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**A G E N D A   I T E M   S U M M A R Y**

**Reference No:** CB-51-1990

**Draft No:** 4

**P r i n c e   G e o r g e ' s**

**Meeting Date:** 7/24/90

**C o u n t y   C o u n c i l**

**Requestor:** CA

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**Item Title:** An Ordinance to require postponement of processing and issuance of building permits within adopted Area Master Plan with pending SMA; etc.

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**Sponsors** CA   C   B   M

<b>Date Presented</b>	5/15/90	<b>Executive Action</b>	___/___/___
<b>Committee Referral</b>	(1) 5/15/90   F&P	<b>Effective Date</b>	1/1/91
<b>Committee Action</b>	(1) 6/4/90   FAV(A)		
<b>Date Introduced</b>	6/26/90		
<b>Pub. Hearing Date</b>	(1) 7/24/90   1:30   PM		
<b>Council Action</b>	(1) 7/24/90   Enacted		
<b>Council Votes</b>	B_ : A_ , CA: A_ , C_ : A_ , CI: _ , MC: N_ , M_ : _ , P_ : A_ , W_ : N_ , WI: A_ , __ : __ , __ : __ , __ : __		
<b>Pass/Fail</b>	P		

**Remarks**

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**Drafter:** Mary Lane  
Committee Director

**Resource** Ann Gordon Castaldi  
**Personnel:** Legislative Aide

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**LEGISLATIVE HISTORY**

FISCAL AND PLANNING COMMITTEE REPORT

**DATE:** 6/4/90

Committee   Vote:   Favorable   as   amended,   2-0-1   (In   favor:  
Council   Members   CastaldiandCasula,  
abstaining: Council Member Bell)

CB-50-1990 and CB-51-1990 were discussed as one item by the Committee.

Staff explained that this legislation prohibits the issuance of certain building permits between the time of District approval of the Master Plan and approval of the SMA, which is a maximum of seven months when the optional procedures for processing Master Plans and SMAs (Section 27-225.1) are used. When the legislation was originally drafted, it was believed that the optional procedure would be used for all future Master Plans and SMAs. The

legislation therefore addresses only the optional procedure, and does not provide for SMAs processed according to the traditional procedures (Section 27-225). The Planning Department informed Council staff that the procedures set forth in Section 27-225 will be used, and therefore should be included in this legislation. The Committee agreed that the legislation should be amended accordingly. The Department of Environmental Resources' position was presented. It was suggested that since the Planning Board is the agency responsible for ensuring compliance with the Zoning Ordinance for permit applications, their role should be incorporated into the legislation. Amendments to Section 27-255, which delegates this authority to the Planning Board, should be included in CB-51-1990, and Sections 4-230, 27-252, 27-646, and 27-225.2 should be also be amended. The Committee agreed with this recommendation.

The Planning Board opposed CB-50-1990 and CB-51-1990, citing "unresolved due process and taking issues". The Prince George's County Municipal Association supports both bills.

Ed Gibbs, speaking for Gibbs and Haller and the Chamber of Commerce, opposed the legislation, stating concerns about the constraint of property rights. He made two recommendations for amendments to the bills if they are reported out of committee, both of which were agreed to by the Committee members. First, properties will only be impacted if they are recommended for downzoning by the Planning Board at the time of adoption of the Master Plan. The legislation currently affects properties that are proposed for downzoning by the District Council at the time of approval of the Master Plan. Also, properties will only be denied a building permit if the intended use of the property is not permitted in the proposed, less intense zone. Mr. Gibbs referred to property currently in the C-S-C Zone that is proposed to be placed in the C-O Zone, where the intended use is permitted in both zones. He contended, and the Committee agreed, that a permit should not be denied in this case.

Both pieces of legislation were reported out of Committee favorably with the amendments listed above, as well as several technical amendments.

#### **BACKGROUND INFORMATION/FISCAL IMPACT**

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

During the time in which a Sectional Map Amendment (SMA) is being processed, property owners often try to secure their zoning status by obtaining building permits, although there is no immediate intention to construct. This practice diminishes the importance of the Master Plan and SMA processes. This legislation requires the postponement of the issuance of building permits when the property is commercially or industrially zoned, is proposed for a less intense zone, is not developed, and has been in the current zone for more than ten years. It also provides for the expiration of building permits when construction is not being diligently pursued.