

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2004 Legislative Session

Bill No. _____ CB-31-2004

Chapter No. _____

Proposed and Presented by Council Members Dernoga, Exum, Dean, Peters and Shapiro

Introduced by Council Members Dernoga, Exum, Dean, Peters and Shapiro

Co-Sponsors _____

Date of Introduction May 11, 2004

ZONING BILL

1 AN ORDINANCE concerning

2 Maryland - Washington Regional District Boundaries

3 For the purpose of providing procedures for statutory review of proposed zoning relating to
 4 annexations by a municipality with zoning authority.

5 BY adding:

6 Sections 27-648.01 and 27-648.02,

7 The Zoning Ordinance of Prince George's County, Maryland,

8 being also

9 SUBTITLE 27. ZONING.

10 The Prince George's County Code

11 (1999 Edition, 2002 Supplement).

12 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 13 Maryland, sitting as the District Council for that part of the Maryland-Washington Regional
 14 District in Prince George's County, Maryland, that Section/s 27-648.01 and 27-648.02 of the
 15 Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince
 16 George's County Code, be and the same are hereby added:

SUBTITLE 27. ZONING.

18 **PART 13. AREA MASTER PLANS, GENERAL PLAN, FUNCTIONAL**

MASTER PLANS, AND PLANNING AREAS.

DIVISION 2. PROCEDURES.

1 **Sec. 27-648.01. Zoning Classification in Annexed Areas; Application and Notice.**

2 (a) Where any area is annexed, or proposed to be annexed, into a municipality authorized
3 by the Regional District Act to have and having a planning and zoning authority, the
4 municipality may not, for a period of five years following annexation, place the land in a zoning
5 classification which permits a land use substantially different from the use for the land specified
6 in the current and duly approved General Plan, Area Master Plan, or Functional Plan without the
7 express approval of the District Council granted in accordance with Section 27-648.02.

8 (b) At the time the initial zoning classification of a property annexed or proposed to be
9 annexed is established by the municipality, the proposed zoning classification shall be reviewed
10 by the District Council to determine whether the proposed zoning classification permits a land
11 use which is substantially different from the current land use specified in the current and duly
12 approved General Plan, Area Master Plan, or Functional Plan. If the proposed zoning
13 classification is determined by the District Council to be substantially different, the District
14 Council shall either expressly approve or disapprove the proposed zoning classification. The
15 request to review the proposed initial zoning classification shall be submitted by either the owner
16 of the property or by the municipality in conjunction with the notice of the proposed annexation.

17 (c) Within a period of five years following annexation, the owner of the property or the
18 municipality shall submit each proposed change or amendment to the initial zoning classification
19 established by the municipality at the time of annexation to the District Council to determine
20 whether the proposed zoning classification permits a land use which is substantially different
21 from the use for the land specified in the duly adopted General Plan, Area Master Plan, or
22 Functional Plan which was applicable to the property at the time of annexation. If the proposed
23 zoning classification is determined by the District Council to be substantially different, the
24 District Council shall either expressly approve or disapprove the proposed zoning classification.
25 An application for review of the proposed amendment to the zoning classification shall be filed
26 with the Planning Board by the owner of the property or the municipality or its authorized
27 representative. An application for review shall conform to the requirements of Section 27-143.

28 (d) Upon acceptance, the Planning Board shall notify the District Council that an
29 application for review has been filed. Within fifteen (15) days after an application for review is
30 accepted by the Planning Board, the District Council shall designate a date for the public

1 hearing. Notice of the date, time, and place of the hearing, and a description of the property and
 2 the zone requested, shall be mailed by regular mail to the municipality and to all property owners
 3 located within one thousand feet of the property which is the subject of the proposed annexation
 4 and to all Homeowners Associations and Civic Associations located within one mile of the
 5 property in accordance with Section 27-125.04. The inadvertent failure of the Planning Board to
 6 send, or the a property owner to receive, the mailing shall not invalidate the final action on the
 7 application for review.

8 (e) Prior to the preparation of the Technical Staff Report, the Technical Staff shall transmit
 9 copies of the proposal to all public agencies and municipalities with operational or planning
 10 responsibility over the subject property, with a request to review the application and advise the
 11 Technical Staff, within twenty days, of:

12 (1) The estimated public service needs generated by the proposal; and

13 (2) The estimated public facilities needed (including the capital cost) to serve the
 14 subject property and its environs in the requested zoning classification(s).

15 (f) In connection with each application, a report by the Technical Staff shall be submitted
 16 to the Planning Board for its review and approval.

17 (1) The report shall contain the following:

18 (A) A description of the property and a listing of its zoning, infrastructure, and
 19 existing uses.

20 (B) A delineation of a neighborhood, which shall also be shown on either a
 21 Zoning Map, aerial photograph, or sketch map.

22 (C) A delineation of adjacent and nearby properties and a description of their
 23 zoning and use category.

24 (D) A full statement and analysis of the applicable recommendations of the
 25 General Plan, Area Master Plan and Functional Plans for the property and surrounding properties
 26 in the neighborhood.

27 (E) A statement regarding the compliance of the requested zoning with the
 28 recommendations of the Master Plan and the effect an approval of the requested zoning will have
 29 on the Master Plan.

30 (F) A full statement of the public facilities/services (including costs) available as

1 required to serve the property as it presently exists and a reasonable projection of these public
 2 facilities/services (including costs) required to serve the property, if annexed, including new
 3 zoning and uses. The statement shall include any and all funding sources for capital
 4 improvement projects.

5 (G) The date of the hearing.

6 (H) The recommendations of the Technical Staff.

7 (2) The Technical Staff Report shall be sent at least twenty days prior to the public
 8 hearing to all persons of record and to all other persons who request, in writing, a copy of the
 9 report. A copy of the report shall be included in the record.

10 **Sec. 27-648.02. Zoning Classification in Annexed Areas; District Council Action.**

11 (a) At least twenty days prior to the public hearing, the original copy of the application,
 12 plans, maps, specifications, Technical Staff Report, and all other data, materials, and record
 13 evidence (submitted to date) pertaining to the application shall be sent by the Planning Board to
 14 the District Council with a copy being retained by the Planning Board. At least twenty days
 15 prior to the public hearing, the duplicate application file shall be available for public examination
 16 in the Office of the Planning Board and the Office of the Clerk. The Planning Board shall notify
 17 the property owner and the municipality when the record is transmitted.

18 (b) The hearing date shall be at least twenty, but not more than forty-five, days after the
 19 Technical Staff Report is provided to the District Council. The Clerk shall notify all persons of
 20 record, including the municipality, and all other persons who requested a copy of the Technical
 21 Staff Report, of the hearing date. Prior to or at the hearing, any person may submit written
 22 responses to the Technical Staff Report, together with any supporting material. The responses
 23 and attachments shall become a part of the record that will be forwarded to the District Council.

24 (c) Whenever the District Council conducts a public hearing, it shall do so in accordance
 25 with Part 3, Division 1, Subdivision 3, of this Subtitle. The District Council shall conduct the
 26 hearing within 45 days after receipt of the Technical Staff Report.

27 (d) In determining whether a zoning classification is substantially different, the District
 28 Council shall consider whether the proposed zoning classification allows substantially more
 29 density, permits one or more uses which are not permitted in the zoning classification applicable
 30 to the property prior to annexation, or permits more intensive uses.

1 (e) Prior to finding that the proposed initial or amended zoning classification for a land use
2 is not substantially different from the use specified in the master plan, the District Council shall
3 find that the proposed zoning classification for a land use is not substantially different from the
4 specific recommendation of a General Plan map, Area Master Plan map, or Functional Plan and
5 the principles and guidelines of the plan text which address the design and physical development
6 of the property, the public facilities necessary to serve the proposed zoning classification use,
7 and the impact which the proposed zoning classification use may have on the environment and
8 surrounding properties.

9 (f) Prior to approving a proposed initial or amended zoning classification for a land use
10 which is substantially different from the use specified in the master plan, the District Council
11 shall find adequacy of public facilities to support the proposed zoning classification in
12 accordance with the following criteria:

13 (1) Transportation facilities (including streets and public transit) (a) which are
14 existing, (b) which are under construction, or (c) for which one hundred percent (100%) of the
15 construction funds are allocated within the adopted County Capital Improvement Program,
16 within the current State Consolidated Transportation Program, or will be provided by the
17 applicant, will be adequate to carry the anticipated traffic generated by the development based on
18 the maximum proposed density. The uses permitted in the proposed zoning classification will
19 not generate traffic which would lower the level of service anticipated by the zoning
20 classification and circulation systems shown on the approved General or Area Master Plans, or
21 urban renewal plans;

22 (2) Other existing or planned private and public facilities which are existing, under
23 construction, or for which construction funds are contained in the first six (6) years of the
24 adopted County Capital Improvement Program (such as public schools, recreation areas, water
25 and sewerage systems, libraries, and fire stations) will be adequate for the uses permitted in the
26 proposed zoning classification, and such funds have been appropriated in an adopted operating
27 budget or capital budget;

28 (3) Environmental relationships reflect compatibility between the proposed general
29 land use types, or if identified, the specific land use types, and surrounding land uses, so as to
30 promote the health, safety, and welfare of the present and future inhabitants of the Regional

1 District.

2 (4) Notwithstanding paragraphs (1) and (2), above, where the proposed initial or
 3 amended zoning classification anticipates a construction schedule of more than six years, public
 4 facilities (existing or scheduled for construction within the first six years) will probably be
 5 adequate to serve the development proposed to occur within the first six years. The District
 6 Council shall also find that public facilities will be adequately supplied for the remainder of the
 7 project. In considering the probability of future public facilities construction, the Council may
 8 consider such things as existing plans for construction, budgetary constraints on providing public
 9 facilities, the public interest and public need for the particular development, the relationship of
 10 the development to public transportation, or any other matter that indicates that public or private
 11 funds will likely be expended for the necessary facilities.

12 (g) Within thirty days after the hearing is concluded, the District Council shall determine
 13 that the establishment or amendment of the zoning classification either:

14 (1) permits a land use not substantially different from the use for the land specified in
 15 the current and duly approved General Plan, Area Master Plan, or Functional Plan, or

16 (2) permits a land use substantially different from the use for the land specified in the
 17 current and duly approved General Plan, Area Master Plan, or Functional Plan.

18 If the District Council determines that the land use is substantially different, the District Council
 19 shall also expressly approve or disapprove the zoning classification proposed by the
 20 municipality.

21 (h) The final decision by the District Council shall be based only on the evidence in the
 22 record, and shall be supported by specific written findings of basic facts and conclusions.

23 (i) The District Council shall send a copy of the final decision to all persons of record and
 24 to all other persons who request, in writing, a copy of the decision.

25 SECTION 2. BE IT FURTHER ENACTED that this Ordinance shall take effect forty-five
 26 (45) calendar days after its adoption.

Adopted this _____ day of _____, 2004.

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

BY: _____
Tony Knotts
Chairman

ATTEST:

Redis C. Floyd

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.
Asterisks *** indicate intervening existing Code provisions that remain unchanged.