

Prince George's County Council

Agenda Item Summary

Meeting Date: 11/17/2009
Reference No.: CB-049-2009
Draft No.: 2
Proposer(s): Dernoga
Sponsor(s): Dernoga
Item Title: A Subdivision Bill amending Subtitle 24 to permit certain intra-family transfers of property without filing a subdivision plat.

Drafter: Jackie Brown, Director PZED Committee
Resource Personnel: Laura Moore, Director of Special Projects

LEGISLATIVE HISTORY:

Date Presented:	9/29/2009	Executive Action:	11/23/2009 S
Committee Referral:	9/29/2009 - PZED	Effective Date:	12/24/2009

Committee Action: 10/7/2009 - FAV(A)

Date Introduced: 9/29/2009
Public Hearing: 11/17/2009 - 10:00 AM

Council Action (1) 11/17/2009 - ENACTED
Council Votes: MB:A, WC:A, SHD:A, TD:A, CE:A, AH:A, TK:A, EO:A, IT:A
Pass/Fail: P
Remarks:

AFFECTED CODE SECTIONS:

24-107

COMMITTEE REPORTS:

PZED Committee Report

Date 10/7/2009

Committee Vote: Favorable with amendments, 5-0 (In favor: Council Members Dean, Olson, Bland, Dernoga and Exum)

Staff summarized the purpose of the legislation noting that CB-49-2009 is companion to CB-47-2009, which amends the Zoning Ordinance concerning the net lot area for certain one-family detached dwellings in the O-S Zone if the lot is created under the intra-family conveyance provisions of Subtitle 24-107(c). CB-49-2009 amends the Subdivision Regulations, Section 24-107(c) to exempt any property or portion of a property fully encumbered by a perpetual conservation easement, to convey a minimum of one (1) acre, but not more than two (2) acres in the O-S Zone to a son or daughter of the grantor or an "unrestricted lot" as described in 2-513(b)(3) of the Maryland Annotated Code. Yates Claggett of the Soil Conservation District spoke in support of CB-49-2009 indicating that along with CB-47-2009, the new provisions will assist with intra-family conveyances of property encumbered by Maryland Agricultural Land Preservation Foundation (MALPF) easements.

The Office of Law reviewed CB-49-2009 and found it to be in proper legislative form with no legal impediments to its enactment. The Planning Board supports CB-49-2009 with recommended amendments and provided the following comments. The term "perpetual conservation easement" should be clarified to explain what the term

encompasses. The term “conservation easement” can be interpreted to mean a variety of uses such as environmental, agricultural, and historic. A second complication of the broad term “conservation easement” is the potential impact on historic preservation environmental settings. When an intra-family transfer occurs on a historic site, it has the potential to reduce the environmental setting without notice to the Historic Preservation Commission (HPC). An example would be a 100-acre property designated as a historic site where a part of the property is given to a family member. That part might contain the historic site. Therefore, the size of the historic site would be changed without HPC review.

The Planning Board recommends two amendments to the bill as follows: 1) Add the word “agricultural” to the term so it reads “perpetual agricultural conservation easement”; 2) on page 4 at the end of line 14, add the sentence “This exemption shall not allow the division of any portion of a property that is within an environmental setting for a historic site.”

The committee voted favorable including amendments to add the words “for purposes of agricultural preservation” after “conservation easement” on page 4, line 12 as well as the amendment recommended by the Planning Board to include the additional sentence on page 4, at the end of line 14. Given that CB-49-2009 bypassed presentation and was introduced on September 29, 2009, these amendments will be presented in the form of an amendment sheet on the day of the public hearing.

BACKGROUND INFORMATION/FISCAL IMPACT:

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

The Subdivision Regulations permit intra-family transfers without the requirement of filing a subdivision plat if the tract retains five (5) or more acres. This legislation provides an additional exemption to the requirement of filing a subdivision plat for certain “unrestricted lots” and intra-family transfers of property encumbered by preservation easements in the O-S Zone.

11/17/2009: CB-49-2009 amended on the floor; CB-49-2009 (DR-2) enacted.

CODE INDEX TOPICS:

INCLUSION FILES:
