

**PRINCE GEORGE'S COUNTY COUNCIL
AGENDA ITEM SUMMARY**

Meeting Date: 11/23/99

Reference No.: CB-24-1999

Proposer: Hendershot

Draft No.: 2

Sponsors: Hendershot

Item Title: An Ordinance permitting day care centers for children in multifamily developments under certain circumstances and clarifying the status of day care centers in multi-family units

Drafter: Ralph E. Grutzmacher
Legislative Officer

Resource Carol White
Personnel: Legislative Aide

LEGISLATIVE HISTORY:

Date Presented: 4/20/99

Executive Action: __/__/__ __

Committee Referral: 4/20/99 PZED

Effective Date: 1/10/2000

Committee Action: 1 6/7/99

Committee Action: 2 10/20/99 FAV (A)

Date Introduced: 10/26/99

Public Hearing: 11/23/99 1:45 P.M.

Council Action: 11/23/99 ENACTED

Council Votes: JE:A, DB:A, IG:A, TH:A, WM:A, RVR:A, AS:A, PS:A, MW:A

Pass/Fail: P

Remarks: _____

PLANNING, ZONING AND ECON. DEV. COMMITTEE REPORT 10/20/99

Committee Vote: Favorable as amended, 5-0 (In favor: Council Members Russell, Bailey, Gourdine, Hendershot and Maloney)

Staff explained that this legislation was previously discussed by the Committee at the June 7, 1999 meeting. At that time, issues were raised by the Department of Environmental Resources (DER) and amendments were recommended by the Planning Board. A Proposed Draft-2 of the bill was prepared at the request of Council Member Hendershot, the bill's sponsor, to address concerns expressed during the prior discussion. The second draft incorporates many of the amendments recommended by the Planning Board and also includes new language to address the County Executive's concerns as raised by DER. Proposed Draft-2 includes language requiring

that the day care center for children be located within an existing “free-standing” building “in a project in excess of one hundred (100) units.” It also limits the number of day care centers for children to “two (2)” per multifamily development.

Council Member Hendershot explained the purpose of the bill is to facilitate the location of day care centers for children in older multifamily developments where it is not possible to meet the Special Exception requirements for this use. CB-24-1999 amends the existing provisions in order to assist these developments in providing this service to the residents. Mr. Hendershot also proposed an additional amendment to Proposed Draft-2 as follows:

On page 2, delete line 27 and insert in lieu thereof, the following language:

“Day care center for children located within an existing building in a project in excess of 100 units, with a maximum of two (2) per project, provided that (a) it is located in a “Hot Spot” or “Revitalization Area, (b) it is operated by a non-profit entity, (c) at least 50% of the children are residents of the project and (d) one of the sites must be a free-standing building.”

The County Executive supports the legislation with this amendment. Council Member Maloney raised a question concerning the definition of a “Hot Spot” and how the permit review staff could determine if a proposed day care center in a multifamily development meets this criteria. Concern was also raised about the need for two (2) day care centers per project.

Amendments were suggested to change the “maximum of two (2) per project” in the second line of the amendment to “maximum of one (1) per project” and to insert “as defined in State law” after “Hot Spot” in third line of the amendment.

The following individuals spoke in support of the bill: JoAnn Bell, John Lally, Kathy Dougherty, Edgewood Management; and George Pollard, Property Manager, Riverview Terrace Apartments.

The Committee voted favorably on Proposed Draft-2 including the additional amendments regarding the maximum number of centers and the clarification language for “Hot Spot.”

PLANNING, ZONING AND ECON. DEV. COMMITTEE REPORT

DATE: 6/7/99

Staff gave an overview of the legislation and informed the Committee of referral comments that were received. This bill permits a day care center for children in a nonconforming multifamily development as long as the center is placed in an existing structure. The requirement for a site plan for the center would not trigger a need for a site plan for the entire development. The parking requirement for a center in a nonconforming multifamily development is eliminated. The landlord will be responsible for ensuring appropriate parking. The legislation also corrects the use tables to conform with previous amendments for day care centers for children in multifamily developments.

The Legislative Officer has determined that the bill is in proper legislative form. The Planning

Board supports the legislation with several technical or clarifying amendments. As this bill will help defray the expense of preparing site plans for establishing day care centers, the recommended amendments are as follows:

1. Page 2, Line 23 should be amended to read:
 “(vii) Day care centers for children located within an existing building;”
 and Page 2, Line 27, the new section X should be deleted.
 As proposed, these two lines are confusing and redundant. The recommended amendment simplifies the language and clarifies the intent.
2. Page 3, Line 17 should be amended to read:
 “(7) Day care centers for children located within an existing building;”
 and, Page 3, Line 20 should be deleted.
 Again, this simplifies the language and clarifies the intent.
3. Pages 4 and 5: The new “(D)” is confusing when read with “(B)” and “(C)”. Both “(B)” and “(C)” are within an existing building and, “(C)” does not have to conform to 27-445.03, but “(D)” appears to make it do so. Therefore, “(B)” should be restructured to read:
 (B) Accessory to a multifamily development:
 - (i) within a multifamily unit
 - (ii) elsewhere within an existing building in accordance with Section 27-445.03
 and (C) should remain as “All others” and (D) and (E) are eliminated.
4. All references to permitting Day Care Centers for children in multifamily units in the single-family residential zones should be changed to “X” to prohibit them. Only apartments for the disabled and elderly are allowed in these zones. Therefore, the bill is inadvertently permitting day care centers for children in apartments for the elderly which the Planning Board assumes is not the legislation’s intent.
5. Page 7, Line 3, the word “nonconforming” should be deleted. Provisions in the bill are not limited to nonconforming multifamily dwellings. The bill is not requiring a site plan regardless of whether the multifamily development is nonconforming or conforming.
6. Page 8, the proposed Parking Requirements should be restructured as follows:

Day Care Center for children:

- | | | | |
|-----|--|-----|---|
| i. | Within an existing multifamily development | 0.0 | Provided that a sufficient drop-off and pick-up area exists |
| ii. | All others | 1.0 | 8 Children |

This change simplifies the language and assures that a safe, adequate drop-off and

pick-up area exists for the children and parents.

The County Executive opposes the legislation. The Department of Environmental Resources (DER) provided comments in opposition to CB-24-1999. Tom Matzen, representing DER, addressed the Committee explaining the concern is that there is no limitation on the number of centers that could be located in a multifamily development nor is there a limitation that the children must be residents of the development. DER also expressed concerns related to the elimination of parking requirements for the day care centers.

The Chamber of Commerce supports the legislation indicating that the ever increasing need for additional child care facilities in the County makes CB-24-1999 a desirable bill. The Prince George's Child Resource Center, Inc. submitted a letter in support of this bill. One of the missions of the Resource Center is the expansion of affordable and accessible child care for families in the County. The Resource Center believes that this legislation will remove existing barriers and stimulate the development of licensed care for families residing in apartments where there is a great need for these programs.

John Lally, representing Edgewood Management, spoke in support of the legislation.

A motion by Council Member Hendershot for a favorable recommendation failed due to th

BACKGROUND INFORMATION/FISCAL IMPACT

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

The current requirements for day care centers for children require a site plan of the entire property. In older nonconforming multifamily dwellings, the expense of preparing a site plan is a disincentive to the establishment of day care centers for children. The proposed amendments would require a partial site plan for the area of the day care center and eliminate the need for parking spaces associated with the day care center at existing multifamily developments. The legislation also corrects the use tables to conform with previous amendments regarding day care centers for children in multifamily developments.

CODE INDEX TOPICS: