

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2017 Legislative Session

Reference No.: CB-49-2017

Draft No.: 2

Committee: PLANNING, ZONING AND ECONOMIC DEVELOPMENT

Date: 10/04/2017

Action: FAV (A)

Committee Vote: Favorable as amended, 4-1 (In favor: Council Members Harrison, Franklin, Patterson and Toles. Opposed: Council Member Glaros)

Council Member Taveras informed the Committee that her office has been working with stakeholders to address comments received prior to and during the June 7 Committee meeting and presented a Proposed Draft-2A (DR-2A). The Zoning and Legislative Counsel summarized the revisions in DR-2A including a change to the purpose clause to include “revocation for noncompliance” and to strike “providing for certain retroactive application of the provisions herein.” On page 2, in Section 27-244(a)(1), the language “and is not endangering the public health, safety, and welfare” was deleted and replaced with “any person making use of or relying upon the certification that is violating or has violated any conditions thereof, or that the use for which the certification was granted is being, or has been exercised contrary to the terms or conditions of such approval, or that the use for which the certification was granted is so exercised as to be detrimental to the public health, safety, or general welfare shall be grounds for revocation proceedings in accordance with this Code.”

In the subsections of the bill for “Administrative review”, “District Council review”, and Planning Board review”, new language was inserted to provide for a finding that the use to be certified as nonconforming has no outstanding Code violations with the Department of Permitting, Inspections, and Enforcement regarding the property other than failure to have a use and occupancy permit, and no pending administrative action before Nuisance Abatement. The following language was also included in each subsection: “A permit may be issued subject to conditions reasonably related to making the current use conform with reasonable standards in the current zone.” Proposed DR-2A includes new language on page 6, lines 23-27 as follows: “In addition, and notwithstanding any appeal of the Planning Board’s recommendation filed by a person of record, the District Council may, on its own motion, vote to review the Planning Board’s recommendation for the purpose of making a final decision as to whether the use should be certified as nonconforming.”

On pages 6 and 7, lines 30-31 and 1-2, the following language was inserted: “If no appeal is filed, and the District Council does not elect to review the recommendation of Planning Board within thirty (30) calendar days after the resolution of the Planning Board is mailed, the Planning Board’s recommendation shall become the final decision as to the application to certify the use as nonconforming.” In Section 27-528(d)(2) concerning validation of permit issued in error, Zoning hearing examiner procedures, page 8, lines 30-31, a new sentence was inserted to read: “The Zoning Hearing Examiner shall review the application for conformance with subsection (g) of this Section.” Finally, Proposed DR-2A removed Section 2 of the legislation which provided

that “the Ordinance shall apply to all existing uses previously certified as nonconforming”.

Rana Hightower, Planning Department staff, informed the Committee that the Planning Board had not had an opportunity to review Proposed DR-2A but Ms. Hightower summarized comments provided by the Planning Board’s legal counsel concerning DR-2A.

Ronald Wineholt, representing AOBA, testified and submitted a letter dated October 4, 2017 requesting that the Committee continue to hold CB-49-2017. Larry Taub testified and submitted written comments on Proposed DR-2A. Michele LaRocca and Kayann Chambers, both representing R. Lenkin, testified regarding concerns with the revised draft.

The Committee voted favorable on Proposed DR-2A with additional clarifying amendments as discussed during the meeting.

Held in Committee.

June 7, 2017

The Committee Director provided an overview of the legislation and informed the Committee of written referral comments that were received. CB-49-2017 amends the Zoning Ordinance criteria for certification of nonconforming uses and provides for certain retroactive application of the provisions. Council Member Taveras informed the Committee that the provisions of this legislation are intended to eliminate blight associated with nonconforming uses. The Zoning and Legislative Counsel summarized revisions in a Proposed Draft-2 (DR-2) prepared at the bill sponsor’s request to address referral comments received.

The Planning Board took no position with explanation and provided suggested amendments in a June 5, 2017 letter to Council Chairman Davis. The Office of Law reviewed CB-49-2017 (DR-1) and offered the following comments: Page 3, Lines 30-31; Page 5, Lines 11-12 and Page 6, Lines 7-8: For clarity, a distinction should be made between Building Code (Subtitle 4) and Housing and Property Standards (Subtitle 13); Page 6, Lines 28-29: The Office of Law believes that the retroactive application of parking requirements proposed in Section 2 may be subject to legal challenges; and Section 27-584 should be reviewed in conjunction with this bill as it can be in conflict with what is being proposed. The Department of Permitting, Inspections and Enforcement (DPIE) submitted a written comment dated May 18, 2017 in support of the legislation as it will help facilitate enforcement of property standards regarding trash and debris.

J. Clark Melillo, President, Kay Management Co., Inc. submitted a letter dated May 31, 2017 urging the Committee not to enact the legislation. Ronald Wineholt, Vice President Government Affairs of Maryland, AOBA, submitted a June 2, 2017 letter and also testified in opposition. City of Greenbelt Mayor Emmett V. Jordan submitted a letter dated June 6, 2017 requesting that the Committee oppose CB-49-2017, or hold the bill in committee to allow an opportunity for further discussions on how to address Council Member Taveras’s concerns, while not negatively impacting existing certified nonconforming uses that are considered to have a positive presence in a community. Celia Craze, representing the City of Greenbelt, also testified regarding the City’s concerns explained in the Mayor’s letter. Imani Kazana, President/CEO, Avonridge Community Development Corporation, submitted a June 7, 2017 letter and also testified regarding “suggestions to refine Draft #1, so as to more clearly identify the primary issues which need to be addressed prior to an owner receiving permission to continue under its non-conforming zoning.”

The following individuals testified in opposition: Greg Kennedy (Southern Management), Harald

Mangold (Scott Management), Steve Lovecchio (Kay Apartments), Jon Coldicott (FCP), Dwayne Mingo (PGCAR), Michael Cerrito (PGCAR), Larry Taub (BDMG; Ross Apartments; The Donaldson Group), Paul Jackson (Doug Wiitala), Michele LaRocca (MBPA), and Kayann Chambers (MBPA). The following individuals testified in support: Theodor White, Anthony White, Brian L. Finnell, and Sawa Kamara. A petition signed by several individuals in support of the legislation was also submitted in the record.