

Agenda Items #7-8
June 15, 2010

Public Hearing

MEMORANDUM

June 10, 2010

TO: County Council

FROM: Jeffrey L. Zyontz,  Legislative Attorney

SUBJECT: **Public Hearing:** Subdivision Regulation Amendment (SRA) 10-01;
Public Utility Easements – Urban Roads; and
Bill 17-10, Public Utility Easement - Urban Roads

SRA 10-01, Public Utility Easements – Urban Roads and Bill 17-10, Public Utility Easement - Urban Roads, sponsored by the Councilmember Elrich, were introduced on April 13, 2010.

SRA 10-01 would allow appropriate building setbacks by prohibiting public utility easements along urban roads. The Planning Board would have the authority to allow a public utility easement along an urban road if it finds that the resulting building setbacks are appropriate. The SRA was introduced with a companion Bill. Bill 17-10 would require the Department of Transportation to allow public utilities to be located in the right-of-way of an urban road. Public utilities were allowed in the right-of-way of in Central Business District areas.

A Transportation, Infrastructure, Energy and Environment (T&E) Committee worksession on the SRA and Bill is tentatively scheduled for June 24, 2010 at 9:30 a.m.

This packet contains:

SRA 10-01
Bill 17-10
Legislative Request Report

Circle #

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6

Ordinance No.:
Subdivision Regulation Amend. No.: 10-01
Concerning: Public Utility Easements –
Urban Roads
Revised: 4/1/10; Draft No. 1
Introduced: April 13, 2010
Public Hearing:
Adopted:
Effective:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Elrich

AN AMENDMENT to the Subdivision Regulations to:

Prohibit public utility easement along urban roads under certain circumstances.

By amending

Montgomery County Code
Chapter 50, Subdivision of Land
Section 50-40, Public utilities

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Bill No. 17-10
Concerning: Public Utility Easement-
Urban Roads
Revised: 4-1-10 Draft No. 1
Introduced: April 13, 2010
Expires: October 13, 2011
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Elrich

AN ACT to:

(1) allow public utilities in the right-of-way of urban roads.

By amending

Montgomery County Code

Chapter 49, Road Code

Section 49-32. Design standards for types of roads.

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 49-32 is amended as follows:**

2 (a) The design standards adopted under this Article govern the construction or
3 reconstruction of any County road except Rustic Roads and Exceptional Rustic
4 Roads.

5 * * *

6 (b) A limited segment of a County road may be designed to vary slightly from the
7 applicable standards, criteria, or specifications, as necessary to adjust to site-
8 specific conditions, as long as the road’s typical cross-section and other
9 attributes conform to the applicable standards, criteria, or specifications.

10 * * *

11 (c) In this Article and the standards adopted under it:

12 (1) an ‘urban’ road is a road segment in or abutting a Metro Station Policy
13 Area, Town Center Policy Area, or other urban area expressly identified
14 in a Council resolution;

15 * * *

16 (d) The minimum right-of-way for a road may be specified in the applicable
17 master plan or sector plan for the area where the road is located.

18 * * *

19 (g) Public utilities must be allowed in urban road rights-of-way.

20
21 *Approved:*

22
23

Nancy Floreen, President, County Council

Date

24 *Approved:*

25

26

Isiah Leggett, County Executive

Date

27 *This is a correct copy of Council action.*

28

Linda M. Lauer, Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Bill 17-10

Public Utility Easement – Urban Roads

DESCRIPTION: This Bill would require the Department of Transportation to allow public utilities in urban roads.

PROBLEM: Public utility easements that abut urban roads can create undesirable building setbacks in urban areas.

GOALS AND OBJECTIVES: To allow public utilities to use the public right-of-way.

COORDINATION: Department of Transportation, Planning Board

FISCAL IMPACT: To be requested.

ECONOMIC IMPACT: To be requested.

EVALUATION: To be requested.

EXPERIENCE ELSEWHERE: Public utilities are in the public rights-of way in Central Business Districts.

SOURCE OF INFORMATION: Jeffrey L. Zyontz, Legislative Attorney, 240-777-7896

APPLICATION WITHIN MUNICIPALITIES: None.

PENALTIES: Not applicable

(C)