



Office of the Chairman
Prince George's County Planning Board

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September 30, 2021

The Honorable Calvin S. Hawkins, II
Chairman
Prince George's County Council
County Administration Building
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: CB-75-2021, CB-80-2021, CB-81-2021,
CB-82-2021, CB-83-2021, CB-85-2021,
CB-87-2021, CB-89-2021, CB-91-2021,
and CB-93-2021

Dear Chairman Hawkins:

Thank you for providing the Planning Board an opportunity to review and comment on proposed District Council legislation. During the September 30, 2021 Planning Board meeting, the following positions were adopted in accordance with the planning staff's recommendations on the proposed legislation. **A Planning Board Analysis of each bill is attached for your consideration and a brief excerpt from each report is provided below:**

CB-75-2021 *A bill to permit certain multifamily residential, restaurant, and other ground floor commercial uses on a limited basis within the One-Family Detached Residential (R-55) Zone, under certain circumstances.*

Planning Board Recommendation: Oppose.

(See Attachment 1 for full analysis)

CB-75-2021 will permit "Apartment housing for elderly or handicapped families in a building other than a surplus public school (with provisions for increased density and reduced lot size in multifamily zones)" without Special Exception (SE) review subject to a footnote. Next, the bill permits "Townhouses or Multifamily Units" subject to the same footnote. Both uses would be permitted in the One-Family Detached Residential (R-55) Zone.

The footnote permits the uses within a character area of a Development District Overlay (DDOZ) Zone within a Core/Town Center boundary of a sectional map amendment approved on/or after October 24, 2000, and recommended for mixed-use development; the property must have a minimum of 8 acres and be less than one-half mile from an existing Washington Metro Area Transit Authority (WMATA) rail station, and in a Revitalization Tax District.

The Planning Board has numerous concerns and comments for District Council consideration.

Footnote 143 has appeared in numerous proposed bills.

There are no properties within a DDOZ in the County that meet the parameters of this bill as drafted. The Planning Board was not able to obtain additional background on the bill from sponsor of the legislation.

Letter (A) of the footnote states the property is located within a DDOZ. Many DDOZs have a table of uses that is applicable to properties within the overlay zone. Amending Section 27-441 (Uses Permitted in Residential Zones) and adding a footnote would not permit the use on the property. There is a process to permit the use on a property within a DDOZ. The property owner can file a Detailed Site Plan (DSP) application and request the use to be permitted on the property as allowed under Section 27-548.26(b) (Amendment of Approved Development District Overlay Zone).

In addition, the language under (A) seems to mix different terminology that could be interpreted different ways.

The term “character area” should be clarified because the term is usually only defined within an overlay zone. The “character area” within each overlay zone is different and means different things.

The words “Core Area/Town Center” boundary should be clarified. Is this a “character area” or does it relate to a Plan 2035 Town Center?

The words “in an SMA approved on/or after October 24, 2000, that is recommended for mixed-use development” should also be clarified. It is not clear what is meant by recommended for mixed-use development. Does the language reference the specific property, “character area”, “Core Area/Town Center” or all of them? Also, if the property was recommended for mixed-use in the sectional map amendment, why is the property still zoned R-55?

The language under letter (B) that states “existing mass transit METRO rail station operated by Washington Metropolitan Area Transit Authority (WMATA)” is incorrect. The correct way to reference a metro station is “Metrorail”. There should also be language added to designate a specific point of measurement for the one-half-mile radius, such as the center of a platform. The addition of a definition and point of measurement would specify which properties would qualify under the proposed legislation.

It should be noted that per the language under letter (D), certain regulations and requirements of the Mixed Use-Transportation Oriented (M-X-T) Zone would be applicable and determined and shown on the DSP. However, some DDOZs have development district standards for architecture and dimensional requirements, which may modify the requirements of the Zoning Ordinance, and would therefore apply to this property instead of the M-X-T Zone regulations.

The language under letter (E) referring to landscaping should be deleted. The Landscape Manual regulations are based on the use not the zone.

The Planning Board recommends opposition to the legislation because there are no properties in the County or within a DDOZ that meet the parameters of this bill. The use will not be permitted through the enactment of this bill. There are numerous terms within the bill that should be clarified to determine the legislation goal. Most importantly if located in a DDOZ there is an existing process where a property owner can request an amendment to permit a use in a DDOZ.

The District Council is on the eve of implementing its 21st Century Subdivision and Zoning Ordinances. The Planning Board strongly recommends that the District Council not make additional changes to the current Subdivision Ordinance.

The adopted Zoning Ordinance does not carry over the Development District Overlay Zone. The R-55 Zone is renamed the Residential, Single-Family-65 (RSF-65) Zone.

***CB-80-2021** A bill to permit by right a nursing or care home in the One-Family Detached (R-80) Zone under certain circumstances.*

Planning Board Recommendation: Oppose.
(See Attachment 2 for full analysis)

The District Council is on the eve of implementing its 21st Century Zoning Ordinance. The Planning Department Board strongly recommends that the District Council not make additional changes to the current Zoning Ordinance.

The proposed legislation will remove the need for Special Exception approval for a property located at 9106 Pineview Lane, Clinton, Maryland. The tax identification number is 0903864. The property has an approved Special Exception SE-3270 for a medical/residential campus. There is a nursing home on the property that was part of a Special Exception approval for a medical/residential campus. The use and occupancy permit number for the nursing home is 40538-2005-UO. CB-80-2021 will allow the existing nursing home or care facility to increase the gross floor area through the review and approval of a Detailed Site Plan.

This proposed legislation could impact numerous properties creating unintended consequences. There are 38 nursing or care homes in the One-Family Detached (R-80) Zone; eight of the 30 have approved Special Exceptions. The Planning Board cannot determine how many of the nursing or care homes are part of an approved Special Exception for a medical/residential campus with the large number of text amendments to review.

The Planning Board recommends opposition. There should be an additional study on the number of properties that could be affected by this legislation, so unintended consequences will not be created.

The adopted Zoning Ordinance renames the R-80 Zone the Residential, Single Family-95 (RSF-95) Zone. Nursing or care home use retains the current Zoning Ordinance regulations, which require Special Exception approval.

CB-81-2021 A bill to allow varied residential density and lot size consistent with the Subregion 6 Master Plan on Residential-Agriculture (R-A) Zone land currently used for equestrian activity

Planning Board Recommendation: Oppose.

(See Attachment 3 for full analysis)

The legislation could affect 2,743 R-A zoned properties associated with 2,771 property tax accounts. The legislation was drafted for properties located at 6406 and 6412 South Osborne Road, Upper Marlboro, Maryland. The tax account numbers for 6406 and 6412 South Osborne Road are 1785244 and 2834430.

The Planning Board has numerous concerns and comments for District Council consideration.

The bill title should be amended to remove the words “consistent with the Subregion 6 Master Plan.” The legislation pertains to R-A zoned property. The 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment* recommended the Comprehensive Design Zone for the properties, but the District Council retained the properties in the R-A Zone.

There are typographical errors in footnote 144.

Under letter (A) of the footnote the language inadvertently prohibits one-family detached dwelling units unless meeting the provisions listed in the bill. In addition, the bill could create numerous unintended consequences affecting over 2,743 properties if the assemblage of properties is within 50 feet of an adjacent property with a water and sewer service categories of W3/S3.

The language under Letter (B) requiring the adjacent property to have water and sewer W3/S3 categories should not be a factor in determining the development of another property. All subdivisions must obtain the correct water and sewer category to develop the land. In addition, water and sewer adequacy for all properties is tested at the time of the Preliminary Plan of Subdivision review and appropriate approval.

There are probably numerous subdivisions that are adjacent to existing water and sewer categories W3/S3. The W3/S3 designation does not guarantee that the property has existing public water and/or sewer connections that an adjacent property will be able to utilize.

Letter (C) requires the one-family detached dwelling lots to be 10,000 square feet. This language is not consistent with purposes of the R-A Zone. The purpose of the zone is to provide large-lot one-family detached residential subdivisions, while encouraging the retention of agriculture as a primary land use. The minimum net lot area for one-family detached dwelling units in R-A is 87,120 square feet. The net lot area proposed here is a significant reduction of approximately 90%.

The language requiring setbacks, lot coverage, and building heights to be established during Planning Board review of the Preliminary Plan of Subdivision should be revised. The Preliminary Plan of Subdivision does not approve setbacks, lot coverage, and building heights. Those regulations are addressed under Section 27-442 of the Zoning Ordinance.

The language under letter (D) referring to landscaping should be deleted. The Landscape Manual regulations are based on the use not the zone.

The Planning Board recommends opposition to the bill. The legislation could create numerous unintended consequences. The proposed minimum net lot area is wholly inconsistent with the purposes of the R-A Zone.

The District Council is on the eve of implementing its 21st Century subdivision and Zoning Ordinances. The Planning Board strongly recommends that the District Council not make additional changes to the current Zoning Ordinance.

The adopted Zoning Ordinance renames the R-A Zone the Agricultural-Residential (AR) Zone. One-family detached dwelling units are permitted in the AR Zone. The minimum net lot area is 2.00 dwelling units per acre.

CB-82-2021 A bill to permit a "Ambulatory Surgery Center" in the Light Industrial (I-1) Zone under specific circumstances.

**Planning Board Recommendation: Oppose with explanation.
(See Attachment 4 for full analysis)**

The proposed legislation will affect 2,600 I-1 zoned properties countywide. In addition, the bill does not add a definition for the "Ambulatory Surgery Center" use. Currently, the use is not defined in the Zoning Ordinance and is not listed in any tables of uses. The bill permits the use only in the I-1 Zone and prohibits it in all other zones, except as part of a hospital. Ambulatory care is listed under the definition for hospital. There is also a definition for "Medical facility" in the Zoning Ordinance; however, it is not listed in any use table. It is not clear what separates this new proposed use from the existing "hospital" and "medical facility" uses.

The Planning Board recommends opposition to the proposed legislation in place of a more comprehensive and modern approach to medical use names and permitting those uses. This more comprehensive approach is included in the adopted Zoning Ordinance which includes "ambulatory surgical clinics" as part of the "medical or dental office or lab" use. Hospitals under the adopted Zoning Ordinance may also include ambulatory care, but ambulatory surgery is generally conducted outside hospital environments.

The District Council is on the eve of implementing its 21st Century Zoning Ordinance. The Planning Board strongly recommends that the District Council not make additional changes to the current Zoning Ordinance.

The adopted Zoning Ordinance renames the I-1 Zone the Industrial/ Employment (IE) Zone. The "Ambulatory Surgery Center" use will be included under the "medical or dental office or lab" use in the new ordinance. The "medical or dental office or lab" use is permitted in the IE and Industrial, Heavy (IH) Zones.

CB-83-2021 *A bill to permit apartment housing for elderly in the Multifamily Medium Density Residential (R-18) Zone subject to Detailed Site Plan but not Special Exception approval under certain circumstances.*

Planning Board Recommendation: Oppose.
(See Attachment 5 for full analysis)

This legislation would affect 1,468 R-18 zoned properties associated with 6,333 tax accounts located in Transportation Service Area 1. It is believed this legislation is intended for a 4.5-acre site in the City of Greenbelt. As drafted, it will affect all R-18 zoned properties in Transportation Area 1. There could be far reaching unintended consequences associated with permitting numerous R-18 zoned properties to be developed with increased density above what R-18 normally allows.

There are several comments for District Council consideration concerning footnote 143.

Letter (C) is unclear. Section 27-296(c) discusses the submittal requirements for a SE application. SE application requirements would no longer apply since the bill allows the use with DSP review and approval. In addition, the density, type and total number of dwelling units would be required to be shown on any DSP. Letter (C) should be deleted.

The language under letter (E) should be amended. The covenants should be filed with land records at the time of final plat of Subdivision, not prior to issuance of building permits.

The Planning Board recommends opposition to the proposed legislation there are numerous unintended consequences.

The District Council is on the eve of implementing its 21st Century Subdivision and Zoning Ordinances. The Planning Board strongly recommends that the District Council not make additional changes to the current Zoning Ordinance.

The adopted Zoning renames the R-18 Zone to the is Residential, Multifamily-20 (RMF-20). Multifamily dwellings are permitted in the RMF-20 Zone with use-specific standards. The maximum density for the RMF-20 Zone is 20 dwelling units per acre.

CB-85-2021 *A bill to permit the use of flex space in the Mixed Use-Transportation Oriented (M-X-T) Zone under certain circumstances.*

Planning Board Recommendation: Support with amendments.
(See Attachment 6 for full analysis)

The proposed legislation will impact six properties located at 8200 Cattail Way, 8201 Cattail Way, 8300 Cattail Way, 8301 Cattail Way, 13900 Brandywine Road, and 13900 Mattawoman Drive. The tax identification numbers are 3714052, 3714045, 3714060, 3714029, 3714037 and 3714078. The properties are located within the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* and are associated with the Stephen's Crossing project.

Although the Planning Board generally encourages the Council not to make further amendments to the current zoning ordinance on the eve of the County's new 21st Century Zoning and Subdivision Ordinances, the Planning Board has historically supported the addition of flex space as a permitted use in the M-X-T Zone when the property is not within a Plan 2035 Center. Flex space is not an appropriate use in Centers because Centers should be reserved for higher density mixed use development. The properties affected by this text amendment are not in a Center, and therefore the Planning Board supports the flex space use.

The Planning Board has comments and suggestions on the footnote for District Council consideration. The comments are as follows:

Under letter (B) of the footnote, the Planning Board recommends the Council either add the phrase "or any successor plans" behind the words "Countywide Master Plan of Transportation," or delete the words "Countywide Master Plan of Transportation and replace them with the words "applicable master, sector or functional plan."

The Planning Board recommends this change because tying a bill to a specific planning document such as the "2009 Approved Countywide Master Plan of Transportation" has proven to be problematic in the past.

The Planning Board believes the proposed legislation could facilitate employment opportunities for the County.

The adopted Zoning Ordinance eliminates the M-X-T Zone.

CB-87-2021 A bill to permit a "carpet or floor covering store" and a "paint or wall covering store" in the Commercial Office (C-O) Zone, under specific circumstances.

Planning Board Recommendation: Oppose as unnecessary.
(See Attachment 7 for full analysis)

CB-87-2021 will permit "carpet or floor covering store" and paint or wall covering store" uses in the Commercial Office (C-O) Zone. The proposed legislation will affect 31 properties located in the C-O Zone. This legislation will be unnecessary as soon as the adopted Zoning Ordinance takes effect.

The Planning Board strongly recommends that the District Council wait until the new ordinance is in place. We strongly recommend that the District Council not make additional changes to the current Zoning Ordinance.

The adopted Zoning Ordinance renames the C-O the Commercial General and Office Zone (CGO) Zone. The definition for "consumer goods establishment" includes uses such "carpet or floor covering store" and "paint and wall covering store". The "commercial goods establishment" is permitted in the CGO Zone. The "consumer goods establishment" use is also permitted in the Commercial Neighborhood (CN) and Commercial (CS) Zones.

CB-89-2021 *A bill to permit certain residential development in the Commercial Office (C-O) and the Light Industrial (I-1) Zones, under certain circumstances.*

Planning Board Recommendation: Oppose.

(See Attachment 8 for full analysis)

The legislation will affect 27 properties with 25 associated tax account numbers.

The Planning Board has numerous comments for District Council consideration under footnotes 85 and 77.

Under letter (A) there should be language added to designate a specific point of measurement for the one-and-a-half-mile radius, such as the center of a platform. The addition of a definition and point of measurement would specify which properties would qualify under the proposed legislation.

Letter (E) should be deleted. Bedroom percentages no longer apply under Section 27-419. The language under the section states regulations concerning bedroom percentages shall not apply to multifamily residential uses on or after October 1, 2019.

The language under letter (F) should be deleted. The language appears to waive all requirements and regulations for the C-O and I-1 Zones. It would establish development standards at the time of DSP review and approval. This process defeats the entire purpose of zoning and denies the District Council and Planning Board the ability to apply any objective standards for development. If the legislation moves forward as drafted, the Planning Board will have no zoning regulations to review at the time of the Preliminary Plan of Subdivision, including density and lot size.

The language under letter (F) referencing landscaping and parking and loading should be deleted. The Landscape Manual and parking and loading regulations are based on the use not the zone.

The Planning Board recommends opposition to the proposed legislation. It does not include development regulations, which leaves the development of the site to be determined subjectively.

The District Council is on the eve of implementing its 21st Century subdivision and Zoning Ordinances. The Planning Board strongly recommends that the District Council not make additional changes to the current Zoning Ordinance.

The adopted Zoning Ordinance renames the C-O Zone the Commercial General and Office Zone (CGO) Zone. In addition, the I-1 Zone is renamed the Industrial/ Employment (IE) Zone. Multifamily dwelling units are permitted in both zones with use-specific standards.

CB-91-2021 *A bill to amend the required findings provisions for approval of Conceptual Site Plans and Detailed Site Plans.*

Planning Board Recommendation: Oppose with explanation.

(See Attachment 9 for full analysis)

The proposed legislation is a text amendment of general application. It will apply to all uses which require a CSP and/or DSP.

A CSP examines a concept of proposed improvements or additions to a particular property. A DSP evaluates in detail proposed improvements or additions to a particular property. More specifically, a DSP shows the specific location and delineation of buildings and structures, parking facilities, streets, green areas, physical features (planting, sediment control, woodland conservation areas, regulated environmental features), and storm water management features proposed for the site. The plan also shows proposed recreational facilities, the architectural form of buildings, and street furniture.

The text amendment does not alter the required finding for approving a CSP or DSP, which is found in the first sentence of sections 27-276(b)(1) and 27-285(b)(1). Instead, it allows the Planning Board to “consider” the relevant land use plans and the purposes of the zone in making the required finding that the CSP or DSP “represents a reasonable alternative for satisfying the site design guidelines, without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use.”

The impact of this legislation on DSPs is quite different from its impact on CSPs. Master plans are guidance documents that set broad goals for development in the geographic areas of the County they cover. They are not designed to provide detailed guidance for individual properties or development applications. In almost all cases, master plan recommendations that conflict with the rules of the applicable zone will prove unenforceable at DSP, because the zone is law while the plan is guidance. For example, if a DSP proposes uses that are permitted in the zone but discouraged by the master plan, the Planning Board will not be able to disallow the uses. Likewise, if a DSP proposes less green area than the master plan recommends, but the green area meets the requirements of the zone, the Planning Board will have to follow the rules of the zone. Requiring the Board to consider the master plan’s recommendations during DSP creates an expectation of master plan consistency that cannot legally be achieved. The Planning Board recommends against the bill to the extent it applies to DSPs.

The same concerns may arise in the review of CSPs, but less often. CSPs, like master plans, are conceptual in nature, although the CSP focuses on a specific property and the master plan generally does not. CSPs are normally followed by a Preliminary Plan of Subdivision, where the law does require plan conformance. It is reasonable to “consider” the master plan at the CSP stage, if that is policy the District Council wishes to adopt. The Planning Board notes that CSPs are abolished in the new zoning ordinance, rendering this text amendment of limited relevance to CSPs.

In summary, the Planning Board recommends against applying this bill’s provisions to DSPs. Applying the bill to CSPs is a policy decision for the District Council.

The adopted Zoning Ordinance removes the Conceptual Site Plan application type. It does not alter the required finding for approval of DSPs.

CB-93-2021 *A bill to amend the Subdivision Regulations to permit the Planning Board to approve extensions to validity periods for Preliminary Plans of Subdivisions under certain circumstances.*

Planning Board Recommendation: Support.
(See Attachment 10 for full analysis)

CB-93-2021 amends the current Subdivision Regulations, which is being replaced by new Subdivision Regulations as part of the Zoning Rewrite, when the Countywide Map Amendment (CMA) is approved. The Planning Board is not able to determine the number of properties affected by this proposed bill without doing extensive research of previously approved projects.

The Planning Board supports continued development in the County. We would like to point out a typo within the bill. The language on page 2, line 5. The word "of" should be deleted and replaced with the word "or" for clarification purposes. The language would read "approved preliminary plan or any extension thereof may be granted by the Planning Board provided"

The adopted Subdivision Regulations set maximum validity periods for infrastructure adequacy. Development projects that have not built out a significant portion of their development must be retested for adequacy based on current conditions.

As always, Planning Department staff members are available to work with the Council and your legislative staff on any pertinent legislative matters. Please let us know if we may be of further assistance.

Should you have questions, please do not hesitate to contact the Office of the Planning Director at 301-952-3595. Thank you, again, for your consideration.

Sincerely,



Elizabeth M. Hewlett
Chairman

Attachments

CB-75-2021 – Planning Board Analysis (Attachment 1)

A bill to permit certain multifamily residential, restaurant, and other ground floor commercial uses on a limited basis within the One-Family Detached Residential (R-55) Zone, under certain circumstances.

The Planning Board has the following comments for consideration by the District Council:

Policy Analysis:

CB-75-2021 will permit “Apartment housing for elderly or handicapped families in a building other than a surplus public school (with provisions for increased density and reduced lot size in multifamily zones” without Special Exception (SE) review subject to a footnote. Next, the bill permits “Townhouses or Multifamily Units” subject to the same footnote. Both uses would be permitted in the One-Family Detached Residential (R-55) Zone.

The footnote permits the uses within a character area of a Development District Overlay (DDOZ) Zone within a Core/Town Center boundary of a sectional map amendment approved on/or after October 24, 2000, and recommended for mixed-use development; the property must have a minimum of 8 acres and be less than one-half mile from an existing Washington Metro Area Transit Authority (WMATA) rail station, and in a Revitalization Tax District.

The staff has numerous concerns and comments for District Council consideration.

Footnote 143 has appeared in numerous proposed bills.

There are no properties within a DDOZ in the County that meet the parameters of this bill as drafted. The Planning Board was not able to obtain additional background on the bill from sponsor of the legislation.

Letter (A) of the footnote states the property is located within a DDOZ. Many DDOZs have a table of uses that is applicable to properties within the overlay zone. Amending Section 27-441 (Uses Permitted in Residential Zones) and adding a footnote would not permit the use on the property. There is a process to permit the use on a property within a DDOZ. The property owner can file a Detailed Site Plan (DSP) application and request the use to be permitted on the property as allowed under Section 27-548.26(b) (Amendment of Approved Development District Overlay Zone).

In addition, the language under (A) seems to mix different terminology that could be interpreted different ways.

The term “character area” should be clarified because the term is usually only defined within an overlay zone. The “character area” within each overlay zone is different and means different things.

The words “Core Area/Town Center” boundary should be clarified. Is this a “character area” or does it relate to a Plan 2035 Town Center?

The words “in an SMA approved on/or after October 24, 2000, that is recommended for mixed-use development” should also be clarified. It is not clear what is meant by recommended for mixed-use development.

Does the language reference the specific property, “character area”, “Core Area/Town Center” or all of them? Also, if the property was recommended for mixed-use in the sectional map amendment, why is the property still zoned R-55?

The language under letter (B) that states “existing mass transit METRO rail station operated by Washington Metropolitan Area Transit Authority (WMATA)” is incorrect. The correct way to reference a metro station is “Metrorail”. There should also be language added to designate a specific point of measurement for the one-half-mile radius, such as the center of a platform. The addition of a definition and point of measurement would specify which properties would qualify under the proposed legislation.

It should be noted that per the language under letter (D), certain regulations and requirements of the Mixed Use-Transportation Oriented (M-X-T) Zone would be applicable and determined and shown on the DSP. However, some DDOZs have development district standards for architecture and dimensional requirements, which may modify the requirements of the Zoning Ordinance, and would therefore apply to this property instead of the M-X-T Zone regulations.

The language under letter (E) referring to landscaping should be deleted. The Landscape Manual regulations are based on the use not the zone.

The Planning Board recommends opposition to the legislation because there are no properties in the County or within a DDOZ that meet the parameters of this bill. The use will not be permitted through the enactment of this bill. There are numerous terms within the bill that should be clarified to determine the legislation goal. Most importantly if located in a DDOZ there is an existing process where a property owner can request an amendment to permit a use in a DDOZ.

The District Council is on the eve of implementing its 21st Century Subdivision and Zoning Ordinances. Planning Department staff strongly recommends that the District Council not make additional changes to the current Subdivision Ordinance.

Impacted Property:

The proposed legislation will impact 14 I-3 zoned properties. There are 49 tax identification numbers attached to the properties.

Adopted Zoning Ordinance:

The adopted Zoning Ordinance does not carry over the Development District Overlay Zone. The R-55 Zone is renamed the Residential, Single-Family-65 (RSF-65) Zone.

Following discussion, the Planning Board voted to oppose CB-75-2021.

CB-80-2021 – Planning Board Analysis (Attachment 2)

A bill to permit by right a nursing or care home in the One-Family Detached (R-80) Zone under certain circumstances.

The Planning Board has the following comments for consideration by the District Council:

Policy Analysis:

The District Council is on the eve of implementing its 21st Century Zoning Ordinance. The Planning Department Board strongly recommends that the District Council not make additional changes to the current Zoning Ordinance.

The proposed legislation will remove the need for Special Exception approval for a property located at 9106 Pineview Lane, Clinton, Maryland. The tax identification number is 0903864. The property has an approved Special Exception SE-3270 for a medical/residential campus. There is a nursing home on the property that was part of a Special Exception approval for a medical/residential campus. The use and occupancy permit number for the nursing home is 40538-2005-UO. CB-80-2021 will allow the existing nursing home or care facility to increase the gross floor area through the review and approval of a Detailed Site Plan.

This proposed legislation could impact numerous properties creating unintended consequences. There are 38 nursing or care homes in the One-Family Detached (R-80) Zone; eight of the 30 have approved Special Exceptions. The Planning Board cannot determine how many of the nursing or care homes are part of an approved Special Exception for a medical/residential campus with the large number of text amendments to review.

The Planning Board recommends opposition. There should be an additional study on the number of properties that could be affected by this legislation, so unintended consequences will not be created.

Impacted Property:

This legislation will affect a property located at 9106 Pineview Lane, Clinton, Maryland. The tax identification number is 0903864. There are also seven additional properties that could be impacted.

Adopted Zoning Ordinance:

The adopted Zoning Ordinance renames the R-80 Zone the Residential, Single Family-95 (RSF-95) Zone. Nursing or care home use retains the current Zoning Ordinance regulations, which require Special Exception approval.

Following discussion, the Planning Board voted to oppose CB-80-2021.

CB-81-2021 – Planning Board Analysis (Attachment 3)

A bill to allow varied residential density and lot size consistent with the Subregion 6 Master Plan on Residential-Agriculture (R-A) Zone land currently used for equestrian activity

The Planning Board has the following comments for consideration by the District Council:

Policy Analysis:

CB-81-2021 permits “Dwelling, one-family detached (in general)” in the Residential Agricultural (R-A) Zone subject to a footnote.

The legislation could affect 2,743 R-A zoned properties associated with 2,771 property tax accounts. The legislation was drafted for properties located at 6406 and 6412 South Osborne Road, Upper Marlboro, Maryland. The tax account numbers for 6406 and 6412 South Osborne Road are 1785244 and 2834430.

The Planning Board has numerous concerns and comments for District Council consideration.

The bill title should be amended to remove the words “consistent with the Subregion 6 Master Plan.” The legislation pertains to R-A zoned property. The 2013 *Approved Subregion 6 Master Plan and Sectional Map Amendment* recommended the Comprehensive Design Zone for the properties, but the District Council retained the properties in the R-A Zone.

There are typographical errors in footnote 144.

Under letter (A) of the footnote the language inadvertently prohibits one-family detached dwelling units unless meeting the provisions listed in the bill. In addition, the bill could create numerous unintended consequences affecting over 2,743 properties if the assemblage of properties is within 50 feet of an adjacent property with a water and sewer service categories of W3/S3.

The language under Letter (B) requiring the adjacent property to have water and sewer W3/S3 categories should not be a factor in determining the development of another property. All subdivisions must obtain the correct water and sewer category to develop the land. In addition, water and sewer adequacy for all properties is tested at the time of the Preliminary Plan of Subdivision review and appropriate approval.

There are probably numerous subdivisions that are adjacent to existing water and sewer categories W3/S3. The W3/S3 designation does not guarantee that the property has existing public water and/or sewer connections that an adjacent property will be able to utilize.

Letter (C) requires the one-family detached dwelling lots to be 10,000 square feet. This language is not consistent with purposes of the R-A Zone. The purpose of the zone is to provide large-lot one-family detached residential subdivisions, while encouraging the retention of agriculture as a primary land use. The minimum net lot area for one-family detached dwelling units in R-A is 87,120 square feet. The net lot area proposed here is a significant reduction of approximately 90%.

CB-81-2021 – Planning Board Analysis (Attachment 3)

Page 2

The language requiring setbacks, lot coverage, and building heights to be established during Planning Board review of the Preliminary Plan of Subdivision should be revised. The Preliminary Plan of Subdivision does not approve setbacks, lot coverage, and building heights. Those regulations are addressed under Section 27-442 of the Zoning Ordinance.

The language under letter (D) referring to landscaping should be deleted. The Landscape Manual regulations are based on the use not the zone.

The Planning Board recommends opposition to the bill. The legislation could create numerous unintended consequences. The proposed minimum net lot area is wholly inconsistent with the purposes of the R-A Zone.

The District Council is on the eve of implementing its 21st Century subdivision and Zoning Ordinances. The Planning Board strongly recommends that the District Council not make additional changes to the current Zoning Ordinance.

Impacted Property:

This legislation will impact properties located at 6406 and 6412 South Osborne Road, Upper Marlboro, Maryland. The tax account numbers for 6406 and 6412 South Osborne Road are 1785244 and 2834430.

Adopted Zoning Ordinance:

The adopted Zoning Ordinance renames the R-A Zone the Agricultural-Residential (AR) Zone. One-family detached dwelling units are permitted in the AR Zone. The minimum net lot area is 2.00 dwelling units per acre.

Following discussion, the Planning Board voted to oppose CB-81-2021.

CB-82-2021 – Planning Board Analysis (Attachment 4)

A bill to permit a “Ambulatory Surgery Center” in the Light Industrial (I-1) Zone under specific circumstances.

The Planning Board has the following comments for consideration by the District Council:

Policy Analysis:

CB-82-2021 creates a new use entitled “Ambulatory Surgery Center” and permits the use in the Light Industrial (I-1) Zone. The use is prohibited in all other industrial zones. The proposed legislation will affect 2,600 I-1 zoned properties countywide.

The proposed legislation does not add a definition for the “Ambulatory Surgery Center” use. Currently, the use is not defined in the Zoning Ordinance and is not listed in any tables of uses. The bill permits the use only in the I-1 Zone and prohibits it in all other zones, except as part of a hospital. Ambulatory care is listed under the definition for hospital. There is also a definition for “Medical facility” in the Zoning Ordinance; however, it is not listed in any use table. It is not clear what separates this new proposed use from the existing “hospital” and “medical facility” uses.

The Planning Board recommends opposition to the proposed legislation in place of a more comprehensive and modern approach to medical use names and permitting those uses. This more comprehensive approach is included in the adopted Zoning Ordinance which includes “ambulatory surgical clinics” as part of the “medical or dental office or lab” use. Hospitals under the adopted Zoning Ordinance may also include ambulatory care, but ambulatory surgery is generally conducted outside hospital environments.

The District Council is on the eve of implementing its 21st Century Zoning Ordinance. The Planning Board strongly recommends that the District Council not make additional changes to the current Zoning Ordinance.

Impacted Property:

The legislation will impact 2,600 I-1 zoned properties countywide.

Adopted Zoning Ordinance:

The adopted Zoning Ordinance renames the I-1 Zone the Industrial/ Employment (IE) Zone. The “Ambulatory Surgery Center” use will be included under the “medical or dental office or lab” use in the new ordinance. The “medical or dental office or lab” use is permitted in the IE and Industrial, Heavy (IH) Zones.

Following discussion, the Planning Board voted to oppose CB-82-2021 with explanation.

CB-83-2021 – Planning Board Analysis (Attachment 5)

A bill to permit apartment housing for elderly in the Multifamily Medium Density Residential (R-18) Zone subject to Detailed Site Plan but not Special Exception approval under certain circumstances.

The Planning Board has the following comments and amendments for consideration by the District Council:

Policy Analysis:

CB-83-2021 will permit “Apartment housing for elderly or handicapped families in a building other than a surplus public school (with provisions for increased density and reduced lot size in multifamily zones” without Special Exception (SE) review subject to a footnote in the Multifamily Medium Density Residential (R-18) Zone. The footnote permits the use with Detailed Site Plan (DSP) review, the property must be located in Transportation Area 1, the density may be up to 10% higher than normally allowed in the zone and covenants for age restrictions must be submitted and approved with the DSP.

This legislation would affect 1,468 R-18 zoned properties associated with 6,333 tax accounts located in Transportation Service Area 1. It is believed this legislation is intended for a 4.5-acre site in the City of Greenbelt. As drafted, it will affect all R-18 zoned properties in Transportation Area 1. There could be far reaching unintended consequences associated with permitting numerous R-18 zoned properties to be developed with increased density above what R-18 normally allows.

There are several comments for District Council consideration concerning footnote 143.

Letter (C) is unclear. Section 27-296(c) discusses the submittal requirements for a SE application. SE application requirements would no longer apply since the bill allows the use with DSP review and approval. In addition, the density, type and total number of dwelling units would be required to be shown on any DSP. Letter (C) should be deleted.

The language under letter (E) should be amended. The covenants should be filed with land records at the time of final plat of Subdivision, not prior to issuance of building permits.

The Planning Board recommends opposition to the proposed legislation there are numerous unintended consequences.

The District Council is on the eve of implementing its 21st Century Subdivision and Zoning Ordinances. The Planning Board strongly recommends that the District Council not make additional changes to the current Zoning Ordinance.

Impacted Property:

The legislation will impact 1,468 R-18 Zone properties in Transportation Service Area 1.

Adopted Zoning Ordinance:

The adopted Zoning renames the R-18 Zone to the is Residential, Multifamily-20 (RMF-20). Multifamily dwellings are permitted in the RMF-20 Zone with use-specific standards. The maximum density for the RMF-20 Zone is 20 dwelling units per acre.

Following discussion the Planning Board voted to oppose CB 83 2021

CB-85-2021 – Planning Board Analysis (Attachment 6)

A bill to permit the use of flex space in the Mixed Use-Transportation Oriented (M-X-T) Zone under certain circumstances.

The Planning Board has the following comments and amendments for consideration by the District Council:

Policy Analysis:

CB-85-2021 will permit flex space in the Mixed Use-Transportation Oriented (M-X-T) Zone, if the property was rezoned from the Light Industrial (I-1) Zone to the M-X-T Zone through a Sectional Map Amendment (SMA) approved after January 1, 2007.

The proposed legislation will impact six properties located at 8200 Cattail Way, 8201 Cattail Way, 8300 Cattail Way, 8301 Cattail Way, 13900 Brandywine Road, and 13900 Mattawoman Drive. The tax identification numbers are 3714052, 3714045, 3714060, 3714029, 3714037 and 3714078. The properties are located within the 2013 *Approved Subregion 5 Master Plan and Sectional Map Amendment* and are associated with the Stephen's Crossing project.

Although the Planning Board generally encourages the Council not to make further amendments to the current zoning ordinance on the eve of the County's new 21st Century Zoning and Subdivision Ordinances, the Planning Board has historically supported the addition of flex space as a permitted use in the M-X-T Zone when the property is not within a Plan 2035 Center. Flex space is not an appropriate use in Centers because Centers should be reserved for higher density mixed use development. The properties affected by this text amendment are not in a Center, and therefore the Planning Board supports the flex space use.

The Planning Board has comments and suggestions on the footnote for District Council consideration. The comments are as follows:

Under letter (B) of the footnote, the Planning Board recommends the Council either add the phrase "or any successor plans" behind the words "Countywide Master Plan of Transportation," or delete the words "Countywide Master Plan of Transportation and replace them with the words "applicable master, sector or functional plan."

The Planning Board recommends this change because tying a bill to a specific planning document such as the "2009 Approved Countywide Master Plan of Transportation" has proven to be problematic in the past.

The Planning Board believes the proposed legislation could facilitate employment opportunities for the County.

Impacted Property:

This legislation will affect six properties located at a property located at 8200 Cattail Way, 8201 Cattail Way, 8300 Cattail Way, 8301 Cattail Way, 13900 Brandywine Road, and 13900 Mattawoman Drive. The tax identification numbers are 3714052, 3714045, 3714060, 3714029, 3714037 and 3714078. The properties are associated with the Stephen's Crossing project.

Adopted Zoning Ordinance:

The adopted Zoning Ordinance eliminates the M-X-T Zone.

Following discussion, the Planning Board voted to support CB-85-2021 with amendments.

CB-87-2021 – Planning Board Analysis (Attachment 7)

A bill to permit a “carpet or floor covering store” and a “paint or wall covering store” in the Commercial Office (C-O) Zone, under specific circumstances.

The Planning Board has the following comments for consideration by the District Council:

Policy Analysis:

CB-87-2021 will permit “carpet or floor covering store” and paint or wall covering store” uses in the Commercial Office (C-O) Zone. The proposed legislation will affect 31 properties located in the C-O Zone. This legislation will be unnecessary as soon as the adopted Zoning Ordinance takes effect.

The Planning Board strongly recommends that the District Council wait until the new ordinance is in place. We strongly recommend that the District Council not make additional changes to the current Zoning Ordinance.

Impacted Property:

The legislation will impact 31 C-O zoned properties.

Adopted Zoning Ordinance:

The adopted Zoning Ordinance renames the C-O the Commercial General and Office Zone (CGO) Zone. The definition for “consumer goods establishment” includes uses such “carpet or floor covering store” and “paint and wall covering store”. The “commercial goods establishment” is permitted in the CGO Zone. The “consumer goods establishment” use is also permitted in the Commercial Neighborhood (CN) and Commercial (CS) Zones.

Following discussion, the Planning Board voted to oppose CB-87-2021 as unnecessary.

CB-89-2021 – Planning Board Analysis (Attachment 8)

A bill to permit certain residential development in the Commercial Office (C-O) and the Light Industrial (I-1) Zones, under certain circumstances.

The Planning Board has the following comments for consideration by the District Council:

Policy Analysis:

CB-89-2021 permits “Dwelling, multifamily” in the Commercial Office (C-O) and the Light Industrial (I-1) Zones subject to two new footnotes with the same language. The legislation will affect 27 properties with 25 associated tax account numbers.

The Planning Board has numerous comments for District Council consideration under footnotes 85 and 77.

Under letter (A) there should be language added to designate a specific point of measurement for the one-and-a-half-mile radius, such as the center of a platform. The addition of a definition and point of measurement would specify which properties would qualify under the proposed legislation.

Letter (E) should be deleted. Bedroom percentages no longer apply under Section 27-419. The language under the section states regulations concerning bedroom percentages shall not apply to multifamily residential uses on or after October 1, 2019.

The language under letter (F) should be deleted. The language appears to waive all requirements and regulations for the C-O and I-1 Zones. It would establish development standards at the time of DSP review and approval. This process defeats the entire purpose of zoning and denies the District Council and Planning Board the ability to apply any objective standards for development. If the legislation moves forward as drafted, the Planning Board will have no zoning regulations to review at the time of the Preliminary Plan of Subdivision, including density and lot size.

The language under letter (F) referencing landscaping and parking and loading should be deleted. The Landscape Manual and parking and loading regulations are based on the use not the zone.

The Planning Board recommends opposition to the proposed legislation. It does not include development regulations, which leaves the development of the site to be determined subjectively.

The District Council is on the eve of implementing its 21st Century subdivision and Zoning Ordinances. The Planning Board strongly recommends that the District Council not make additional changes to the current Zoning Ordinance.

Impacted Property:

This legislation will impact 27 properties. There are 25 tax account numbers associated with the 27 properties.

Adopted Zoning Ordinance:

The adopted Zoning Ordinance renames the C-O Zone the Commercial General and Office Zone (CGO) Zone. In addition, the I-1 Zone is renamed the Industrial/ Employment (IE) Zone. Multifamily dwelling units are permitted in both zones with use-specific standards.

Following discussion, the Planning Board voted to oppose CB-89-2021.

CB-91-2021 – Planning Board Analysis (Attachment 9)

A bill to amend the required findings provisions for approval of Conceptual Site Plans and Detailed Site Plans.

The Planning Board has the following comments for consideration by the District Council:

Policy Analysis:

CB-91-2021 amends the required findings provisions for Conceptual Site Plans (CSPs) and Detailed Site Plans (DSPs) to permit the Planning Board to consider whether an application provides for development in accordance with the principles for orderly, planned, efficient, and economic development contained in the General Plan, Master Plan, or other approved plan, and whether it helps fulfill the purposes of the zone where the land is located.

The proposed legislation is a text amendment of general application. It will apply to all uses which require a CSP and/or DSP.

A CSP examines a concept of proposed improvements or additions to a particular property. A DSP evaluates in detail proposed improvements or additions to a particular property. More specifically, a DSP shows the specific location and delineation of buildings and structures, parking facilities, streets, green areas, physical features (planting, sediment control, woodland conservation areas, regulated environmental features), and storm water management features proposed for the site. The plan also shows proposed recreational facilities, the architectural form of buildings, and street furniture.

The text amendment does not alter the required finding for approving a CSP or DSP, which is found in the first sentence of sections 27-276(b)(1) and 27-285(b)(1). Instead, it allows the Planning Board to “consider” the relevant land use plans and the purposes of the zone in making the required finding that the CSP or DSP “represents a reasonable alternative for satisfying the site design guidelines, without requiring unreasonable costs and without detracting substantially from the utility of the proposed development for its intended use.”

The impact of this legislation on DSPs is quite different from its impact on CSPs. Master plans are guidance documents that set broad goals for development in the geographic areas of the County they cover. They are not designed to provide detailed guidance for individual properties or development applications. In almost all cases, master plan recommendations that conflict with the rules of the applicable zone will prove unenforceable at DSP, because the zone is law while the plan is guidance. For example, if a DSP proposes uses that are permitted in the zone but discouraged by the master plan, the Planning Board will not be able to disallow the uses. Likewise, if a DSP proposes less green area than the master plan recommends, but the green area meets the requirements of the zone, the Planning Board will have to follow the rules of the zone. Requiring the Board to consider the master plan’s recommendations during DSP creates an expectation of master plan consistency that cannot legally be achieved. The Planning Board recommends against the bill to the extent it applies to DSPs.

The same concerns may arise in the review of CSPs, but less often. CSPs, like master plans, are conceptual in nature, although the CSP focuses on a specific property and the master plan generally does not.

CB-91-2021 – Planning Board Analysis (Attachment 9)

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CSPs are normally followed by a Preliminary Plan of Subdivision, where the law does require plan conformance. It is reasonable to “consider” the master plan at the CSP stage, if that is policy the District Council wishes to adopt. The Planning Board notes that CSPs are abolished in the new zoning ordinance, rendering this text amendment of limited relevance to CSPs.

In summary, the Planning Board recommends against applying this bill’s provisions to DSPs. Applying the bill to CSPs is a policy decision for the District Council.

Impacted Property:

The legislation will impact all properties where uses on that property require CSPs or DSPs.

Adopted Zoning Ordinance:

The adopted Zoning Ordinance removes the Conceptual Site Plan application type. It does not alter the required finding for approval of DSPs.

Following discussion, the Planning Board voted to oppose CB-91-2021 with explanation.

CB-93-2021 – Planning Board Analysis (Attachment 10)

A bill to amend the Subdivision Regulations to permit the Planning Board to approve extensions to validity periods for Preliminary Plans of Subdivisions under certain circumstances.

The Planning Board has the following comments for consideration by the District Council:

Policy Analysis:

CB-93-2021 amends the current Subdivision Regulations, which is being replaced by new Subdivision Regulations as part of the Zoning Rewrite, when the Countywide Map Amendment (CMA) is approved. The Planning Board is not able to determine the number of properties affected by this proposed bill without doing extensive research of previously approved projects.

The Planning Board supports continued development in the County. We would like to point out a typo within the bill. The language on page 2, line 5. The word “of” should be deleted and replaced with the word “or” for clarification purposes. The language would read “approved preliminary plan or any extension thereof may be granted by the Planning Board provided”

Impacted Property:

This legislation will affect all properties that propose at least 300,000 square feet or more commercial or industrial development in a Comprehensive Design Zone (CDZ) or Mixed Use Transportation-Oriented (M-X-T) Zone project.

Adopted Zoning Ordinance:

The adopted Subdivision Regulations set maximum validity periods for infrastructure adequacy. Development projects that have not built out a significant portion of their development must be retested for adequacy based on current conditions.

Following discussion, the Planning Board voted to support CB-93-2021.