

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2015 Legislative Session

Reference No.: CB-24-2015

Draft No.: 2

Committee: PLANNING, ZONING AND ECONOMIC DEVELOPMENT

Date: May 20, 2015

Action: FAV (A)

REPORT:

Committee Vote: Favorable with amendments, 3-0 (In favor: Council Members Harrison, Glaros and Taveras)

Council staff summarized the purpose of the legislation and informed the committee of written referral comments that were received. The legislation permits artist's studio, beauty shop and medical practitioner's office in the R-18 Zone under certain circumstances provided in a new footnote to the residential zones use table.

Council Member Harrison, the bill's sponsor, informed the Committee that an area with existing commercial uses was rezoned to residential and this legislation is intended to allow the uses to continue.

The Chief Zoning Hearing Examiner (ZHE) submitted a memorandum to the Committee detailing three concerns with CB-24-2015 as drafted:

1. The purpose clause notes that the bill will permit limited commercial uses. It would be more precise to note that the bill will permit "three uses" or to name the three uses than to say they are "limited uses".
2. There is an existing use "General business and profession offices" that is prohibited in most zones, but permitted by Special Exception in the R-10 and R-H Zones. The concern is that a medical practice might have been approved in the past under the auspices of the "general business and professional offices" category. It is suggested that the new "medical practitioner's office" be permitted by Special Exception in the R-10 and R-H Zones to be consistent with past practices and to ensure that any medical office that might exist currently in these zones not be rendered nonconforming upon adoption of the bill.
3. Special Exceptions for "limited professional uses in multifamily projects" have been approved in the past, pursuant to Section 27-371 of the Zoning Ordinance. Therefore, it is suggested that the new footnote 102 on page 6 of the bill be amended as follows: "Provided the use is not located within a multifamily project and is within an existing one-story building..."

The Office of Law submitted a memorandum with the following comments. As drafted, the bill raises Equal Protection concerns under the 14th Amendment of the U.S. Constitution. The Equal Protection Clause of the 14th Amendment limits the ability of the government (i.e. the County) to discriminate.

Here, this bill treats beauty shops differently from barber shops, two similarly situated businesses. This bill does not permit beauty shops to operate in the R-E and R-R Zones; whereas, barber shops may operate in the same zones by special exception. Similarly, this bill permits beauty shops to operate in a R-18 Zone, subject to the limitations of footnote 102; whereas barber shops are not permitted to operate in the R-18 Zone at all. It is unclear what legitimate government interest is served by treating beauty shops differently than barber shops.

The Committee voted favorable including amendments to address the Zoning Hearing Examiner and Office of Law comments.