

# PRINCE GEORGE'S COUNTY COUNCIL

## COMMITTEE REPORT

2021 Legislative Session

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**Reference No.:** CB-080-2021

**Draft No.:** 2

**Committee:** COMMITTEE OF THE WHOLE

**Date:** 10/5/2021

**Action:** FAV(A)

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### **REPORT:**

Committee Vote: Favorable as amended, 9-0 (In favor: Council Members Hawkins, Anderson-Walker, Davis, Dernoga, Franklin, Glaros, Harrison, Ivey, and Turner)

The Committee of the Whole convened on October 5, 2021 to consider CB-80-2021. The Planning, Housing and Economic Development Committee Director summarized the purpose of the legislation and informed the Committee of written comments received on referral. CB-80-2021 amends the Zoning Ordinance to permit nursing or care homes in the R-80 Zone under certain circumstances.

The Planning Board opposed the legislation and provided the following analysis and explanation of their position by letter dated September 30, 2021 to Council Chairman Hawkins:

#### **“Policy Analysis:**

The District Council is on the eve of implementing its 21<sup>st</sup> 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.”

The Zoning Hearing Examiner (ZHE) provided the following comments and recommendation by memorandum dated October 4, 2021 to the Committee Director:

The above referenced bill will allow a Nursing or Care home by right in the R-80 Zone if the uses was initially developed as part of a prior Special Exception for a medical/residential campus. Currently Nursing or Care homes are permitted by Special Exception and subject to the following additional requirements found in Section 27-364 (a)(4), (5) and (6) of the Zoning Ordinance:

**“Sec. 27-364. Hospital; nursing or care home; eleemosynary or philanthropic institution.**

- (a) A hospital, eleemosynary or philanthropic institution, or nursing or care home may be permitted, subject to the following:
- (4) **Nursing or care home where not more than ten (10) persons are cared for:**
    - (A) Total area - 1/2 acre;
    - (B) Street frontage - 150 feet;
    - (C) Setback - 25 feet from all boundary lines of the Special Exception.
  - (5) **Nursing or care home in the C-O Zone where eleven (11) or more persons are cared for:**
    - (A) Total area - 2 acres, or 300 square feet per person cared for, whichever is greater;
    - (B) Street frontage - 150 feet;
    - (C) Setback - 25 feet from all boundary lines of the Special Exception.
  - (6) **Nursing or care home in all other zones where this use is permitted by Special Exception, where eleven (11) or more persons are cared for:**

- (A) Total area - 1/2 acre, plus 1,000 contiguous square feet for each person cared for above 10;
- (B) Street frontage - 150 feet;
- (C) Setback - 25 feet from all boundary lines of the Special Exception.

Since the existing language takes care to ensure that the use is relatively set back from adjoining properties, it would be in furtherance of the public health safety and welfare to require a similar minimum set back for the nursing or care homes affected by the bill. Accordingly, I would suggest that the sponsor include a requirement that the any expansion of the Nursing or Care Home be located at least 25 feet from all property boundary lines.”

The Council’s Legislative Officer summarized revisions to Footnote 143 in a Proposed Draft-2 (DR-2) prepared at the bills sponsor’s request as follows:

Notwithstanding any other provision of this Subtitle, a nursing or care home is permitted use without the requirement for a Special Exception, and any previously approved Special Exception shall not be null and void, and shall continue in full force or effect for a nursing or care home, provided:

- i. the use was initially developed as part of a prior Special Exception for a medical/residential campus; and
- ii. with the exception of providing fencing (which may include a gate) and related landscaping pursuant to the requirements of the Landscape Manual, any exterior alterations or changes to the exterior of an existing nursing or care home shall be subject to Detailed Site Plan approval pursuant to Part 3 Division 9 of this Subtitle.

The Office of Law reviewed CB-80-2021 as it was presented on September 21, 2021 and found it to be in proper legislative form. The Office of Law defers to the M-NCPPC memo to describe the potential impediments, including possible spot zoning legislative intentions. If passed in its current form, CB-80-2021 could potentially allow unpermitted property uses within the R-80 zone. The Office of Law also offers the following technical amendment: - Pg. 2, Ln 1: Change # to “2

Robert Antonetti, Esq., representing Clinton Nursing Home, testified in support of CB-80-2021.

On a motion by Council Member Harrison and second by Council Member Davis, the Committee voted favorable on CB-80-2021 as amended in Proposed DR-2.