

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2021 Legislative Session

Reference No.: CB-106-2021
Draft No.: 2
Committee: COMMITTEE OF THE WHOLE
Date: 10/07/2021
Action: FAV(A)

REPORT:

Committee Vote: Favorable as amended, 8-0-1 (In favor: Council Members Hawkins, Anderson-Walker, Davis, Franklin, Harrison, Ivey, Taveras, and Turner. Abstain: Council Member Dernoga)

The Committee of the Whole convened on October 7, 2021 to consider CB-106-2021. The Planning, Housing, and Economic Development (PHED) Committee Director summarized the purpose of the bill and informed the Committee of written comments received on referral. As presented on September 28, 2021, CB-106-2021 Draft-1 amends the Zoning Ordinance to add additional requirements for specific special exceptions permitting elderly, one-family attached dwellings located on property between nine (9) and twelve (12) acres and also clarifies recreation requirements.

The Planning Board opposed CB-106-2021 and provided an analysis of the legislation and explanation of their position in an October 7, 2021 letter to Council Chairman Hawkins.

The Zoning Hearing Examiner provided the following comments by memorandum dated September 29, 2021 to the PHED Committee Director:

“The bill is amending the special exception requirement for “Elderly Housing (One-Family Attached Dwellings), noted below, to add separate provisions for such uses in the R-R Zone.

These are the current provisions:

Sec. 27-352.01. Elderly housing (one-family attached dwellings).

- (a) Attached one-family dwellings for the elderly (and related facilities) may be permitted, subject to the following:
 - (1) The subject property shall not be adjoining property in the R-O-S or O-S Zones, unless it is separated by an arterial roadway;
 - (2) The site plan shall show the density (which shall not exceed the maximum allowable density of the zone in which the use is located, as set forth in Section 27-442(h), and

- the type and total number of dwelling units proposed (which may also include one-family detached dwellings);
- (3) The District Council shall find that the subject property is suitable for the type of development proposed and is of sufficient size to properly accommodate the proposed number of dwelling units;
 - (4) A recreational facilities plan shall be submitted demonstrating that sufficient recreational facilities or opportunities are provided to serve the prospective resident population, consistent with their needs and abilities. Facilities may be provided on-site or within adjoining development. In any case, but particularly if on adjoining property, there shall be a staging plan for the facilities constructed. Recreational areas should be clustered together to increase levels of activity, use of amenities, and the sense of vitality of the community;
 - (5) Regulations restricting the height of structures, lot size and coverage, frontage, setbacks, and any other requirements of the specific zone in which the use is proposed (excluding density, which shall be governed by Section 27-352.01(a)(2)) shall not apply to uses and structures provided for in this Section. The dimensions and percentages shown on the approved site plan shall constitute the regulations for a given Special Exception;
 - (6) The owner of the property shall record among the Land Records of Prince George's County a declaration of covenants which establishes that the premises will be solely occupied by elderly families for a fixed term of not less than sixty five (65) years. The covenant shall run to the benefit of the County; and
 - (7) The following guidelines should be considered:
 - (A) Dwelling units should be clustered around a central focal point or public space and should avoid linear design. Open space should be oriented to provide the best possible separation or buffer from adjoining single-family detached uses. The requirements of Section 24-137(g)(1), (2), and (5) through (10) shall serve as guidelines for site layout.
 - (B) No less than ten percent (10%) of the land area should be devoted to open space, recreation facilities, and social-oriented amenities.
 - (C) If a community building is proposed, no less than three (3) physically separate areas, which shall include the separation of a single room, should be provided within the building for recreational and social-oriented amenities of varying activity levels.
 - (D) Each outdoor space intended for active recreation should be a minimum of fifty (50) feet in width in least dimension, with a minimum area of five thousand (5,000) square feet.

I would first note that nothing in the body of the bill would limit the language to the use in the R-R Zone. Accordingly, I would amend p. 2 line 39 to add 'in the R-R Zone' after 'may be permitted'.

The current language in (a)(4) provides more clarity on the types of recreational facilities and some idea as to when the off-site amenities might be added. Paragraph (6) in the bill should at least be revised to require the plan.

Finally, the new part (7) should insert a period after ‘application’ on line 56, and start the new sentence as follows: ‘The covenants shall run to the benefit of the County, shall be approved by the District Council, and filed in the Land Records for Prince George’s County at the time the final subdivision plat is recorded.’”

The Office of Law reviewed CB-106-2021 as it was presented on September 28, 2021 and found it to be in proper legislative form. The Office of Law finds that Section 27-352.01(b)(5) is inconsistent with the existing R-R zone regulations and the remaining sections of the proposed legislation. All the other proposed sections describe various requirements in order for such property use to be permitted in the R-R zone via specific Special Exceptions. Subpart 5 permits a site plan to dictate the accepted regulations as opposed to the property conforming the Special Exception requirements.

The Council’s Legislative Officer summarized revisions in a Proposed Draft-2 (DR-2) prepared at the bill sponsor’s request to address the referral comments. The revisions in Proposed DR-2 are provided on page 2 as follows:

(b) Notwithstanding the provisions of subsection (a) of this Section, attached one-family dwellings for the elderly (and related facilities) may be permitted in the R-R Zone, subject to the following:

- (1) The gross tract area shall be between nine (9) and ~~twelve (12)~~ twenty (20) acres;
- (2) The property shall be located adjacent to a park owned by a public agency or land zoned R-O-S and owned by a public agency or the United States of America;
- (3) The property shall have at least one hundred fifty (150) feet of frontage on, and direct vehicular access to, a roadway with a functional transportation classification of collector or arterial;
- (4) Density shall be limited to no more than eight (8) dwelling units to the acre;
- (5) Regulations restricting the height of structures, lot size and coverage, frontage, setbacks, density, and any other requirements of the specific zone in which the use is proposed shall not apply to uses and structures provided for in this Section. The dimensions and percentages shown on the approved site plan shall constitute the regulations for a given Special Exception;
- (6) Recreational facilities shall be required. The requirement may be satisfied with a combination of on-site and off-site facilities. On-site facilities may be passive or active. Off-site recreational facilities obligations may be satisfied through contributions to the adjacent public-owned parkland, in coordination with the Prince George’s County Department of Parks and Recreation; and
- (7) Age restrictions in conformance with the Federal Fair Housing Act shall be set forth in covenants submitted with the application. ~~and~~ The covenants shall run to the benefit of the County, shall be approved by the District Council, and filed in the Land Records for Prince George’s County shall be approved by the District Council, and filed in the land records at the time the final subdivision plat is recorded.

During discussion, the Committee recommended an additional revision to include further

requirements as provided in Sec. 27-352.01 Additional Requirements For Specific Special Exceptions -Elderly housing (one-family attached dwellings). This revision was included as Sec. 27-352.01(b)(8) to provide that “the requirements of Section 27-352.01(a)(7) shall apply.” Christopher Hatcher of CLHatcher LLC testified in support of the legislation.

After discussion, on a motion by Council Member Davis and second by Council Member Turner, the Committee voted favorable 8-0-1 on CB-106-2021 Proposed DR-2 as amended.