties zoned R-10 may not currently qualify, the staff has noted a number of properties, which are currently surrounded by either commercial or institutional uses. Because uses change over time, the right combination of uses could trigger the applicability of CB-4 without further review. For example, if an institutional use such as a church were to locate on a portion of an adjoining property currently used for commercial purposes, the provisions of CB-4 would be triggered for the abutting R-10 zoned property.

If the Planning Board had voted to recommend approval of CB-4-2003, the staff recommended that the bill be amended to include site plan review and a limitation on the uses allowed to those which would be compatible with an elementary school. Many of the uses currently allowed in the C-S-C Zone, such as liquor stores, are not compatible with a school. It is also recommended that the bill be revised to apply only to properties zoned R-10, which meet the specified criteria

as of the effective date of the bill.

The staff recognizes that piecemeal rezoning to Euclidean zones is extremely difficult under the “change/mistake” rule as it is applied in Prince George’s County. In 1997 the District Council approved a change to the Zoning Ordinance to effectively eliminate use of the “mistake” rule for new applications by limiting it to the six-year period immediately following a Sectional Map Amendment (SMA) with some variation for older SMA’s. This limitation means that applicants asking to have property rezoned to Euclidean zones must either prove change in the character of the neighborhood (realistically unfeasible to prove under the current interpretations of state law) or wait until the next SMA. While this constraint might argue for doing SMA’s every six years, practical reasons and resource limitations preclude a rigid six-year cycle for Master Plan/SMA preparation at this time under current requirements. The District Council may want to take this opportunity to take another look at the current ordinance language to see if another approach may be warranted.

Lawrence Taub, Law Office of O’Malley, Miles, Nylen & Gilmore, and Kap Kapastin, Quantum Companies, spoke in support of the bill. Mr. Taub addressed the issue raised by the Planning Board as well as a Committee member concerning compatibility of uses with the neighboring school. He explained that there is a substantial grade difference between the school property and the subject property so this should not be an issue once the site is developed. Mr. Kapastin commented that he does not believe there are any C-S-C uses that would result in a worse situation than that which currently exists with various activities taking place on the property. He also indicated that there is no other process that would allow development of commercial uses due to the restrictions on rezonings in the Ordinance and as discussed by the Planning Board.

Mr. Taub offered amendments to address the Planning Board recommendations for site plan review and applicability of the bill to R-10 properties that meet the specified criteria on the effective date of the bill. Steven Gilbert, Principal Counsel, District Council, informed the Committee that a specific date is more appropriate for codification purposes. The date chosen to include in the bill is February 1, 2003.

The Office of Law, Legislative Officer and the Principal Counsel found the bill to be in proper legislative form. The Office of Audits and Investigations determined there should not be any negative fiscal impact on the County as a result of enacting CB-4-2003. The County Executive had no comment on the legislation.

The Committee discussed and a motion was offered to prohibit certain uses such as liquor stores, check cashing establishments and pawnshops, however the motion was withdrawn and it was decided that it would be more appropriate to rely on the site plan process to review the uses proposed at that time.

The Committee voted favorably with the amendments to require Detailed Site Plan review and to require that the R-10 property must meet the specified criteria contained in the bill as of February 1, 2003. These amendments are included in Draft-2.

BACKGROUND INFORMATION/FISCAL IMPACT

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

This legislation amends the Residential Use Tables in the Zoning Ordinance to allow any use permitted in the C-S-C Zone, either by right or by Special Exception, in the R-10 Zone under certain circumstances.

General business and professional offices as well as parking lots serving adjacent commercial or industrial uses are permitted by special exception in the R-10 Zone. This bill allows these uses in the R-10 Zone without the requirement for special exception if certain circumstances are met. The bill also amends the lot coverage requirements in the R-10 Zone in the same circumstances.

CODE INDEX TOPICS: