

PRINCE GEORGE'S COUNTY COUNCIL

COMMITTEE REPORT

2019 Legislative Session

Reference No.: CB-009-2019

Draft No.: 2

Committee: PLANNING, HOUSING, AND ECONOMIC DEVELOPMENT

Date: 05/07/2019

Action: FAV (A)

REPORT:

Committee Vote: Favorable as amended, 4-0 (In favor: Council Members Glaros, Davis, Hawkins and Ivey)

The Committee Director summarized a Proposed Draft-2 (DR-2) prepared at the bill sponsor's request to address comments received during the May 2, 2019 Committee meeting.

Midgett Parker, of Linowes and Blocher LLP, testified in support of Proposed DR-2.

After discussion of the amendments, the Committee voted favorable on Proposed DR-2, with additional amendments (in capital letters) to proposed footnote 134, and the deletion of letter (F), as follows:

(a) A Special Exception shall not be required, provided:

(A) A Detailed Site Plan 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 ON OR BEFORE JULY 1, 2019;

(C) The site is adjacent to an historic resource AS DESIGNATED IN ACCORDANCE WITH SUBTITLE 29 OF THIS CODE and has frontage on a roadway with a functional 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 R-R Zone, R-80 Zone, and R-55 zone 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 Detailed Site Plan and shall be shown on the Detailed Site Plan; Regulations concerning the height of the structure, lot size, lot coverage, frontage, and density shall be in accordance with the R-10 Zone for multifamily dwellings. All other regulations shall be established and shown on the Detailed Site Plan; 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; and

(F) The apartment housing for elderly or physically handicapped families development shall be financed by the U.S. Department of Housing and Urban Development, the U.S. Department of Agriculture, or the State Housing Development Authority;

(b) For purposes of this Section, the terms "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/she has a physical impairment which: (a) is expected to be of continued and indefinite duration; (b) substantially impedes the ability to live independently; and (c) is of a nature that the ability could be improved by more suitable housing conditions shall have the same meanings as defined in Section 27-337(c).

Held in committee.**5/2/2019**

The Planning, Housing, and Economic Development Committee Director summarized the purpose of the legislation and informed the committee as to comments received on referral. This legislation amends the Zoning Ordinance to permit Apartment housing for elderly and handicapped families in a building other than a surplus public school building in the R-80 Zone without the requirement for a special exception under certain circumstances provided in a new footnote to the Table of Uses.

Council Member Ivey, the bill sponsor, informed the Committee that this legislation is intended to provide housing opportunities for those individuals who make up 37% of the County's population at a variety of income levels, with needed services on site and in line with the County's Comprehensive Housing Strategy.

The Office of Law reviewed CB-9-2019 and provided the following comments. The bill may be subject to challenge as it appears to be drafted for a specific parcel. Under (D) of the footnote, there is reference to the R-R Zone and R-55 Zone, however, the footnote is only being added to the R-80 Zone. Our suggestion would be to remove the reference to the R-R Zone and the R-55 Zone. There appears to be a typo under the R-18 Zone as the corresponding footnote should be 81.

The Planning Board submitted an April 25, 2019 letter to Council Chair Turner indicating their recommendation of no position with amendments as follows. "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 Detailed Site Plan 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 special exception approval is 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 or more elderly or handicapped residents" require special exception approval with use-specific standards. If there are eight or fewer residents the use is permitted with use-specific standards."

Midgett Parker, representing First Baptist Church of Highland Park, testified in support of the legislation and informed the Committee that a meeting was held on November 8, 2018 with the community regarding the potential for development of apartment housing for elderly and handicapped families.

Council Member Anderson-Walker and Council Member Dernoga expressed concern that CB-9-2019 allows the use by right in the R-80 Zone and possible unintended consequences. Mr. Dernoga noted that Council Member Ivey had done a commendable job in getting the community involved but suggested the sponsor consider amendments to contract the reach of the bill.

The bill was held in committee to allow time for preparation of revisions to address referral comments and Council Members' concerns.