

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2021 Legislative Session

Reference No.: CB-081-2021

Draft No.: 2

Committee: COMMITTEE OF THE WHOLE

Date: 10/5/2021

Action: FAV(A)

REPORT:

Committee Vote: Favorable as amended, 7-0-1 (In favor: Council Members Hawkins, Anderson-Walker, Davis, Franklin, Glaros, Harrison, and Turner. Abstain: Council Member Dernoga)

The Committee of the Whole convened on October 5, 2021 to consider CB-81-2021. 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-81-2021 amends the Zoning Ordinance to allow for varied residential density and lot size consistent with the Subregion 6 Master Plan in the R-A 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:

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%.

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.”

The Council’s Legislative Officer summarized revisions to the purpose clause and Footnote 144 in a Proposed Draft-2 (DR-2) prepared at the bills sponsor’s request as follows:

AN ORDINANCE concerning

R-A Zone

For the purpose of allowing varied residential density and lot size ~~consistent with the Subregion 6 Master Plan~~ on R-A Zone land currently used for equestrian recreational activity.

Dwelling, one-family detached (as part of a property assembly with an equestrian recreational facility)			P144
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ed use, provided:

- A) The property assemblage shall be a minimum of two hundred (200) gross acres in size a portion of which is used for equestrian recreational facility;
- B) The property is located adjacent to existing improved subdivisions with existing water and sewer service in Categories W3/S3;
- C) The property is located within Subregion VI Masterplan area and is recommended for a comprehensive design zone;
- D) Notwithstanding the provisions of the Zoning Ordinance Section 27-422, Bulk regulations concerning the height of structures, lot size and coverage, frontage, setbacks, density, number of uses, and of the specific zone do not apply. In accordance with Part 3 Division 9 of this Subtitle, the dimensions shown on the approved Detailed Site Plan shall constitute the development regulations;
- E) The single-family lot area shall be between ten thousand (10,000) square feet or larger, minimum lot density lot coverage, front, side, and rear yards for each lot, building height as determined by the County Planning Board at time of the Preliminary Plan of Subdivision approved in accordance with Part 3, Division 9, of this Subtitle; and
- F) The landscape, building height, architecture, and other development standards shall be established by the Planning Board and shown on the approved Detailed Site Plan approved in accordance with Part 3, Division 9, of this Subtitle.

The Office of Law has reviewed CB-81-2021 as it was presented on September 21, 2021 and found it to be in proper legislative form. The Office of Law deferred to the MNCPPC memo to describe the potential impediments, including technical errors in the footnote. Notably, MNCPPC describes the existing citation for setback as Prince George’s County Code Section 27-442; however, footnote 144(B) cites “Part 3, Division 9, of this Subtitle” – that section of the code pertains to “Site Plans” which do not approve setback as described in the footnote. Instead, the citation should be 27-442, which clearly describes the Net Lot Area (Minimum in Square Feet) for One-Family detached dwellings requirements. The Office of Law also offers the following technical amendment: - Pg. 2, Footnote 144(C) – line 1, change “ot” to “of” - Pg. 2, Footnote 144(D) – line 1, change “te” to “the” - Pg. 3, Ln 1: Change # to “2”

Arthur Horne, Esq., representing Dorothy Troutman, 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-81-2021 as amended in Proposed DR-2.