



THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission

POSITION STATEMENT

INFORMATIONAL

Bill: SB 0906 Housing and Community Development – Conversion of Commercial Buildings for Residential Use – Report

Position: Informational

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Dear Chair Marc Korman and Vice Chair Regina T. Boyce,

The Maryland-National Capital Park and Planning Commission (M-NCPPC or “the Commission”) compiled detailed comments and suggestions regarding SB 906. The Commission respectfully requests that the Environment and Transportation committee consider this information and include it in the record.

What this Bill Does. This bill as amended requires each political subdivision to inventory vacant commercial buildings, develop a plan to convert certain vacant commercial buildings for residential use, and submit a report to the Department of Housing and Community Development (“the Department”). This bill also requires a political subdivision to make certain determinations and requires the Department to provide certain technical assistance under certain circumstances. The Department is required to establish and maintain a certain database.

Vacancy Defined. While we appreciate the amendment which defines “vacancy” important questions remain. How long would it have to be empty for the space to qualify as “vacant”? How would this information be gathered? Would owners be required to respond to surveys? How would that be enforced? It would help if the bill directed the “Department” to issue guidelines to answer these questions.

Commercial Building Inventory. Determining the vacancy status of buildings requires several steps including first obtaining access to a real estate data service. These real estate databases generate reports based on various user-generated criteria such as location, asking prices, and vacancy rates. These services are reliable for assessing aggregate real estate data and trends but are incomplete at the individual building level. This work can be time consuming because it involves visiting each individual building and tracking down and contacting relevant parties. Further, leasing activity is ongoing, so a building's vacancy status can change frequently. By the time an inventory is created, much of the information may be out of date.

Define "Conversion to Residential Use." Often, the term "conversion" in the context of office-to-residential conversion means changing the use of the building without demolishing it. However, "conversion" could simply mean changing the use at the building site, regardless of whether the existing building was renovated or an entirely new building was constructed. This difference is important because office buildings are generally very difficult to convert to residential uses (see below "Some Buildings May Not Be Good Candidates for Conversion"). A complete "plan for converting vacant commercial buildings" should address both types of conversions—those that require demolition and those that don't—because they each have different costs and land use implications.

Some Buildings May Not Be Good Candidates for Conversion. The buildings within the counties that may be vacant are generally owned by private companies. They often approach the Planning Departments with concerns about vacancies and many have completed design studies to assess the financial and practical realities of residential conversions. Office building floorplates are typically much larger than residential building floorplates, making it hard to design workable residential layouts. Additionally, residential units require windows, internal plumbing, and other architectural and building code details not associated with commercial/office space, therefore it is often not practical or financially feasible to do these conversions. Often, it is more effective to tear these buildings down and start over. In addition, residential units require open space and recreational areas that may not be part of existing office buildings, or the office buildings may not be located in places that are appropriate for residential development.

Determining Potential to be Converted to Residential Use. Section (B) notes that the database should include buildings that have the potential to be converted. First, see above regarding the definition of "conversion." Second, criteria must be established to indicate potential. As noted, almost all commercial buildings likely have some potential to be converted into residential uses. However, architectural and site concerns and financial constraints must be taken into account to fully determine the building's potential. Even if "conversion" is defined in the strict sense, meaning renovation without demolition, architectural, engineering, and construction experts must assess the building to make a determination about the potential for conversion. Jurisdictions will likely have to contract with outside experts to conduct these assessments—assuming access to the building is granted—and will need adequate funding for

these assessments. A determination of “potential” to convert also may send unhelpful signals to property owners. Many owners conduct their own assessments currently but may choose to wait if they expect the county to do it for them. They also may forego decisions to convert on their own if identification on a list means they may be able to access public funding. The potential for influencing the real estate market by making the conversion potential determination must be considered.

Clarification on Intended Plan. Because these buildings are likely owned by private interests, it is not clear what kind of “plan” the counties can create to convert them to residential use. The counties already have zoning and regulations in place which would allow such a conversion of use, but owners may not find it practical or financially feasible. In the private market, if real estate owners are losing money on vacant assets, they may sell the asset or allow it to be foreclosed on by their bank. Public agencies have little influence in this process. Further actions, such as financial incentives, tax abatements, or vacancy taxes to encourage such conversions would likely require legislation and fall outside the scope of a plan.

Recommendations. The Commission recommends the sponsor work with the Maryland Department of Planning and DHCD, along with the county planning departments, to assess what information is available through existing sources to define and locate “vacant” buildings, agree upon relevant definitions, account for existing reporting requirements and determine what incentives may be proposed to encourage reuse of vacant or obsolete buildings.