

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

**Meeting Date:** 7/30/96

**Reference No.:** CB-53-1996

**Proposer:** Council Member Maloney

**Draft No.:** 2

**Sponsors:** Council Member Maloney

**Item Title:** An Ordinance to permit adult bookstores by right in the I-2 Zone under certain circumstances

**Drafter:** Maurene Epps-Webb  
Acting Deputy County Attorney

**Resource Personnel:** Maurene Epps-Webb

**LEGISLATIVE HISTORY:**

**Date Presented:** 6/11/96

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

**Committee Referral:**(1) 6/11/96 PZED

**Effective Date:** 10/28/96

**Committee Action:**(1) 7/24/96 FAV (A)

**Date Introduced:** 7/30/96

**Pub. Hearing Date:** (1) 9/10/96 1:30 PM

**Council Action:** (1) 9/10/96 ENACTED

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

**Pass/Fail:** P

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

**PLANNING, ZONING & ECONOMIC DEV. COMM. REPORT**

Date: 7/24/96

Committee Vote: Favorable with amendments, 4-0 (In favor: Council Members Wilson, MacKinnon, Estepp, and Maloney).

Staff presented a proposed Draft 2 of the legislation that had been prepared at the request of the sponsor in response to the concerns expressed at the July 1 worksession. In addition to a number of technical amendments, Draft 2 limits the hours of operation to between 9:00 a.m. and 12:00 a.m.; expands the purpose clause to more accurately reflect the content of the legislation; adds day care centers for children to the list of other uses that an adult book store may not be within 1,000 feet of; and prohibits an adult book store from being within 500 feet of another adult book store. Staff also provided information regarding the existing adult book stores in the County, the amount of land in

the zones where adult book stores are proposed to be permitted, by councilmanic district, and a brief summary of the way this issue is handled in other jurisdictions. A memorandum was also presented by Maurene Epps-Webb, Acting Deputy County Attorney, that provided the status of adult book stores in the County, the effect of the Federal Court decision, and a summary of the way in which CB-53-1996 addresses the problems. Written testimony was received by Janice Nairn, representing the Maryland Coalition Against Pornography.

It was requested by the Chairman that only people who did not speak regarding the legislation on July 1 testify before the Committee. Sally Ehrle, representing the Beltsville/Vansville Citizens Association, spoke in support of the legislation, but suggested that the distance between adult book stores and certain other uses be increased. She also noted enforcement problems with other related provisions of the existing law. The sponsor provided a brief legal history of the effort to better regulate adult book stores. It was noted that as a result of the most recent Federal Court decision, it is likely that the courts would allow adult book stores in any zone in the County if this legislation is not enacted. He also offered an amendment to the proposed Draft 2 that would make adult book stores a prohibited use in the I-1 Zone. He pointed out that this use would be permitted by right in the I-2 Zone, of which there are 3,600 acres currently scattered throughout the County. This amendment was supported by a 4-0 vote.

A motion to grandfather the existing adult book stores died for lack of a second. The legislation, as amended was reported out favorably by a 4-0 vote.

## **PLANNING, ZONING & ECONOMIC DEV. COMM. REPORT**

Date: 7/1/96

HELD in Committee.

This legislation will permit adult book stores in the I-1 and I-2 Zones by right, under certain conditions, and prohibits them in the C-M and C-S-C Zones. Adult book stores are currently only permitted by Special Exception in the I-1, I-2, C-S-C, and C-M Zones. A recent court case held the provisions of the Zoning Ordinance regarding adult book stores to be unconstitutional, primarily because of the Special Exception criteria imposed on these uses. This legislation removes this deficiency by permitting adult book stores by right in the I-1 and I-2 Zones. In the two zones where this use will be permitted, there are certain restrictions, such as the use may not be within 1,000 feet of a residential property, a library, park, playground, recreational facility, or a church. The legislation also prohibits the Board of Appeals from hearing any case pertaining to an adult book store, and establishes a new amortization period which expires on July 1, 1997. After that time, nonconforming adult book stores shall no longer be permitted.

The Planning Board supports the legislation, and the Office of Law finds it to be in proper legislative form, with an expansion of the purpose clause. The Department of Environmental Resources took no position on the legislation. Bruce Bereano, representing Mid-Atlantic Periodicals, spoke in opposition to the legislation, and requested that it be held pending further study. Janice Nairn, representing the Maryland Coalition Against Pornography, Inc., spoke in opposition to the legislation.

and submitted written comments. She recommended several amendments, including regulating the hours of operation; shortening the amortization period to six months; amending the definition of "adult book store" on page 6 of the bill from "10% or more the value of its stock on the premises or on display" in pornographic materials to "adult entertainment materials that occupy 10% or more of the floor area used for the sale or rent of materials on the premises of the business"; and substituting the word "church" with "place of worship" and adding "child care center" to the list of uses that an adult book store may not be within 1,000 feet of. Eva Murphy and Arthur McKnew also spoke in support of the legislation.

The Committee held a general discussion about the existing adult bookstores in the County, and the likelihood that permitting this use by right in the I-1 and I-2 Zones will have the unwanted effect of increasing the number of adult bookstores in the County. It was reported that there are currently four adult bookstores in the County, and all would have to relocate after one year in this legislation is enacted. It was also noted that these four uses are all in leased space. The legislation was held in Committee and staff was asked to provide additional information prior to the next worksession. Specifically requested was the amount of C-M, C-S-C, I-1, and I-2 Zoned land in the County, by Councilmanic District, and a survey of the way in which surrounding jurisdictions regulate this use, particularly Montgomery and Anne Arundel Counties. It was noted, however, that because of the specific criteria regarding proximity to certain other uses, such as schools, parks, and libraries, it is not possible to determine the amount of land that would actually be available for the establishment of an adult book store.

## **BACKGROUND INFORMATION/FISCAL IMPACT**

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

In Prince George's County v. 11126 Baltimore Boulevard, Inc. the County's adult book store ordinance was held to be unconstitutional, primarily due to the special exception criteria imposed upon such uses. This legislation removes this deficiency by permitting adult book stores by right in the I-1 and I-2 Zones, under certain conditions.

## **CODE INDEX TOPICS: (Zoning)**

### **Additional Requirements for Specific Nonconforming Uses**

Adult book stores ..... 27-248

### **Adult book stores (See also Nonconforming uses)**

Additional requirements..... 27-904  
 Definitions ..... 27-902  
 [Effective dates ..... 27-905]  
Findings ..... 27-901  
 Nonconforming adult book stores..... 27-248, 27-903  
 [Time requirements for Special Exception ..... 27-904.01]

### **Appeals and Variances**

***Board of Zoning Appeals***

Powers and duties .....	27-229
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**Nonconforming Buildings, Structures, and Uses**

***Additional requests for specific nonconforming uses***

Adult book stores (See also Adult book stores).....	27-248
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**Special Exceptions**

***Additional requirements for specific Special Exceptions***

Adaptive use of a Historic Site .....	27-330.02
[Adult book store .....	27-331]
Adult day care center .....	27-332