

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

Meeting Date: 5/12/98

Reference No.: CB-49-1998

Proposer: Del Giudice

Draft No.: 1

Sponsors: Del Giudice

Item Title: An Ordinance to amend the requirement that all Special Exceptions be in harmony with all of the purposes of the Zoning Ordinance

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

Resource Personnel: Therese Yewell
Legislative Aide

LEGISLATIVE HISTORY:

Date Presented:	4/21/98	Executive Action:	___/___/___	___
Committee Referral:	4/21/98	Effective Date:	___/___/___	
Committee Action:	5/5/98			
	PZED			
Committee Action:	5/5/98			
	FAV			
Date Introduced:	5/12/98			
Pub. Hearing Date:	6/9/98	2:15 P.M.		

Council Action: 6/9/98 TABLED
Council Votes: RVR:N, DB:N, SD:N, JE:A, IG:A, TH:N, WM:A, AS:A, MW:A
Pass/Fail: P

Remarks: _____

PLANNING, ZONING & ECON. DEV. COMMITTEE

Date: 5/5/98

Committee Vote: Favorable, 4-1 (In favor: Council Members Bailey, Del Giudice, Gourdine and Russell; Opposed: Council Member Maloney)

Council Member Del Giudice, the bill's sponsor, informed the Committee that he presented this legislation as an attempt to clarify the judicial interpretation of the Brandywine decision that special exceptions must meet all purposes of the Zoning Ordinance. Mr. Del Giudice indicated that the Ordinance contains an extensive list of purposes and it is nearly impossible to satisfy all of the purposes; CB-49 gives the Zoning Hearing Examiner and the District Council discretion to

determine the applicable purposes. He also indicated that the next line of this Section of the Ordinance, specifically Section 27-317(a)(2), contains the term "applicable" and reads: "The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle," and by adding this term in the previous line referring to "purpose" (as proposed by CB-49-1998) provides consistency in this subsection.

The Legislative Officer finds the bill to be in proper legislative form. The Executive Branch takes no position on the bill. The Planning Board and the Suburban Maryland Building Industry Association support the legislation. The Office of Audits and Investigations has determined there should be no negative fiscal impact on the County as a result of enacting CB-49-1998.

Carmen Anderson, President, Prince George's Civic Federation, spoke in opposition to the legislation. Thomas Dernoga, Gray & Dernoga, addressed the Committee commenting that he does not believe the bill is necessary because "applicable" is inherent in the existing language contained in the Ordinance. Mr. Dernoga indicated that in reviewing a special exception, a finding could be made that the other purposes are inapplicable.

On a motion by Council Member Del Giudice, the Committee voted a favorable recommendation on this legislation.

BACKGROUND INFORMATION/FISCAL IMPACT

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

This legislation amends the judicial interpretation of the Brandywine decision wherein each special exception must meet all of the purposes of the zone and, in lieu thereof, only requires that each special exception meet all of the applicable purposes of the zone.

CODE INDEX TOPICS: