

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

**Meeting Date:** 3/24/98

**Reference No.:** CB-15-1998

**Proposer:** Planning Board

**Draft No.:** 2

**Sponsors:** Maloney, Del Giudice, Scott

**Item Title:** An Ordinance to require that adjoining property owners be notified when certain applications are filed

**Drafter:** Dale Hutchison, M-NCPPC

**Resource Personnel:** Dale Hutchison, M-NCPPC

**LEGISLATIVE HISTORY:**

**Date Presented:** 1/20/98

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

**Committee Referral:** 1/20/98 PZED

**Effective Date:** 6/15/98

**Committee Action:(1)** 2/25/98 HELD

**Committee Action:(2)** 3/16/98 FAV (A)

**Date Introduced:** 3/24/98

**Pub. Hearing Date:** 4/28/98 1:30 P.M.

**Council Action:** 4/28/98 ENACTED

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

**Pass/Fail:** P

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

**PLANNING, ZONING & ECON. DEV. COM. REPORT**

**DATE:** 3/16/98

Committee Vote: Favorable, as amended (In favor: Council Members Bailey, Estepp and Maloney)

Staff presented two Draft-2s (DR-2 and DR-2A) to the Committee. Staff explained that in both drafts, reference is made to Section 27-125.01, Informational mailing, in all of the sections of the bill that require a notice be sent to adjoining property owners and any municipality located within one (1) mile of the property. Currently, the Zoning Ordinance requires the Planning Board staff to notify adjoining property owners of applications for Zoning Map Amendments and Special Exceptions. CB-15-1998 requires this notification for virtually all applications submitted to the Planning Board.

The difference in the two proposed drafts is as follows: DR-2 provides that the notification to adjoining property owners and any municipality located within one (1) mile of the property is handled by either the Planning Board staff or the applicant dependent upon the type of application. DR-2A proposes that the applicant provide the notification for all application types in accordance with Section 27-125.01.

Paul Rodbell, Esq., Meyers, Billingsley, Rodbell & Rosenbaum, P.A., spoke in support of the legislation and indicated that since DR-2A requires that an applicant send a notice regarding the pending application "within seven (7) days after an application is accepted," the Planning Board staff should provide some notification to the applicant that the application has, in fact, been accepted by the staff.

On a motion by Council Member Estepp, the Committee voted (3-0) for a favorable recommendation on Draft-2A.

#### **PLANNING, ZONING & ECON. DEV. COM. REPORT**

DATE: 2/25/98

This legislation was presented by request of the Planning Board.

Staff gave an overview of the bill and summarized agency comments. The Executive Branch supports the legislation. The Office of Law finds the bill to be in proper legislative form. The Office of Audits and Investigations has determined there should be no negative fiscal impact on the County if the bill is enacted.

Council Member Maloney inquired as to whether the term "adjoining" when referring to property owners included a property owner located across a public right-of-way. Joyce Nichols, Principal Counsel, indicated that the term is defined in the Zoning Ordinance as follows: **Adjoining:** See "Abutting"; **Abutting:** Touching and sharing a common point or line. Also "Adjoining" and "Contiguous."

Dale Hutchison, M-NCPPC, indicated that in proposed Section 27-125.01(b) Informational mailing, lines 5 and 6, page 15, the language requires that a notice be sent to all adjoining property owners, including those properties directly across a street, alley, or stream. Mr. Hutchison informed the Committee that this section only applies to those applications for which the Planning Board is required to notify adjoining property owners, not to those for which the applicant is required to provide notification (by certified mail). The language "including those properties directly across a street, alley, or stream" is not included in the sections requiring the applicant to provide notice. He indicated that the bill could be clarified by requiring that the applicant bear the responsibility of notification for all applications.

Paul Rodbell, Esq., Meyers, Billingsley, Rodbell & Rosenbaum, P.A., spoke in support of the legislation. Mr. Rodbell indicated that he does not have a problem with the applicant being responsible for the notification since mailing is not a big expense. He also expressed his belief that

the notification should not be referred to as "informational" because constitutionally, adjoining owners deserve actual notice and proof of mailing should be contained in the record for the application.

Joe Meinert, representing the City of Bowie, spoke in support of the bill and requested that the Council consider the City's administrative practice of notifying at least all residents living within 500 feet of a property proposed for development, as well as property owners within the same radius, even though no one may inhabit the land. The City also recommends that in order to establish uniform procedures for public notice mailings, the Planning Board's Administrative Procedures be amended to reflect the same requirements contained in CB-15-1998 for subdivision proposals.

Council Member Del Giudice suggested that the bill be held in committee in order to give staff time to work with M-NCPPC on amendments that will provide consistency and clarification in various sections of the bill regarding notification to adjoining property owners.

The Committee voted (4-0) to hold the bill in order to give staff an opportunity to work with M-NCPPC staff on revisions to the bill that will ensure consistency in the various sections requiring the staff or applicant to notify adjoining property owners.

## **BACKGROUND INFORMATION/FISCAL IMPACT**

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

The Zoning Ordinance (CB-128-1989) currently requires the Planning Department to provide written notice to adjacent property owners in Zoning Map Amendment and Special Exception applications. This legislation would expand that requirement to other applications, such as conceptual and detailed site plans, comprehensive and specific design plans and departure applications, currently filed with the Prince George's County Planning Department.

## **CODE INDEX TOPICS:**