

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

Meeting Date: 7/30/96

Reference No.: CB-25-1996

Proposer: Maloney

Draft No.: 1

Sponsors: Maloney

Item Title: An Ordinance for the purpose of clarifying that, where the Council fails to timely render a final decision, the application before the Council is denied

Drafter: Joyce B. Nichols
Principal Counsel to the
District Council

Resource Personnel: Andy Eppelmann
Legislative Aide

LEGISLATIVE HISTORY:

Date Presented: 5/14/96

Executive Action: __/__/__

Committee Referral:(1) 5/14/96 PZED

Effective Date: 9/16/96

Committee Action:(1) 6/19/96 FAV

Date Introduced: 7/2/96

Pub. Hearing Date: (1) 7/30/96 1:30 P.M.

Council Action: (1) 7/30/96 ENACTED

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

Pass/Fail: P

Remarks: _____

PLANNING, ZONING & ECONOMIC DEV. COM. REPORT

DATE: 6/19/96

Committee Vote: Favorable, 3-0 (In favor: Council Members Wilson, MacKinnon, and Maloney).

Joyce Nichols, Principal Counsel to the District Council, explained that this legislation is necessary as a result of a recent decision by the Court of Special Appeals. The Zoning Ordinance provides time limits for the Council to take action, the specific amount of time dependent on the type of case before them. This legislation clarifies that if the decision is not made within the required timeframe, the application, and not the appeal, is statutorily denied. This has always been the intent of the "death clauses" in the Ordinance, and has been the practice of the Council. Ms. Nichols also noted

that the language being proposed was included in the Zoning Ordinance prior to 1984, but was eliminated during the recodification.

The Planning Board recommended that the Council hold the legislation for further discussion. The Board believes that denying an application that is before the Council on appeal because of the Council's failure to make a timely decision is unfair, and possibly a violation of due process. There was also concern regarding the applicability of this provision to the variety of types of applications that may be appealed or called up by the Council. The Office of Law and Legislative Officer find the bill to be in proper legislative form, and the Department of Environmental Resources has no comments. Jon Robinson, representing the Sierra Club, spoke in support of the bill. The legislation was reported out of Committee without amendments.

BACKGROUND INFORMATION/FISCAL IMPACT

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

In light of the Court of Special Appeals' decision in Brandywine, there is a need to clarify that, where a final decision is not rendered in a timely manner, it is the application, and not the appeal, which is statutorily denied. This has consistently been the application, and the statutory intent, of this "death clause" since its enactment in the early 1970's.

CODE INDEX TOPICS: