

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

**Meeting Date:** 7/26/95

**Reference No.:** CB-45-1995

**Proposer:** MacKinnon

**Draft No:** 2

**Sponsors:** MacKinnon and Maloney

**Item Title:** An Ordinance for the purpose of providing procedures for the nullification of a Special Exception when a zoning text amendment negates the need for the Special Exception

**Drafter:**

**Resource Personnel:** Mary Lane, Director  
PZED Committee

**LEGISLATIVE HISTORY:**

**Date Presented:** 6/6/95

**Executive Action:** \_\_/\_\_/\_\_

**Committee Referral:**(1) 6/6/95 PZED

**Effective Date:** 9/11/95

**Committee Action:**(1) 6/15/95 FAV(A)

**Date Introduced:** 6/27/95

**Pub. Hearing Date:** (1) 7/26/95 2:15 PM

**Council Action:** (1) 7/26/95 Enacted

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

**Pass/Fail:** P

**Remarks:** \_\_\_\_\_

PLANNING, ZONING & ECONOMIC DEV. COMMITTEE REPORT

DATE: 6/15/95

Committee Vote: Favorable with amendments, 4-0 (In favor: Council Members Maloney, Gourdine, Russell & Wilson).

Staff explained that CB-45-1995 creates a process for officially nullifying a Special Exception when a text amendment to the Zoning Ordinance negates the need for the Special Exception. This legislation codifies the existing presumption that a Special Exception, along with its conditions, automatically terminates when the Code is amended to permit the use by right. The process set forth in the legislation allows the property owner to petition the Planning Director requesting that the Special Exception be officially nullified. Upon making a determination that a text amendment has

terminated a Special Exception, the Director shall make a written finding. If the Director finds that the Special Exception has not terminated, this decision is appealable to the Planning Board. Finally, the nullification action must be noted on the County's official zoning map.

Hamer Campbell, representing the SMBIA, discussed the need for this new procedure. He stated that it was his understanding that the courts will not invalidate a Special Exception that is no longer required without such a process. The Office of Law found the legislation to be in proper legislative form. The Planning Board supports the legislation, with an amendment that allows the Planning Director to terminate the Special Exception, upon her own initiative, if it is discovered through other review processes, such as Departures or Detailed Site Plans, that the Special Exception is no longer necessary. The following language was agreed to by the Committee Members to be inserted at the end of paragraph (b) on page 2: "Notwithstanding the above, if the Planning Director discovers through other review procedures that the Special Exception is no longer required for the property, the Director may initiate procedures for termination of the Special Exception". Mr. Campbell stated that the SMBIA is in support of the amendment.

**BACKGROUND INFORMATION/FISCAL IMPACT**  
**(Includes reason for proposal, as well as any unique statutory requirements)**

Text amendments to the Zoning Ordinance, specifically to the use tables, may negate the need for a Special Exception for a particular use. However, the status of properties to which the text amendment applies, and for which a Special Exception has already been approved, is unclear. This legislation states that upon enactment of such a text amendment, the Special Exception shall terminate, and all current provisions of the zone shall apply to the property. It further provides a process for official nullification of the Special Exception.

**CODE INDEX TOPICS:**