

Prince George's County Council

Agenda Item Summary

Meeting Date: 5/18/2004
Reference No.: CB-001-2004
Draft No.: 3
Proposer(s): Harrington
Sponsor(s): Harrington, Dean, Shapiro, Dernoga, Exum, Peters, Knotts
Item Title: An Ordinance amending the notice provisions for various applications contained in the Zoning Ordinance.

Drafter: Jackie Brown, Director, PZED Committee
Resource Personnel: Kenneth C. Williams, Legislative Aide

LEGISLATIVE HISTORY:

Date Presented:	3/2/2004	Executive Action:	
Committee Referral:	3/2/2004 - PZED	Effective Date:	7/6/2004
Committee Action:	3/17/2004 - HELD 3/31/2004 - FAV(A)		
Date Introduced:	4/13/2004		
Public Hearing:	5/18/2004 - 10:00 AM		
Council Action (1)	5/18/2004 - ENACTED		
Council Votes:	MB:A, SHD:A, TD:A, CE:A, DCH:A, TH:A, TK:A, DP:A, PS:A		
Pass/Fail:	P		
Remarks:			

AFFECTED CODE SECTIONS:

27-125.01, 27-125.03, 27-125.04, 27-131, 27-133, 27-135, 27-150, 27-157, 27-158, 27-166, 27-176, 27-186, 27-195, 27-197, 27-206, 27-213, 27-213.04, 27-213.12, 27-213.13, 27-231, 27-239.01, 27-239.02, 27-242, 27-244, 27-245, 27-247, 27-280, 27-290, 27-295, 27-295.04, 27-304, 27-324, 27-325, 27-327, 27-342, 27-362, 27-374, 27-398, 27-433, 27-460.01, 27-520, 27-523, 27-524, 27-532, 27-532.02, 27-546.05, 27-546.06, 27-585, 27-588

COMMITTEE REPORTS:

PLANNING, ZONING & ECONOMIC DEVELOPMENT COMMITTEE

Date 3/31/2004

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

Staff presented a Proposed Draft-2 (DR-2) of the bill that was prepared at the direction of the committee at the March 17 worksession on the legislation. Draft-1 was amended as follows:

The waiver provisions in Sections 27-125.03 and 27-125.04 were deleted because they were too subjective.

In Section 27-295(a)(1)(C)(i) and (e)(2), after "in accordance with Section 27-125.04," the following language was deleted "unless an alternative manner and time frame for the notice is directed by the Council Chairman, based upon a pressing public need to expedite the review process."

In the new Section 27-125.04 on Notice, subsection (a)(2) was amended to delete “Map Amendment” after “all” so that the sentence reads: “Within ten (10) days after the end of each month, the Planning Board shall provide a list of all applications filed during that month, arranged according to Councilmanic District;

Also in Section 27-125.04(b), Notice of Hearing, subsection (1) was amended to clarify that the Planning Board, Zoning Hearing Examiner and District Council (not the applicant) are responsible for mailing the written notice of the date, time, and place of the public hearing on any application.

The Principal Counsel provided a lengthy analysis of the bill. Chairman Dernoga, the Committee Director and the Legislative Officer reviewed the analysis and incorporated several revisions into the revised draft.

Drafting errors related to misplaced or missing brackets in Draft-1 were also corrected in Proposed DR-2.

The committee voted favorably on Draft-2.

PLANNING, ZONING & ECONOMIC DEVELOPMENT COMMITTEE

Date 3/17/2004

Held in committee

Staff gave an overview of the legislation and the referral comments that were received. CB-1 comprehensively revises all of the notice and posting requirements in the Zoning Ordinance. The bill was prepared based on recommendations concerning notice requirements provided by the Zoning Ordinance Task Force. The task force discussed the notice issue during several meetings and concluded that a uniform 30-day notice requirement for the various proceedings is appropriate.

Council Member Harrington, the bill’s sponsor and Chairman of the Zoning Ordinance Task Force, informed the committee that CB-1 is the first product of the task force and the recommendations reflect the consensus of the group. Mr. Harrington commented that in addition to providing the uniform 30-day notice requirement, the bill also consolidates notice requirements in the ordinance.

The Office of Law found the bill to be in proper legislative form. The Office of Audits and Investigations determined there should be no negative fiscal impact on the County as a result of enacting CB-1. The Principal Counsel, District Council, provided comments concerning various provisions in the bill for the committee’s consideration.

The County Executive supports CB-1 and believes that streamlining and enhancing the notice provisions for zoning applications will encourage citizen participation in the planning process.

The Chief Zoning Hearing Examiner (Examiner) provided a memorandum stating the following concerns. The Examiner believes that the language on pages 4, 5, 58 and 59 of Draft-1 that allows waiver of the 30-day sign posting and written notification requirements is arbitrary in that it allows the waiver under too broadly defined circumstances. The language may also be in conflict with the requirement that decisions be made on the record since it is asking that the hearing body determine unilaterally (and outside the record) that the application is one that will advance the County’s economic goals, etc. The Examiner understands that there may be occasions where a 30-day period may be a hindrance. If the Council wishes to address such circumstances, perhaps language can be added that says the 30-day period may be reduced to some lesser period if: (1) the applicant provides proof of service of the notice by certified mail to all homeowners within a certain radius, and all applicable civic associations and municipalities; (2) the notice is posted in a newspaper at least two weeks prior to the hearing; and (3) the County Executive submits a written request that the notice period be reduced.

Based on the Examiner’s concerns, the committee concluded that the waiver provisions in both sections of the bill, sign posting and written notification, should be deleted.

Hamer Campbell, representing Suburban Maryland Building Industry Association, addressed the committee

concerning specific concerns of the Association. Based on Mr. Campbell's discussion, the committee agreed that the bill does not require reposting if a hearing is continued because sufficient notice is required prior to the initial hearing. The committee also agreed that the language in Section 27-125.04(a)(1) should be clarified to indicate that the Planning Board, Zoning Hearing Examiner, and District Council are responsible for mailing the written notification of hearings.

The committee chairman suggested that the bill be held in committee and a Draft-2 be prepared to incorporate the amendments suggested by the Examiner and the Principal Counsel and those necessary to address the concerns raised by the SMBIA.

BACKGROUND INFORMATION/FISCAL IMPACT:

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

This legislation amends the notice requirements for various applications contained in the Zoning Ordinance. The amendments to the notice provisions reflect the consensus of the Zoning Ordinance Review Task Force on this issue.

During several meetings held in 2003, the task force reviewed existing notice provisions for Planning Board, Zoning Hearing Examiner (ZHE), and District Council hearings for various zoning applications. The goal of the task force was to provide consistency in the public notice requirements for the many types of applications reviewed by the Planning Board, ZHE, and Council. The task force recommended a 30-day sign posting (by the applicant) and a 30-day written notification requirement for all evidentiary as well as non-evidentiary hearings. The written notification for a Board of Appeals hearing is proposed to increase from 7 days to 15 days. This legislation also proposes to eliminate advertisement of hearings in newspapers of record.

The task force also determined that in addition to consistency in the notice period for the various hearings, consolidation of the notice requirements into one location in the Zoning Ordinance is appropriate in furthering their efforts of providing recommendations that will provide for a more user-friendly Ordinance. The legislation provides sign posting and written notification requirements in Sections 27-125.03 and 27-125.04, respectively.

CODE INDEX TOPICS:

INCLUSION FILES:
