

PRINCE GEORGE'S COUNTY COUNCIL
AGENDA ITEM SUMMARY

Meeting Date: 11/23/99

Reference No.: CB-50-1999

Proposer: Maloney

Draft No.: 2

Sponsors: Maloney

Item Title: An Ordinance amending the Zoning Ordinance sections
concerning the People's Zoning Counsel

Drafter: Steven M. Gilbert
Principal Counsel to the
District Council

Resource Jackie Brown, Director
Personnel: PZED Committee

LEGISLATIVE HISTORY:

Date Presented: 7/27/99

Executive Action: __/__/__

Committee Referral: 7/27/99 PZED

Effective Date: __/__/__

Committee Action: 10/20/99 FAV (A)

Date Introduced: 10/26/99

Public Hearing: 11/23/99 1:45 P.M.

Council Action: 11/23/99 MOTION TO ENACT

Council Votes: JE:N, DB:N, IG:AB, TH:A, WM:A, RVR:A, AS:N, PS:N, MW:N

Pass/Fail: F

Remarks: _____

PLANNING ZONING & ECON. DEV. COMMITTEE REPORT

DATE: 10/20/99

Committee Vote: Favorable as amended, 5-0 (In favor: Council Members Russell, Bailey, Gourdine, Hendershot and Maloney).

Staff summarized the purpose of this legislation explaining that it authorizes the People's Zoning Counsel to appear at the Planning Board for site plan and other cases which may be reviewed by the District Council. This bill also authorizes the Counsel to intervene in appeal proceedings in the Court and to retain and call upon expert witnesses during administrative and judicial proceedings. Staff informed the Committee that the language on page 2, Subsection (c), concerning subdivision plans should be amended to indicate that the Counsel should not appear at all hearings for subdivision plans, only for those plans that are subject to review by the District Council, specifically, cluster plans and plans using mitigation findings and conditions. Referral comments on this legislation were summarized as follows.

The Office of Law determined that the bill is in proper legislative form and recommended an amendment indicating that intervention in any case is subject to the Maryland Rules of Procedure. The suggested amendment is on page 3, line 3, after “appellate court,” insert “and subject to the Court rules.” The County Executive and the Planning Board oppose the legislation. The Planning Board provided the following comments.

The legislation’s purpose is to have an independent legal counsel attend all Planning Board hearings for cases that may be appealed to the District Council. The outside legal counsel would assure that the administrative record is complete and that the interest of the public is being met. The Planning Board and its General Counsel already perform these duties. The Planning Board and its General Counsel assure that all requirements of the Zoning Ordinance and Subdivision Regulations are met and that the public record is complete. As part of the Planning Board’s action, the Board conditioned that the staff report be amended to include the following comments for the Council’s consideration:

1. Given the Commission’s mandate in Article 28, with its provisions to assure the integrity of the Planning Board’s proceedings, this additional legal oversight seems unnecessary.
2. Given the Planning Board’s exceptional record at the appellant level, which attests to the competence and thoroughness of its legal staff, this additional legal oversight seems unnecessary.
3. The additional cost to the taxpayer associated with this legislation for what would appear to be duplicative services are of much concern to the Planning Board.

Council Member Maloney, the bill’s sponsor, indicated to the Committee that this legislation proposes provisions for the People’s Zoning Counsel that are similar to those of other jurisdictions. The authorities to the Counsel proposed by the bill would ensure that the record is complete for any case which has been reviewed by the Planning Board and may be reviewed by the District Council. Stan Brown, People’s Zoning Counsel, addressed the Committee explaining that CB-50-1999 is an attempt to resolve the issue of his appearance at Planning Board hearings at the request of Council Members for those cases which may be reviewed by the District Council and the concern of the Planning Board that the Ordinance does not currently provide the authority for his attendance. Mr. Brown explained that his function is to serve as an ombudsman and to ensure that as much evidence as possible is placed in the record for these cases. CB-50-1999 attempts to accomplish this by allowing the Counsel to be involved in the administrative process creating the record. Mr. Brown commented that the Planning Board does not question witnesses and the authorities to his office proposed in this bill would increase the probability that all facts which are relevant are contained in the record.

The following individuals spoke in support of the legislation: Carmen Anderson, representing the Prince George’s Civic Federation; Samuel Dean, representing Lake Arbor Civic Association; Henry Wixon, representing Glenn Dale Citizens Association; Thomas Dernoga, representing West Laurel Civic Association; Arthur Turner, representing the Towns of Kettering; Freddie Dawkins and Abraham Lincoln. Leslie Romine, representing the Maryland National Capital Building Industry Association spoke in opposition to the bill. Letters in support of CB-50-1999 were received from the Willow Grove Citizen’s Association and the Coalition of Central Prince

George's County Community Organization.

Robert Williams, representing the County Executive, explained the Executive's concern that the legislation proposes an inherent conflict between the People's Zoning Counsel appearing at Planning Board hearings and subsequently presiding over the same matter at the time of District Council review. Mr. Williams also commented that the Executive shared the same concern as the Planning Board in relation to the cost associated with the additional authorities such as retainment of expert witnesses.

The Committee voted favorably including the amendment recommended by the Office of Law as well as the amendments to Subsection (c) on page 3 concerning the subdivision plans that are subject to District Council review.

BACKGROUND INFORMATION/FISCAL IMPACT

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

Planning Board proceedings presently do not have counsel appearing to protect the completeness and integrity of the administrative record or to advocate the public interest, in cases which may be appealed to the District Council. This zoning bill amends Sec. 27-139 of the Zoning Ordinance to authorize the People's Zoning Counsel to appear in site plan and other Planning Board cases which may be reviewed by the District Council and to intervene in court proceedings to review District Council decisions.

CODE INDEX TOPICS: