

**PRINCE GEORGE'S COUNTY COUNCIL
AGENDA ITEM SUMMARY**

Meeting Date: 10/11/96

Reference No.: CB-99-1996

Proposer: Maloney

Draft No.: 2

Sponsors: Maloney, Estepp

Item Title: An Ordinance permitting the District Council to consider evidence included in the record of an earlier phase of the approval process

Drafter: Mary Lane, Director
PZ&ED Committee

Resource Personnel: Andrew Eppelmann
Legislative Aide

LEGISLATIVE HISTORY:

Date Presented: 9/24/96

Executive Action: __/__/__ __

Committee Referral:(1) 9/24/96 PZED

Effective Date: 1/6/97

Committee Action:(1) 10/16/96 FAV(A)

Date Introduced: 10/22/96

Pub. Hearing Date: (1) 11/19/96 1:30 PM

Council Action: (1) 11/19/96 Enacted

Council Votes: SD:A, DB:A, JE:A, IG:A, AMc:A, WM:A, RVR:A, AS:A, MW:A

Pass/Fail: P

Remarks: _____

PLANNING, ZONING & ECON. DEV. COM. REPORT

DATE: 10/16/96

Committee Vote: Favorable as amended, 5-0 (In favor: Council Members Wilson, Estepp, MacKinnon, Maloney and Russell).

The District Council may currently only consider the evidence included in the record of the case before it. This legislation will allow the Council to take notice of any evidence presented in any other case pertaining to the property. For example, during the consideration of an appeal of a Detailed Site Plan, the Council could consider facts in the record of the subdivision case which was approved previously, even if the facts were not included in the Detailed Site Plan record. Draft 1 of the bill only amended the procedure when the case was previously reviewed by the Zoning Hearing

Examiner, such as Special Exceptions and Zoning Map Amendments. A proposed Draft 2 was presented that includes all types of cases, particularly those appealed directly from the Planning Board.

The Planning Board opposes the legislation, stating that they do not object to including relevant evidence from prior applications, but in many cases the earlier case was decided years previous and the evidence may be outdated. Also, if an application is missing relevant information, the Council may remand or deny the application. The Office of Law finds it to be in proper legislative form. Joyce Nichols, Counsel to the District Council, recommended that the term "official notice" be changed to "judicial notice" throughout the bill. Also, Section 27-141 should be amended to incorporate the new language. The Committee accepted these amendments.

BACKGROUND INFORMATION/FISCAL IMPACT

(Includes reason for proposal, as well as any unique statutory requirements)

The Zoning Ordinance currently allows the District Council to consider only the evidence included in the record of the case before it. This legislation will allow evidence from records of previous approval processes to be considered by the Council.

CODE INDEX TOPICS: