

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2020 Legislative Session

Reference No.: CB-080-2020

Draft No.: 2

Committee: COMMITTEE OF THE WHOLE

Date: 10/06/2020

Action: FAV (A)

REPORT:

Committee Vote: Favorable as amended, 10-0 (In favor: Council Members Turner, Anderson-Walker, Davis, Franklin, Glaros, Harrison, Hawkins, Ivey, Streeter and Taveras)

The Committee of the Whole convened on October 6, 2020 to consider CB-80-2020. The Planning, Housing, and Economic Development Committee Director summarized the purpose of the bill and informed the Committee of written referral comments received. Draft-1 of the bill defined “Contractor’s Yard” and permitted the use in the R-R Zone under certain circumstances. Council Member Davis, the bill’s sponsor, informed the Committee that CB-80-2020 is intended to facilitate the continued use of a small business that has been operating for several years and to ensure that operation of the business on property within his District does not result in a nonconforming use.

The Planning Board was scheduled to review CB-80-2020 on October 8, 2020. The Planning Department staff submitted their comments and recommendation in opposition to the legislation for reasons outlined in their October 5, 2020 memorandum to the Planning Board. The proposed use is a commercial use and generally incompatible with residential zones. There are a few uses in the residential table of uses that are like the proposed use and are permitted in the R-R Zone under different circumstances. Those scenarios are listed below.

- A “contractor's office (must include sanitary facilities)”, “construction yard” or “shed”, or “storage building (in connection with a construction project)” as a temporary use is permitted by right as subject to Sections 27-260 and 27-261 and “all others” require Special Exception approval.
- A “contractor’s office with wholly enclosed storage” is permitted under specific circumstances (Footnote 68).
- A “landscaping contractor’s business” requires SE approval.

It is unclear if the new use, “contractor’s yard”, is different from the above-mentioned uses or why a new use definition is necessary.

The current “contractor's office (general)” use should be used instead of adding a new use to the current Zoning Ordinance. The “contractor office (general)” is listed in the commercial table use as “as a permanent use, including the businesses of siding, flooring, roofing, plumbing, air conditioning, heating, painting, carpentry, electrical work, landscaping and the like, with buildings, and uses accessory to the business (as well as the office) use: (B) With outdoor storage of materials, located only in a side or rear yard; enclosed by a slightly, opaque wall or fence at least 6 feet high; with no storing of material higher than the fence; but excluding the use of outdoor storage of earth moving or other heavy equipment, or outdoor storage of machinery”.

While the Planning Department appreciates the District Council’s desire to use the definition for “contractor’s yard” added under the adopted Zoning Ordinance; trying to add a new use definition adds confusion to the current Zoning Ordinance.

The Planning Department staff has conducted a GIS analysis of the proposed footnote and the language under footnote 139 does not apply to any property in the County.

Staff recommends the District Council clarify if landscaping and buffering is the only reason why a Detailed Site Plan (DSP) is required. The Landscape Manual already includes buffering standards for industrial uses, and if this is the only reason a DSP is desired, staff recommends deleting the requirement for a DSP. Should the District Council wish to require a DSP for other purposes, the Council should add development standards to the bill for this use.

The Zoning Hearing Examiner (ZHE) reviewed CB-80-2020 and provided the following comments in an October 5, 2020 memorandum to the PHED Committee Director.

This bill is defining “contractor’s yard” and permitting it under certain circumstances in the R-R Zone.

A quick review of the Zoning Ordinance reveals that a “Contractor’s office (general)” is permitted by right or by special exception, “as a permanent use, including the businesses of siding, flooring, roofing, plumbing, air conditioning, heating, painting, carpentry, electrical work, landscaping, and the like, with buildings and uses accessory to the business (as well as the office)” and allows this to include indoor and outdoor storage of materials or equipment. (*See*, Sections 27- 461 (b)(3) and 27-473 (b)(3)). In the R-R Zone, and most of the residential zones, a “Contractor’s office..., construction yard or shed, storage building (in connection with a construction project) as a temporary use” is permitted by right or by special exception. Additionally, a “Contractor’s Office, which may include wholly-enclosed storage, as a permanent use” is permitted in the R-R Zone.

The definition on page 2 of the bill may render many of the existing Contractor Offices nonconforming, at least to the extent that any outdoor storage is included. I would suggest that the definition in the table be added to Section 27-101.01(a) and that a new subsection be added to Section 27-441(b)(1) (Commercial) to permit “the outdoor storage and maintenance of construction equipment and other materials customarily required in the building trade by a construction contractor” to be allowed pursuant to the provisions set forth in the footnote.

The PHED Committee Director provided an overview of a Proposed Draft-2 (DR-2) prepared at

the bill sponsor's request with amendments to address the Planning staff and ZHE comments. The Proposed DR-2 removed the new definition of "Contractor's Yard" and also replaced it with "Contractor's office which may include outdoor storage and parking of heavy vehicles and equipment" in the table. Accordingly, title and purpose clause changes were made in lines 3 and 4, page 1 of the bill. In addition, to address the Planning staff's comment concerning the bill's applicability to properties in the County, (C) in footnote 139 was revised to delete "does not have frontage on a public right-of-way, and" so the sentence reads: "The property is accessed via a private easement."

Terry Bell, Council Liaison, Office of the County Executive, noted the County Executive is in support of the legislation and in agreement with comments and suggested amendments made by the ZHE. The Associate County Attorney, Ms. Skinner, provided that CB-80-2020 is in proper legislative form with no legal impediments to its enactment. Ms. Skinner also advised that Proposed DR-2 addressed the concern outlined in her October 5, 2020 memorandum regarding clarifying the difference between the current use "contractor's office (general)" against the proposed new use "contractor's yard."

Marva Jo Camp, testified in support of the legislation, noting her client's agreement to the Detailed Site Plan requirement for landscaping and buffering as a means to include the community in the review process for the use.

On a motion by Council Member Davis, and second by Council Member Harrison, the Committee of the Whole voted 10-0 on CB-80-2020 with the amendments in Proposed DR-2.