

 THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Office of the Chairman
Prince George's County Planning Board

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April 25, 2019

The Honorable Todd M. Turner
Chair
Prince George's County Council
County Administration Building
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

Re: CB-9-2019 and CB-10-2019

Dear Chairman Turner: *Todd*

Thank you for providing the Planning Board an opportunity to review and comment on proposed District Council legislation. During the April 25, 2019 Planning Board meeting, the following positions were adopted in accordance with the planning staff's recommendations on the proposed legislation. **A Planning Board Analysis of each bill is attached for your consideration and a brief excerpt from each report is provided below:**

***CB-9-2019** amends Section 27-461(c) (Uses Permitted in Commercial Zones.) by adding the "townhouse" use under the use column. Next, the bill prohibits the use under the use column in the Local Commercial, Existing (C-1), the General Commercial, Existing (C-2), the Community, Commercial, Existing (C-C), and the Highway, Commercial, Existing (C-H) Zones. Lastly, the bill permits townhouses subject to a newly create footnote in the General Commercial, Existing (C-G) Zone.*

Planning Board Recommendation: No Position with Amendments

(See Attachment 1 for full analysis)

Under footnote 134 letter (D) the language should be deleted and replaced with language requiring development regulations. The language appears to waive all development regulations for the R-R, R-80 and R-55 Zones. The bill establishes the development regulations at the time of DSP review. This process defeats the entire purpose of zoning and denies the District Council and/or the Planning Board the ability to apply any objective standards to the development. Next, it is not clear why the R-R and R-55 Zones are included in the footnote. The footnote is only added to the R-80 Zone within the bill.

Letter (b) should be deleted. The Planning Board believes this language would be more appropriate if included as part of a definition under Section 27-107.01 (Definitions.) of the Zoning Ordinance.

If it is the intent of the District Council to permit this use, a SE approval would be more suitable.

Under the Zoning Ordinance Rewrite the R-80 Zone will be renamed the Residential, Single-Family-95 (RSF-95) Zone. “Assisted Living facilities for eight (8) or more elderly or handicapped residents” require SE approval with use-specific standards. If there are eight (8) or fewer residents the use is permitted with use-specific standards.

***CB-10-2019** repeals the uncodified language pertaining to the abrogation of the limited industrial uses on a property that was rezoned from the Light Industrial (I-1) Zone to the Mixed Use – Transportation Oriented (M-X-T) Zone in the 2007 Approved Westphalia Section Plan and Sectional Map Amendment. The bill also repeals the requirement that all industrial uses be deemed nonconforming after July 1, 2019.*

In addition, the bill amends Section 27-547(b) (Uses Permitted in Mixed Use Zones.) by amending the existing footnote under the use “where not otherwise specifically permitted; any use allowed in the I-1 Zone (excluding those permitted by Special Exception)” in the M-X-T Zone.

Planning Board Recommendation: No Position

(See Attachment 2 for full analysis)

The Planning Board believes this bill was drafted for a specific property. It should be noted that the M-X-T Zone will be deleted under the new Zoning Ordinance. It is anticipated that the property would be rezoned to the Residential, Multifamily-20 (RMF-20) Zone. This new zone prohibits most industrial uses, but the property impacted by this bill will be grandfathered and the use permitted by right if it exists on the property when the new Zoning Ordinance takes effect.

As always, Planning Department staff members are available to work with the Council and your legislative staff on any pertinent legislative matters. Please let us know if we may be of further assistance.

Should you have questions, please do not hesitate to contact the Office of the Planning Director at 301-952-3595. Thank you, again, for your consideration.

Sincerely,



Elizabeth M. Hewlett
Chairman

Attachments

CB-9-2019 – Planning Board Analysis (Attachment 1)

CB-9-2019 amends Section 27-441 (Uses Permitted in Residential Zones.) by adding a new footnote to the “Apartment housing for elderly and handicapped families in a building other than a surplus public school building (with provisions for increased density and reduced lot size in Multifamily Zones)” use in the One-Family Detached Residential (R-80) Zone. Footnote 134 permits the use by right without Special Exception (SE) approval provided (A) a Detailed Site Plan (DSP) shall be approved in accordance with Part 3, Division 9, of this Subtitle; (B) the site includes lots or parcels totaling ten (10) acres in size or more owned by a private, nonprofit organization; (C) the site has frontage on a roadway with a transportation classification as collector or higher within the applicable master plan; (D) regulations concerning the net lot area, lot coverage and green area, lot width, frontage, yards, building height, distance between structures, density, accessory buildings and other requirements of the Rural Residential (R-R), R-80 and One-Family Detached Residential (R-55) Zones shall not apply. Requirements for net lot area, lot coverage, green area, lot width, frontage yard, building height, parking and signage shall be established during the staff review of such application of the DSP and shall be shown on the DSP; and (E) the owner of the property shall record among the Land Records of Prince George’s County a Declaration of Covenants which establishes that the premises will be solely occupied by elderly or handicapped families for a fixed term of not less than twenty (20) years. The covenants shall run to the benefit of the Maryland-National Capital Park and Planning Commission.

Last, for purposes of this Section, the term “elderly family” means a family which is included within age restrictions in conformance with the Federal Fair Housing Act and “physically handicapped family” means a family in which the head of the family, or his dependent, is physically handicapped. A person shall be considered physically handicapped if he or she has a physical impairment which: (a) substantially impedes the ability to live independently; and (c) is of a nature that the ability could be improved by more suitable housing conditions.

The Planning Board has the following comments and suggestions for consideration by the District Council:

Under footnote 134 letter (D) the language should be deleted and replaced with language requiring development regulations. The language appears to waive all development regulations for the R-R, R-80 and R-55 Zones. The bill establishes the development regulations at the time of DSP review. This process defeats the entire purpose of zoning and denies the District Council and/or the Planning Board the ability to apply any objective standards to the development. Next, it is not clear why the R-R and R-55 Zones are included in the footnote. The footnote is only added to the R-80 Zone within the bill.

Letter (b) should be deleted. The Planning Board believes this language would be more appropriate if included as part of a definition under Section 27-107.01 (Definitions.) of the Zoning Ordinance.

CB-10-2019 – Planning Board Analysis (Attachment 2)

CB-10-2019 repeals the uncodified language pertaining to the abrogation of the limited industrial uses on a property that was rezoned from the Light Industrial (I-1) Zone to the Mixed Use – Transportation Oriented (M-X-T) Zone in the 2007 *Approved Westphalia Section Plan and Sectional Map Amendment*. The bill also repeals the requirement that all industrial uses be deemed nonconforming after July 1, 2019.

In addition, the bill amends Section 27-547(b) (Uses Permitted in Mixed Use Zones.) by amending the existing footnote under the use “where not otherwise specifically permitted; any use allowed in the I-1 Zone (excluding those permitted by Special Exception)” in the M-X-T Zone. The bill deletes the words “at the time the property was zoned M-X-T” and adds the words “pursuant to an approved Military Installation Overlay (M-I-O) Zone.”

The Planning Board has the following comments for consideration by the District Council:

The Planning Board believes this bill was drafted for a specific property. It should be noted that the M-X-T Zone will be deleted under the new Zoning Ordinance. It is anticipated that the property would be rezoned to the Residential, Multifamily-20 (RMF-20) Zone. This new zone prohibits most industrial uses, but the property impacted by this bill will be grandfathered and the use permitted by right if it exists on the property when the new Zoning Ordinance takes effect.

Following discussion, the Planning Board voted to take no position on CB-10-2019.