

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

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**Meeting Date:** 11/25/2003**Reference No.:** CB-85-2003**Proposer:** Hendershot**Draft No.:** 2**Sponsors:** Hendershot**Item Title:** An Ordinance permitting a multifamily retirement  
community in the C-O Zone under certain circumstances

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**Drafter:** Jackie Brown, Director  
PZED Committee**Resource** Carol B. White  
**Personnel:** Legislative Aide

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**LEGISLATIVE HISTORY:****Date Presented:** 10/7/2003**Executive Action:** \_\_\_/\_\_\_/\_\_\_**Committee Referral:** 10/7/2003 PZED**Effective Date:** 1/12/2004**Committee Action:** 10/22/2003 FAV(A)**Date Introduced:** 10/28/2003**Public Hearing:** 11/25/2003 10:00 A.M.**Council Action:** 11/25/2003 ENACTED**Council Votes:** PS:-, MB:A, SHD:A, TD:A, CE:A, DCH:A; TH:A, TK:A, DP:A**Pass/Fail:** P**Remarks:** \_\_\_\_\_

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**PLANNING, ZONING & ECON. DEV. COMMITTEE REPORT****10/22/03**

Committee Vote: Favorable with amendments, 3-0-1 (In favor: Council Members Dean,  
Exum and Knotts. Abstained: Council Member Dernoga)

This legislation amends the commercial zone use table, in Section 27-461(b) of the Zoning Ordinance, to permit multifamily retirement communities in the C-O Zone, subject to a number of restrictions given in a new footnote 45 at the end of the table. The property must have at least 5 but no more than 11 acres, and it must be located adjacent to C-O properties with certain specific uses.

The bill's sponsor informed the committee that he presented the bill to allow development of a retirement community on C-O property in his district because there is currently no user for an office building at the site. He believes it is wise to permit another use when a developer is ready to proceed and take advantage of the market and the opportunity.

The Planning Board opposed CB-85-2003 and provided the following staff comments. This legislation would apply to property on Good Luck Road across from Duvall High School. An existing office park is located immediately north of the property and includes an adult day care center and a rehabilitation center. To the south and east of the C-O zoned property are existing garden apartments in the R-18 Zone. Duvall High School is across Good Luck Road. Although the proposed use would be compatible with the surrounding area at this location, a zoning map amendment is the appropriate process to ensure due process.

The term “multifamily retirement community” is not defined in the Zoning Ordinance. The Ordinance defines “mixed retirement development”, “assisted living facility” and there is criteria in the special exception section for “apartment housing for the elderly” and “planned retirement community”. The use “multifamily retirement community” should also be defined and specific criteria established that address what permitted, accessory and secondary uses may be associated with a “multifamily retirement community” (i.e. medical offices, adult day care, retail uses).

Unless the County feels that apartment development is an acceptable alternative to commercial development in the C-O Zone as a matter of public policy, a regulatory change such as this should generally be accomplished via a rezoning map amendment to an apartment zone. However, there are circumstances when it is advisable to allow a more diverse mix of uses in certain commercial and higher density living areas. Policies of the 2002 General Plan advocate mixed uses and higher densities and intensities, along with pedestrian- and transit-oriented design at appropriate locations, i.e., in Centers and Corridors. Revising the Zoning Ordinance to implement this policy should be done on a comprehensive basis and that is now in progress. The property on Good Luck Road that is subject to CB-85-2003 is a part of a segment of a Corridor in the General Plan. If

CB-85-2003 is approved, adding another footnote to the proposed legislation should be considered to limit the scope of possible sites where apartment development in the C-O Zone could occur and to be consistent with and reinforce the policies of the 2002 General Plan. The recommended additional footnote is: The property is located within a Center or Corridor designated by the General Plan.

The Principal Counsel determined that the bill does not appear to violate the law or rules imposed by the State, County or District Council. The Zoning Hearing Examiner provided a memorandum with the following comments on CB-85. The new use “multifamily retirement community” is very similar to current uses in the Ordinance (Apartment housing for the Elderly and Planned Retirement Community). It might be simpler to allow one of these uses by right in the C-O Zone and then add whatever extra language the sponsor wishes, than to add another use to the Ordinance. At the very least the footnote should be amended to note that the covenants run to the benefit of Maryland-National Capital Park and Planning Commission (M-NCPPC), and the nonconforming status of the use should be addressed in the event that adjacent C-O zoned land no longer has one of the uses mentioned in paragraph B.

The Office of Audits and Investigations determined there should be no negative fiscal impact on the County as a result of enacting CB-85-2003. It should be noted however, that changes or amendments to the Zoning Ordinance, have an unpredictable future affect on the County that may cause fiscal impact in later years. There are a number of variables which may be affected by

Zoning Ordinance changes that cannot be determined at this time.

Larry Taub, representing Heritage Homes, spoke in support of the bill and indicated that the site has been actively marketed for office, but it is not economically viable to develop it with this use.

Charles Dukes also addressed the committee explaining that due to property constraints, it is nearly impossible to develop the property as an office use.

Mr. Taub provided copies of a proposed definition to be included in the bill to address referral comments that were submitted concerning this issue. The definition provided is as follows:

Multifamily Retirement Community: A residential community for retirement aged persons developed under a uniform scheme of development, and which includes, either upon the same parcel or an adjacent parcel, medical offices, an assisted living facility, adult day care center, and/or other facilities designed for senior citizens.

The committee voted favorably on the legislation including the amendments to the footnote recommended by the Planning Board and the Zoning Hearing Examiner, and to include the definition of “multifamily retirement community” proposed by Mr. Taub. The purpose clause is also amended in Draft-2 to reflect that the bill also defines the new use.

## **BACKGROUND INFORMATION/FISCAL IMPACT**

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

This legislation adds a new use, Multifamily Retirement Community, to the Commercial Zones use table and permits the use in the C-O Zone under certain circumstances.

## **CODE INDEX TOPICS:**