

# PRINCE GEORGE'S COUNTY COUNCIL

## COMMITTEE REPORT

2020 Legislative Session

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**Reference No.:** CB-054-2020

**Draft No.:** 2

**Committee:** COMMITTEE OF THE WHOLE

**Date:** 10/08/2020

**Action:** FAV (A)

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### REPORT:

Committee Vote: Favorable as amended, 6-0-5 (In favor: Council Members Davis, Dernoga, Franklin, Harrison, Hawkins and Streeter. Abstain: Council Members Turner, Anderson-Walker, Glaros, Ivey and Taveras)

The Committee of the Whole convened on September 17, 2020, October 1, 2020 and October 8, 2020 to consider CB-54-2020. The bill amends the Zoning Ordinance to permit concrete recycling uses in the I-1 Zone.

Council Member Streeter, the bill's sponsor, informed the committee that this legislation is intended to facilitate the expansion of an existing use within an industrial area in his district and is intended to ensure that recycling of existing concrete does not end up in the landfill.

At the September 17, 2020 meeting, Council Member Streeter requested the bill be held for review of referral comments received since the time of bill presentation. On October 1, 2020, the Planning, Housing, and Economic Development Committee Director summarized written referral comments received. The Planning Board opposed CB-54-2020 and submitted a September 10, 2020 letter to Council Chair Turner summarizing the Planning staff analysis and position on the bill as follows. The bill does not state the certain circumstances under which this use would be permitted. It is also important to note that a "concrete recycling facility" is already an existing use under the table of uses. This high impact use is currently permitted in the Heavy Industrial (I-2) Zone, under certain circumstances or by Special Exception approval otherwise. Special Exception (SE) approval is also required in the Light Industrial (I-1), Planned Industrial/Employment Park (I-3), Limited Intensity Industrial (I-4), and Urban Light Industrial (U-L-I) Zones. Also, under Section 27-343.03, there are additional specific special exception requirements for the concrete recycling facility use. CB-54-2020 would create significant conflicts of interpretation pertaining to concrete recycling facilities.

The SE regulations for the current concrete recycling facility use ensures the proposed use is in conformance with all the applicable requirements and regulations of the Zoning Ordinance; the proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or, in the absence of a Master Plan or Functional Master Plan, the General Plan, the proposed use will not adversely affect the health, safety, or welfare of

residents or workers in the area; the proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.

The Planning Board believes that this use should only be permitted in the I-1 Zone, with Special Exception approval which includes the additional conditional requirements under Section 27-343.03. Concrete recycling facilities require analysis of adverse noise and vibration from crushing the concrete, dust caused from the crushing operations, additional building setbacks from the crushing and remixing of the concrete, methods of disposing of waste materials, location of all material stockpiles, source of water to be used to make concrete, hours of operation, and truck traffic circulation operations.

The Zoning Hearing Examiner (ZHE) reviewed CB-54-2020 and provided the following comments in a September 14, 2020 memorandum to the PHED Committee Director. “On Page 1, line 3 of the bill should be revised to “permitting concrete recycling facilities in the I-1 ...” since adding “uses” is confusing and may lead to interpretation differences down the road.

A “Concrete Recycling Facility” is permitted by Special Exception in the I-1 Zone under Section 27-473 (m)(8) (Wholesale-Resource Production Recovery). If the Council wishes to allow development of this use by right this is the Section that should be revised.

Section 27-343.03 of the Zoning Ordinance sets forth several criteria for the approval of a Special Exception for this use, including, but not limited to a Site Plan that addresses the location of stock piles, settling ponds, truck wash-out facilities, method of disposal of waste, daily capacity of the facility, etc., since it can be a fairly intensive use. (I would also note that this use is permitted by Special Exception in the Zoning Rewrite.) I therefore urge the Council to consider adding some criteria and Detailed Site Plan Review if the will is to approve the use by right.”

The Committee reviewed a Proposed Draft-2 (DR-2) on October 1, 2020 containing amendments requested by the bill sponsor to address Planning Board and ZHE comments. The amendments in Proposed DR-2 included adding a new footnote 75 to the table of uses as follows:

- 75** Permitted use, without approval of a Special Exception, provided that:
- (a) The use is located on property with a minimum land area of fifty (50) acres;
  - (b) The property is shown as an industrial use on the applicable Master Plan;
  - (c) The property was or is used as a sand and gravel operation since at least January 1, 1960;
  - (d) The concrete recycling facility use will be an extension of the existing, valid industrial use on the property; and
  - (e) Concrete recycling facility components having the potential for generating adverse noise, dust, or vibration impacts shall be located at least three hundred (300) feet from the boundary lines of the subject property adjoining any land in any Residential Zone, and one hundred (100) feet from the boundaries of the subject property adjoining any land in any Industrial Zone. Other fixed installations (including automobile parking, settling ponds, and office uses) shall be located at least one hundred (100) feet from the boundaries of the subject property adjoining any land in any Residential Zone.
  - (f) The permit or site plan and accompanying information shall show:
    - (1) The components of the concrete recycling facility;
    - (2) The daily capacity of the facility;
    - (3) The location of all material stockpiles;
    - (4) The settling ponds, if any;
    - (5) The source of water to be used in the operation;

- (6) Truck wash-out facilities, if any;
  - (7) The methods of disposing of waste materials; and
  - (8) The internal traffic circulation system
- (g) Driveways for ingress and egress shall be identified on the permit or site plan, and shall be located so as to not endanger pedestrians or create traffic hazards. The applicant shall identify the dust-control measures to be used on the driveways and the interior traffic circulation system. Any ingress or egress driveway shall have a minimum width of twenty-two (22) feet, and shall be paved for a distance of at least one hundred (100) feet from the boundary line of the property.
- (h) A permit application shall be accompanied by the following:
- (1) An approved storm water concept plan;
  - (2) A preliminary noise assessment;
  - (3) A horizontal profile illustrating all structures and stockpiles;
  - (4) A grading plan that illustrates existing and proposed topography. and
  - (5) A traffic analysis which includes the volume of traffic expected to be generated by the operation and identifies the streets to be used between the site and the nearest other street (to be used) that has a minimum paved width of twenty-four (24) feet for its predominant length.

Terry Bell, Council Liaison, Office of the County Executive, indicated that the County Executive is in support of the legislation. The Office of Law reviewed Draft-1 and Draft-2 of the legislation and found Draft-2 to be in proper legal formatting and legally sufficient with no legal impediments to its enactment.

The bill was held in Committee to allow time for Planning staff to provide mapping information showing properties affected by the revisions in Proposed DR-2 and a potential revision to the footnote concerning maximum allowable noise levels as recommended by Council Member Dernoga during discussion of the bill.

During the October 8, 2020 Committee of the Whole meeting, the PHED Committee Director and Zoning and Legislative Counsel summarized the revisions to the footnote in a Proposed DR-2A as follows: a clarifying amendment in (c), after “property”, strike “was or is” and insert “has been” in lieu thereof, and in (h)(2), after “noise assessment”, insert “DEMONSTRATING COMPLIANCE WITH THE MAXIMUM ALLOWABLE NOISE LEVELS (DBA), IN ACCORDANCE WITH SUBTITLE 19 OF THIS CODE.”

There were no additional comments from the County Executive’s Office, Planning staff, ZHE or Office of Law on Proposed DR-2A.

Council Member Streeter made a motion for favorable recommendation on Proposed DR-2A seconded by Council Member Davis. The Committee voted for a favorable recommendation, 6-0-5, as to CB-54-2020, as amended.