

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE  
Transcriber's Office  
FLOOR DEBATE

May 5, 2003

LB 754

just tell you what I think some of the vagaries are in this new language that is probably going to result in litigation and confusion and why it should not be there. First of all, it talks about a final determination, but in fact, as you read through the amendment, it's not a final determination. It's final, subject to substantial change in the applicant's proposed use...whatever "substantial" might mean, there's a word of some uncertainty...and whether the applicant has met or will meet, providing additional uncertainty in the sense that how do you know if they will meet certain conditions. But the point is, it's not even final at the initial determination and it raises questions when you use the word "final" in another legal sense as to whether that order, for example, is appealable under the law. The word "final determination" under the law is often used to designate a fact determination that is appealable under the law. I don't think Senator Bromm, and I'm going to ask him this eventually, but I don't think Senator Bromm intends this final determination to be appealable when it's first determined, but that would raise another legal uncertainty. Another legal uncertainty, it has it be determined in a timely manner. Well, sometimes these things take two months, sometimes they may take six months, sometimes they may take a lot longer. Does "a timely manner" depend upon the submission of all information? Can you go back and then request additional information, and do they get additional time if they request additional information from the applicant? What is going to be a timely manner? I would suggest that in this area, for example, you're going to have a number of lawsuits about what a timely manner is, what additional information can be requested if you've already made an initial request for information, that type of thing. Thirdly, the bill says...or, not thirdly, fourth or fifth, the bill says that you can't necessarily require all relevant information anymore, which was the case in the past, but the information that you require has to be not only relevant but reasonable. And you're going to get into questions there about whether "reasonable" means, no matter how expensive it is, if it's relevant you can request it. Can...are all types of information "requestable," all types that relate to any question that a county board might raise as part of a zoning question? So the cost, what is meant by "reasonable," what is meant by "final," what is meant by "substantial," whether "final" is