

Prince George's County Council

Agenda Item Summary

Meeting Date: 5/3/2011
Reference No.: CB-001-2011
Draft No.: 2
Proposer(s): Olson, Lehman
Sponsor(s): Olson, Lehman, Turner
Item Title: An Ordinance for the purpose of making clarifying amendments to the County law regarding the exercise of certain powers of the District Council by municipal corporations

Drafter: Karen T. Zavakos, Legislative Officer
Resource Personnel: Dannielle M. Glaros, Legislative Aide

LEGISLATIVE HISTORY:

Date Presented:	2/1/2011	Executive Action:	
Committee Referral:	2/1/2011 - PZED	Effective Date:	6/20/2011
Committee Action:	3/16/2011 - FAV(A)		
Date Introduced:	3/29/2011		
Public Hearing:	5/3/2011 - 11:00 AM		
Council Action (1)	5/3/2011 - ENACTED		
Council Votes:	WC:-, MRF:A, AH:A, LJ:A, ML:A, EO:A, OP:A, IT:A, KT:A		
Pass/Fail:	P		
Remarks:			

AFFECTED CODE SECTIONS:

27-924

COMMITTEE REPORTS:

PZED Committee Report

Date 3/16/2011

Committee Vote: Favorable as amended, 5-0 (In favor: Council Members Patterson, Toles, Campos, Harrison and Olson)

Staff informed the committee that since the time of the February 16th committee meeting, additional amendments were prepared as directed by the committee in the form of a Proposed Draft-2A and Proposed Draft-2B (DR-2B). The Legislative Officer presented amendments contained in Proposed DR-2B indicating that the draft provided further clarification of the intent in Draft-1 and a clearer way of saying what was in the original draft. These additional amendments also address the Zoning Hearing Examiner's comment regarding the need to mirror State law in Section 27-924(a)(2) regarding the imposition of standards and requirements by municipalities.

The committee voted favorable on the legislation with the amendments contained in Proposed DR-2B.

Held in committee. 2/16/2011

Staff summarized the purpose of the legislation and informed the committee of referral comments that were

received. The legislation clarifies that municipal ordinances concerning the certification, revocation, and revision of nonconforming uses must provide for District Council review prior to filing an appeal in the Circuit Court. CB-1-2011 amends the Zoning Ordinance to comport with state law.

Council Member Olson, the bill's sponsor, informed the committee that he presented CB-1-2011 as a legislative correction to CB-16-2010 adopted by the Council last year and to ensure consistency with State law. The Legislative Officer noted that the inconsistency was an oversight at the time of review and adoption of CB-16-2010 and that the State law is not written to allow intermediate review of all applications by the Council; only nonconforming use decisions of a municipality are required to be appealed to the Council prior to an appeal to the Circuit Court.

The Office of Law reviewed CB-1-2011 and determined that it is in proper legislative form with no legal impediments to its enactment. The Chief Zoning Hearing Examiner (ZHE) reviewed CB-1-2011 and provided the following written comments:

1. Existing law (Section 27-924(a)(2)) does not mirror state law. State law says the municipality may not impose a standard or requirement different from those that would apply to the District Council. However, the subsection notes that the municipality may not be stricter. The County should mirror state law to avoid any legal challenge.
2. The changes to Section 27-924(a)(4) could be read to preclude the right of appeal to the Circuit Court for aggrieved persons involved in all the other zoning matters other than nonconforming uses. I do not believe that this is the intent of the sponsor and I think my slight changes clarify that all zoning matters may ultimately be appealed to Circuit Court, but nonconforming uses must first be heard by the District Council.

Suellen Ferguson, Esq., representing the City of College Park, addressed the committee in support of CB-1-2011 indicating that this is not a substantive change to current law, but a change necessary to mirror state law.

Letters in support and in request of the committee's favorable recommendation on CB-1-2011 were received from the City of College Park, City of Bowie, and City of Greenbelt.

Staff had presented a Proposed Draft-2 (DR-2) during the committee worksession to address the ZHE's second comment. Proposed DR-2 further clarified the language in Section 27-924(a)(4) to provide that all zoning matters may ultimately be appealed to Circuit Court. The legislation was held in committee to allow staff additional time to address the first comment provided by the ZHE and prepare appropriate amendments to Section 27-924(a)(2).

BACKGROUND INFORMATION/FISCAL IMPACT:

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

This bill will clarify that municipal ordinances concerning the certification, revocation, and revision of nonconforming uses must provide for District Council review prior to filing an appeal in the Circuit Court.

CODE INDEX TOPICS:

INCLUSION FILES:
