

# PRINCE GEORGE'S COUNTY COUNCIL

## COMMITTEE REPORT

2021 Legislative Session

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**Reference No.:** CB-083-2021

**Draft No.:** 2

**Committee:** COMMITTEE OF THE WHOLE

**Date:** 10/05/2021

**Action:** FAV(A)

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### **REPORT:**

Committee Vote: Favorable as amended, 7-0 (In favor: Council Members Hawkins, Davis, Franklin, Glaros, Harrison, Ivey, and Turner)

The Committee of the Whole convened on October 5, 2021 to consider CB-83-2021. The Planning, Housing, and Economic Development (PHED) Committee Director summarized the purpose of the bill and informed the Committee of written comments received on referral. CB-83-2021 amends the Zoning Ordinance to allow age restricted development in certain residentially zoned areas of the County with certain density and without the requirement for a special exception.

The Planning Board opposed CB-83-2021 and provided an analysis of the legislation and explanation of their position in a September 30, 2021 letter to Council Chairman Hawkins as follows.

#### **“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 21<sup>st</sup> 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.”

The Zoning Hearing Examiner provided the following comments by memorandum dated October 6, 2021 to the PHED Committee Director:

“I have reviewed the above referenced legislation and have the following comments. Currently the Zoning Ordinance requires Special Exception approval for such uses in the R-18 and requires that they be operated by a private, nonprofit organization. The density currently allowed is twice that normally allowed in the zone, and the minimum net lot area may not be less than 50% of the minimum net lot area normally required in the zone. The density and minimum net lot area permitted in the R-18 Zone are generally 12 per acre and 16,000 square feet, respectively.

This bill will remove the requirement of approval of a Special Exception, will allow the density to be 10% higher than that normally allowed, and is silent as to the minimum net lot area. To reduce any negative impact upon the public health, safety and welfare I would suggest that the sponsor include the language pertaining to minimum net lot area (that it not be less than 50% of the minimum net lot area normally required in the zone). Since this use will be permitted by right (and conditions may not be imposed), I would also suggest that the Site Plan address building height, yards, setbacks, frontage and lot coverage.

Finally, the footnote should be revised to add ‘as described in the 2014 General Plan’ at the end of paragraph (B) and replace ‘that’ with ‘than’ in paragraph D after ‘greater’.”

The Office of Law reviewed CB-83-2021 as it was presented on September 21, 2021 and found it to be in proper legislative form with legal impediments to its adoption. The Office of Law defers to the M-NCPPC and ZHE memos respectively to describe the potential impediments and

amendments.

The Council’s Legislative Officer summarized revisions in a Proposed Draft-2 (DR-2) prepared at the bill sponsor’s request to address the referral comments. The revisions in Proposed DR-2 are provided in Footnote 143, on page 2 as follows:

Permitted in the R-18 Zone without a Special Exception, provided:

- (A) A Detailed Site Plan shall be approved in accordance with Part 3, Division 9;
- (B) The subject property is located within Transportation Service Area 1;
- (C) ~~In addition to the requirements of Section 27-296(e), the site plan shall show the density, and the type and total number of dwelling units proposed~~ A condominium plat is recorded, in accordance with the provisions of the Maryland Condominium Act, setting out each dwelling as a separate unit;
- (D) The density shall not be greater ~~that~~ than 10% higher than that normally allowed in the zone;

Age restrictions in conformance with the Federal Fair Housing Act shall be set forth in covenants submitted with the application, which shall be approved with the Detailed Site Plan as and filed in the land records prior to certification of the Detailed Site Plan ~~the issuance of any building permit.~~

Thomas Haller of Gibbs & Haller, representing Armory Place LLC, testified in support of the legislation.

After discussion, on a motion by Council Member Turner and second by Council Member Davis, the Committee voted favorable 7-0 on CB-83-2021 as amended in Footnote 143.