

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
1998 Legislative Session

Bill No. _____ CB-78-1998
 Chapter No. _____
 Proposed and Presented by _____ Council Member Maloney
 Introduced by _____ Council Member Maloney
 Co-Sponsors _____
 Date of Introduction _____ May 19, 1998

ZONING BILL

1 AN ORDINANCE concerning

2 Mixed Use Community (M-X-C) Zone

3 For the purpose of restricting the rezoning of property to the M-X-C Zone and strengthening the
 4 existing M-X-C Zone regulations.

5 BY repealing and reenacting with amendments:

6 Sections 27-199, 27-213, 27-546.03, 27-546.04, 27-546.05,
 7 27-546.06, and 27-547,

8 The Zoning Ordinance of Prince George's County, Maryland,
 9 being also

10 SUBTITLE 27. ZONING.

11 The Prince George's County Code
 12 (1995 Edition, 1997 Supplement).

13 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 14 Maryland, sitting as the District Council for that part of the Maryland-Washington Regional
 15 District in Prince George's County, Maryland, that Sections 27-199, 27-213, 27-546.03,
 16 27-546.04, 27-546.05, 27-546.06, and 27-547 of the Zoning Ordinance of Prince George's
 17 County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same
 18 are hereby repealed and reenacted with the following amendments:

19 **SUBTITLE 27. ZONING.**

20 **PART 3. ADMINISTRATION.**

DIVISION 1. GENERAL ZONING PROCEDURES.

Subdivision 4. M-X-T and M-X-C Zones.

Sec. 27-199. Applications.

(a) General.

(1) An application for a Zoning Map Amendment to a Mixed Use Zone shall be filed with the Planning Board by the owner (or authorized representative) of the property. The District Council may suspend the filing of applications for up to one (1) year, if it determines that it is appropriate for any statutory zoning purpose.

(2) No original application may be filed for the M-X-C Zone (including extending existing zones) after July 1, 1998. [shall be filed requesting more than one (1) zone.]

(3) All applications shall be on the forms provided. All information shall be typed, except for signatures.

* * * * *

(c) Other submission requirements.

(1) Along with the application, the applicant shall submit the following:

* * * * *

(H) For the M-X-T Zone, supporting evidence which shows whether the proposed development will exceed the capacity of transportation facilities that are existing, are under construction, or for which one hundred percent (100%) of construction funds are allocated within the adopted County Capital Improvement Program and/or within the current State Consolidated Transportation Program;

(I) For the M-X-C Zone, supporting evidence which shows that the transportation facilities (including streets and public transit) which are existing, under construction, [or which] are one hundred percent (100%) funded for construction in an approved County Capital Improvement Program and/or in an approved current State Consolidated Transportation Program [provided for in an adopted and approved Master Plan or the General Plan], or [which] will be otherwise provided, will be adequate to carry anticipated traffic generated by the development based on the maximum proposed density. As used herein funded for construction means that sufficient funds to complete the project have been appropriated by the Council or the General Assembly, as the case may be, with respect to operating budgets or that the issuance of bonds sufficient to complete the project has been authorized.

(J) Any other data or explanatory material deemed necessary by the District Council, Zoning Hearing Examiner, or the Planning Board (submitted in triplicate);

(K) For the M-X-C Zone, fifteen (15) copies of a Preliminary Development Plan for the property. The Preliminary Development Plan shall include a generalized drawing or series of drawings, generally of a scale not less than one (1) inch equals four hundred (400) feet, illustrating the proposed development with accompanying descriptive material setting forth:

* * * * *

(iii) A statement of the number of acres within the application intended to be devoted to:

(aa) Residential Areas, broken down into the number of acres to be used for each of the following specific Residential Use Areas:

Single-Family - Low Density;

Single-Family - Medium Density;

Other Residential;

(bb) Nonresidential Areas; and

(cc) Community Use Areas.

Sec. 27-213. Map Amendment approval; amendments.

(b) Criteria for approval of the M-X-C Zone.

(1) The District Council shall only place land in the M-X-C Zone if the following criteria are met:

(A) The application, including the Preliminary Development Plan, shall conform to the specific recommendation of a General Plan Map or Area Master Plan Map, or the principles and guidelines of the plan text which address the design and physical development of the property, and recommends that the area be developed in a comprehensive manner in a planned community that results in distinct neighborhoods or villages.

(B) Transportation facilities (including streets and public transit) which are existing, under construction, [or which] are one hundred percent (100%) funded for construction in an approved County Capital Improvement Program and/or in an approved current State Consolidated Transportation Program [provided for in an adopted and approved Master Plan or the General Plan], or [which] will be otherwise provided, will be adequate to carry anticipated traffic generated by the development based on the maximum proposed density. As used herein

1 funded for construction means that sufficient funds to complete the project have been
 2 appropriated by the Council or the General Assembly, as the case may be, with respect to
 3 operating budgets or that the issuance of bonds sufficient to complete the project has been
 4 authorized.

5 (C) Other private and public facilities (such as [schools,] recreation areas, water
 6 and sewerage systems, libraries, and fire stations) which are existing, under construction, or
 7 which are provided for in an adopted and approved Master Plan or the General Plan, or which
 8 will be otherwise provided, will be adequate for the uses proposed.

9 (D) The land for which the approval of the M-X-C Zone is requested is not
 10 currently zoned O-S (Open Space) or R-A (Residential-Agricultural), unless the land in the R-A
 11 Zone was intended for staged future development.

12 (2) In approving a rezoning to the M-X-C Zone, the District Council shall also make
 13 the following findings:

14 (A) The proposed plan represents a mix of uses which will support and
 15 complement the development of a balanced community;

16 (B) The proposed plan is in conformance with the purposes and other provisions
 17 of Part 10, Division 2, of this Subtitle;

18 (C) The location and size of the neighborhood center or centers are adequate to
 19 create a distinct focal point for the community and to foster a strong sense of community identity
 20 and participation;

21 (D) The open space network is sufficient to provide for the recreational and
 22 scenic needs of the residents, is well distributed throughout the overall development, and is
 23 superior to what could be achieved under conventional development regulations;

24 (E) The open space network is designed to preserve the most sensitive and
 25 valuable environmental features;

26 (F) The character of the land within the development is suitable for the uses
 27 proposed;

28 (G) The proposed development plan incorporates design and planning techniques
 29 which will make it compatible with existing and proposed development in the vicinity; and

30 (H) The amount of land proposed to be used for commercial activities is
 31 adequate to serve the residents of the community.

(I) The proposed uses are compatible with the actual uses which are existing at the time of rezoning in the neighborhood surrounding the application.

(3) Upon granting an application to rezone property to the M-X-C Zone, the District Council shall also approve a Preliminary Development Plan for all of the land included within the application.

* * * * *

(g) Amendments to a Preliminary Development Plan.

(1) Primary Amendments.

(A) All primary amendments of approved Preliminary Development Plans shall be made in accordance with the provisions for initial approval of the Plan. They shall be deemed a rezoning of the land and shall be subject to the same procedures and the same criteria as the original rezoning.

PART 10. MIXED USE ZONES.

DIVISION 2. SPECIFIC MIXED USE ZONES.

Subdivision 2. M-X-C (Mixed Use Community)

Sec. 27-546.03. Uses.

(a) The uses allowed in the M-X-C Zone are as provided for in the Table of Uses (Division 3 of this Part).

(b) Each Preliminary Development Plan in the M-X-C Zone shall comply with the following minimum and maximum requirements for use areas:

	<i>Minimum</i>	<i>Maximum</i>
	<i>Percentage</i>	<i>Percentage</i>
	<i>of Gross</i>	<i>of Gross</i>
	<i>Area of the</i>	<i>Area of the</i>
	<i>Zone</i>	<i>Zone</i>
Community Use Areas	30%	N/A
Single-Family - Low Density Residential	[10%] <u>15%</u>	N/A
Single-Family - Medium Density Residential	20%	N/A
Other Residential	N/A	15%

In no event shall the number of townhouses exceed 25% of the total number of dwellings in the Zone

In no event shall the number of multifamily dwellings exceed 5% of the total number of dwellings in the Zone

Nonresidential Areas:

In no event shall service or trade uses exceed 10% of the gross area of the Zone

5% [20%]15%

(c) Single-Family Areas.

(1) Other uses which may be allowed in these areas are home occupations, day care centers, group homes, tourist homes, churches, and other similar uses, as provided for in Section 27-547. All permitted uses other than one-family detached dwellings shall be approved as part of the textual material for the Comprehensive Sketch Plan and the Final Development Plan. No dwelling units other than one-family detached shall be allowed in this area.

(d) Other Residential Areas.

(1) Other uses which may be allowed in these areas are home occupations, day care centers, group homes, tourist homes, churches, and other similar uses, as provided for in Section 27-547. All permitted uses other than one-family detached dwellings shall be approved as part of the textual material for the Comprehensive Sketch Plan and the Final Development Plan. One-family detached dwelling units are permitted in this area.

* * * *

Sec. 27-546.04. Other regulations.

* * * *

(e) The regulations concerning Off-Street Parking and Loading (Part 11), Signs (Part 12), and the Landscape Manual shall apply within the M-X-C Zone. Section 4.7 of the Landscape Manual shall [not] apply to contiguous uses within the boundaries of the M-X-C Zone[, but shall apply] and along the exterior boundaries of the M-X-C Zone where a use within the M-X-C Zone is contiguous to a use which is outside the zone.

* * * *

Sec. 27-546.05. Comprehensive Sketch Plan.

* * * *

(d) Planning Board Action.

(1) The Planning Board shall hold a public hearing prior to the approval of a Comprehensive Sketch Plan. Anyone who was a person of record in any Zoning Map Amendment or Special Exception as described in Part 2, Division 2, and Part 3 of this Subtitle, respectively, or other zoning matters pertaining to the property, as of January 1, 1994, but not more than ten (10) years prior to the filing of the application, shall be sent notice of the filing of the application. This notice shall inform the person of record in the previous application(s) of the procedure for becoming a person of record in the pending application and the necessity for becoming a person of record in the pending application in order to maintain standing to participate. The failure of the previous person of record to receive the notice shall not invalidate the approval of the Comprehensive Sketch Plan. As used herein, the term "other zoning matters" shall be limited to Detailed Site Plans, Comprehensive Sketch Plans, and Final Development Plans.

(2) Prior to approving a Comprehensive Sketch Plan, the Planning Board shall find that:

(A) The proposed Comprehensive Sketch Plan is generally consistent with the approved Preliminary Development Plan;

(B) The proposed plan is in conformance with the purposes and other provisions of this Division;

(C) The proposed plan incorporates design and planning techniques that will make it compatible with existing and proposed development in the vicinity;

(D) The neighborhood center, if the subject application includes this element, is of sufficient size and proposes a mix of uses and a physical design that will create a distinct focal point for the community;

(E) The pedestrian system is convenient and is comprehensively planned to encourage pedestrian activity, especially in proximity to the neighborhood center;

(F) The overall design, mix of uses, and other improvements reflect a cohesive development of continuing quality and stability, while allowing for effective integration of subsequent phases;

(G) Transportation facilities which are existing, under construction, [included] are one hundred percent (100%) funded in [the adopted] an approved County Capital Improvement Program and/or in an approved current State Consolidated Transportation Program, or will be otherwise provided, will be adequate to carry anticipated traffic[;] generated by the development based on the maximum proposed density. As used herein funded for construction means that sufficient funds to complete the project have been appropriated by the Council or the General Assembly, as the case may be, with respect to operating budgets or that the issuance of bonds sufficient to complete the project has been authorized.

(3) At the time of a Comprehensive Sketch Plan, the Planning Board shall apply an initial adequacy of school facilities test in accordance with paragraphs (A), (B), or (C), below:

(A) The number of students generated by the proposed subdivision at each stage of the proposed subdivision will not exceed one hundred five percent (105%) of the rated capacity of the affected elementary, middle, and high schools, as determined by the Planning Board pursuant to the guidelines provided in (i) through (iii), below.

(i) The number of elementary, middle, and high school students generated by the proposed subdivision shall be determined in accordance with the pupil yield factors for each dwelling unit type as determined by the Planning Board upon historical information provided by the Board of Education.

(ii) Based upon the advice of the Board of Education, the elementary, middle, and high schools serving the property at the time of review of the subdivision shall be determined and shall be considered the "affected" schools.

(iii) The projected five-year enrollment, as determined by the Planning Board in cooperation with the Board of Education and any other County or State agency deemed

1 appropriate, for each affected school shall be added to the number of students generated by the
 2 proposed subdivision as determined in subparagraph (i), above, plus the number of students
 3 generated by approved preliminary plats since the most recent annual enrollment projections.

4 (B) The total projected number of students for each affected school, as determined in
 5 subparagraph (iii), above, shall be compared to the rated capacity of each affected school and an
 6 adequate public facilities fee shall be calculated by multiplying the number of students generated
 7 by the proposed subdivision above the one hundred five percent (105%) rated capacity in
 8 accordance with the following schedule:

9 (i) \$9,000 per elementary school student;

10 (ii) \$12,000 per middle school student;

11 (iii) \$10,000 per high school student.

12 Such fee is to be paid at time of issuance of a building permit, unless the application is subject to
 13 the provisions of Subsection (3)(D), herein.

14 (C) An addition to the affected school or a new school to serve the students generated
 15 by the proposed subdivision has been funded by the State in an adopted State of Maryland annual
 16 budget bill in accordance with Article III, Section 52, of the Maryland Constitution, and the
 17 projected enrollment of the new or expanded school will not exceed one hundred five percent
 18 (105%) of its rated capacity.

19 (D) If the students generated as determined in subsections (3)(A) and (B) above
 20 exceed one hundred thirty percent (130%) at any affected school, and there is an addition to the
 21 affected school or a new school to serve the students generated by the proposed subdivision is
 22 programmed for construction in the adopted Prince George's County Capital Improvement
 23 Program (years 2-6) which will result in an enrollment at the affected school of 105% or less of
 24 capacity, a fee is to be paid at time of issuance of a building permit as determined in subsection
 25 (3)(B) above.

26 (E) If the students generated as determined in subsections (3)(A) and (B) above exceed
 27 one hundred thirty percent (130%) at any affected school, and there is no addition or new school
 28 programmed for construction in the Prince George's County Capital Improvement Program
 29 (years 2-6) which will result in an enrollment at the affected school of 105% or less of capacity,
 30 then the Comprehensive Sketch Plan shall be denied.

31 (F) Whenever an adequate school facility fee is charged, it shall be offset by the full

1 amount of the school facilities surcharge imposed on the same property.

2 [(3)](4) An approved Comprehensive Sketch Plan shall remain valid indefinitely.

3 * * * *

4 **Sec. 27-546.06. Final Development Plan.**

5 * * * *

6 (d) **Planning Board action.**

7 (1) The Planning Board shall hold a public hearing prior to the approval of a Final
8 Development Plan. Anyone who was a person of record in any Zoning Map Amendment or
9 Special Exception as described in Part 2, Division 2, and Part 3 of this Subtitle, respectively, or
10 other zoning matters pertaining to the property, as of January 1, 1994, but not more than ten (10)
11 years prior to the filing of the application, shall be sent notice of the filing of the application.
12 This notice shall inform the person of record in the previous application(s) of the procedure for
13 becoming a person of record in the pending application and the necessity for becoming a person
14 of record in the pending application in order to maintain standing to participate. The failure of
15 the previous person of record to receive the notice shall not invalidate the approval of the Final
16 Development Plan. As used herein, the term "other zoning matters" shall be limited to Detailed
17 Site Plans, Comprehensive Sketch Plans, and Final Development Plans.

18 (2) Prior to approving a Final Development Plan, the Planning Board shall make the
19 following findings:

20 (A) The proposed plan generally conforms to the Comprehensive Sketch Plan;

21 (B) The overall design, mix of uses, and other improvements reflect a cohesive
22 development of continuing quality and stability, while allowing for effective integration of
23 subsequent phases;

24 (C) Transportation facilities (including streets and public transit)[,] which are
25 existing, [, which are] under construction, [, or for which are] one hundred percent (100%)
26 funded [of the construction funds are allocated within the adopted] in an approved County
27 Capital Improvement Program[, and/or within [the] an approved current State Consolidated
28 Transportation Program, or will be otherwise provided, will be adequate to carry anticipated
29 traffic generated by the development based on the maximum proposed density. As used herein
30 funded for construction means that sufficient funds to complete the project have been
31 appropriated by the Council or the General Assembly, as the case may be, with respect to

operating budgets or that the issuance of bonds sufficient to complete the project has been authorized.

(3) At the time of a Final Development Plan, the Planning Board shall apply an initial adequacy of school facilities test in accordance with paragraphs (A), (B), or (C), below:

(A) The number of students generated by the proposed subdivision at each stage of the proposed subdivision will not exceed one hundred five percent (105%) of the rated capacity of the affected elementary, middle, and high schools, as determined by the Planning Board pursuant to the guidelines provided in (i) through (iii), below.

(i) The number of elementary, middle, and high school students generated by the proposed subdivision shall be determined in accordance with the pupil yield factors for each dwelling unit type as determined by the Planning Board upon historical information provided by the Board of Education.

(ii) Based upon the advice of the Board of Education, the elementary, middle, and high schools serving the property at the time of review of the subdivision shall be determined and shall be considered the "affected" schools.

(iii) The projected five-year enrollment, as determined by the Planning Board in cooperation with the Board of Education and any other County or State agency deemed appropriate, for each affected school shall be added to the number of students generated by the proposed subdivision as determined in subparagraph (i), above, plus the number of students generated by approved preliminary plats since the most recent annual enrollment projections.

(B) The total projected number of students for each affected school, as determined in subparagraph (iii), above, shall be compared to the rated capacity of each affected school and an adequate public facilities fee shall be calculated by multiplying the number of students generated by the proposed subdivision above the one hundred five percent (105%) rated capacity in accordance with the following schedule:

(i) \$9,000 per elementary school student;

(ii) \$12,000 per middle school student;

(iii) \$10,000 per high school student.

Such fee is to be paid at time of issuance of a building permit, unless the application is subject to the provisions of Subsection (3)(D), herein.

(C) An addition to the affected school or a new school to serve the students

generated by the proposed subdivision has been funded by the State in an adopted State of Maryland annual budget bill in accordance with Article III, Section 52, of the Maryland Constitution, and the projected enrollment of the new or expanded school will not exceed one hundred five percent (105%) of its rated capacity.

(D) If the students generated as determined in subsections (3)(A) and (B) above exceed one hundred thirty percent (130%) at any affected school, and there is an addition to the affected school or a new school to serve the students generated by the proposed subdivision is programmed for construction in the adopted Prince George's County Capital Improvement Program (years 2-6) which will result in an enrollment at the affected school of 105% or less of capacity, a fee is to be paid at time of issuance of a building permit as determined in subsection (3)(B) above.

(E) If the students generated as determined in subsections (3)(A) and (B) above exceed one hundred thirty percent (130%) at any affected school, and there is no addition or new school programmed for construction in the Prince George's County Capital Improvement Program (years 2-6) which will result in an enrollment at the affected school of 105% or less of capacity, then the Final Development Plan shall be denied.

(F) Whenever an adequate school facility fee is charged, it shall be offset by the full amount of the school facilities surcharge imposed on the same property.

[(3)](4) An approved Final Development Plan shall remain valid indefinitely.

* * * * *

DIVISION 3. USES PERMITTED.

Sec. 27-547. Uses permitted.

* * * * *

(b) **TABLE OF USES**

<i>USE</i>	<i>ZONE</i>	
	<i>M-X-T</i>	<i>M-X-C</i>
(1) COMMERCIAL:		
All Types Offices and Research	P	P
Banks, savings and loan association, or other savings or lending institution	P	P
Data processing facilities	P	P
Eating or Drinking Establishments	P	P
Offices (may include a private spa in a medical practitioner's office or medical clinic)	P	P
Research, development, and testing laboratory (may include testing facilities and equipment), medical or dental laboratory	P	P ⁶
* * * *		*
Valet shop	P	P
Variety or dry goods store	P	X
Veterinary clinic	P	P
* * * *		*
(4) MISCELLANEOUS:		
Accessory structures and uses	P	P
Cemetery, accessory to a church, convent, or monastery ⁵	P	P
Home occupations (except in multifamily dwellings)	P	P
Mobile home, with use for which amusement taxes collected ²	P	X

<i>USE</i>	<i>ZONE</i>	
	<i>M-X-T</i>	<i>M-X-C</i>
Other uses of appropriate size, which can be justified as one of the uses listed in this section	P	[P] <u>X</u>
* * * *		*
(7) RESIDENTIAL/LODGING:		
Country inn	P	P
Dwellings, all types (except mobile homes)	P ⁷	[P] <u>X</u>
<u>Dwellings, as defined elsewhere in the M-X-C Zone</u>	<u>X</u>	<u>P</u>
Group residential facility for up to 8 mentally handicapped dependent persons	P	P
Hotel or motel	P	P
* * * *		*
SECTION 2. BE IT FURTHER ENACTED that this Ordinance shall take effect forty-five (45) calendar days after its adoption.		

Adopted this _____ day of _____, 1998.

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: _____
Ronald V. Russell
Chairman

ATTEST:

Joyce T. Sweeney
Clerk of the Council

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