

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

Bill No. _____ CB-64-1998
 Chapter No. _____
 Proposed and Presented by _____ Council Member Maloney
 Introduced by _____ Council Member Maloney
 Co-Sponsors _____
 Date of Introduction _____ May 12, 1998

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, 27-648.02 and 27-648.03,

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 (1995 Edition, 1997 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 Sections 27-648.01, 27-648.02 and 27-648.03
 15 of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the
 16 Prince George's County Code, be and the same are hereby added:

SUBTITLE 27. ZONING.

**PART 13. AREA MASTER PLANS, GENERAL PLAN, FUNCTIONAL
 MASTER PLANS, AND PLANNING AREAS.**

DIVISION 2. PROCEDURES.

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

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

(b) At the time the initial zoning classification of a property annexed or proposed to be annexed is established by the municipality, the proposed zoning classification shall be reviewed by the District Council to determine whether the proposed zoning classification permits a land use which is substantially different from the current land use. If the proposed zoning classification is determined by the District Council to be substantially different, the District Council shall either expressly approve or disapprove the proposed zoning classification. The request to review the proposed initial zoning classification shall be submitted by either the owner of the property or by the municipality in conjunction with the notice of the proposed annexation. The review of the initial zoning classification shall be performed without the payment of a fee.

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

(d) Upon acceptance, the Planning Board shall notify the Zoning Hearing Examiner that an application for review has been filed. Within fifteen (15) days after an application for review is accepted by the Planning Board, the Zoning Hearing Examiner shall designate a date for the public hearing. Notice of the date, time, and place of the hearing, and a description of the

property and the zone requested, shall be published by the Planning Board at least two (2) times in the newspapers of record. The first notice shall be published at least fifteen (15), but not more than thirty (30), days prior to the date of the public hearing. The Planning Board shall post the property with a durable sign at least thirty (30) days prior to the scheduled hearing date. The sign shall be provided by the Planning Board and shall be posted in accordance with Section 27-142.01. Notification shall be mailed by regular mail to the municipality and to all property owners located within one thousand feet of the property which is the subject of the proposed annexation and to all Homeowners Associations and Civic Associations located within one mile of the property. The inadvertent failure of the Planning Board to send, or the a property owner to receive, the mailing shall not invalidate the final action on the application for review.

(e) Prior to the preparation of the Technical Staff Report, the Staff shall transmit copies of the proposal to all public agencies and municipalities with operational or planning responsibility over the subject property, with a request to review the application and advise the Staff (within twenty (20) days) of:

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

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

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

(1) The report shall contain the following:

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

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

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

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

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

1 on the Master Plan.

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

7 (G) The date of the Zoning Hearing Examiner hearing.

8 (H) The recommendations of the Technical Staff.

9 (2) The Technical Staff Report shall be sent at least twenty (20) days prior to the
 10 Zoning Hearing Examiner's public hearing to all persons of record, including the municipality,
 11 and to all other persons who request, in writing, a copy of the report. A copy of the report shall
 12 be included in the record.

13 **Sec. 27-648.02. Zoning Classification in Annexed Areas; Zoning Hearing Examiner.**

14 (a) At least twenty (20) days prior to the public hearing, the original copy of the
 15 application, plans, maps, specifications, Technical Staff Report, and all other data, materials, and
 16 record evidence (submitted to date) pertaining to the application shall be sent by the Planning
 17 Board to the Zoning Hearing Examiner with a copy being retained by the Planning Board. At
 18 least twenty (20) days prior to the public hearing, the duplicate application file shall be available
 19 for public examination in the Office of the Planning Board and the Office of the Zoning Hearing
 20 Examiner. The Planning Board shall notify the property owner and the municipality when the
 21 record is transmitted.

22 (b) The Zoning Hearing Examiner hearing date shall be at least twenty (20), but not more
 23 than thirty (30), days after the Technical Staff Report is provided to the Zoning Hearing
 24 Examiner. The Zoning Hearing Examiner shall notify all persons of record, including the
 25 municipality, and all other persons who requested a copy of the Technical Staff Report, of the
 26 hearing date. Prior to or at the Zoning Hearing Examiner's hearing, any person may submit
 27 written responses to the Technical Staff Report, together with any supporting material. The
 28 responses and attachments shall become a part of the record that will be forwarded to the District
 29 Council. The following procedures shall be observed by the Zoning Hearing Examiner:

30 (1) No one shall present evidence after the hearing is concluded, unless a rehearing is
 31 ordered.

1 (2) All hearings shall be open to the public and only after twenty (20) days' notice to
 2 all persons of record.

3 (3) The Zoning Hearing Examiner shall make a recommendation only on the basis of
 4 the record.

5 (4) The recommendation shall be transmitted to the District Council, together with
 6 the original application and the all other record material pertaining to the application.

7 (c) Within thirty (30) days after the hearing is concluded, the Zoning Hearing
 8 Examiner shall prepare a written recommendation. The Zoning Hearing Examiner shall
 9 recommend to the District Council that the establishment or amendment of the zoning
 10 classification be determined either:

11 (1) to permit a land use substantially different from the use for the land specified in
 12 the current and duly approved General Plan, Area Master Plan, or Functional Plan, or

13 (2) to permit a land use not substantially different from the use for the land specified
 14 in the current and duly approved General Plan, Area Master Plan, or Functional Plan. The
 15 Zoning Hearing Examiner shall also recommend that the zoning classification either be approved
 16 or be disapproved by the District Council. Each recommendation shall be based upon the
 17 appropriate findings and criteria applicable to the District Council in making its decision. The
 18 Zoning Hearing Examiner shall forward a copy of the recommendation to all persons of record,
 19 including the municipality.

20 **Sec. 27-648.03. Zoning Classification in Annexed Areas; District Council Action.**

21 (a) Whenever the District Council conducts a public hearing, it shall do so in accordance
 22 with Part 3, Division 1, Subdivision 3, of this Subtitle. The District Council shall conduct the
 23 hearing within 45 days after receipt of the Zoning Hearing Examiner's recommendation.

24 (b) The District Council may accept or reject the recommendations of the Zoning Hearing
 25 Examiner. In determining whether a zoning classification is substantially different, the Zoning
 26 Hearing Examiner shall consider whether the proposed zoning classification allows substantially
 27 more density, permits one or more uses which are not permitted in the zoning classification
 28 applicable to the property prior to annexation or permits more intensive uses.

29 (c) Prior to finding that the proposed initial or amended zoning classification for a land use
 30 is not substantially different from the use specified in the master plan, the District Council shall
 31 find that the proposed zoning classification for a land use is not substantially different from the

1 specific recommendation of a General Plan map, Area Master Plan map, or Functional Plan and
 2 the principles and guidelines of the plan text which address the design and physical development
 3 of the property, the public facilities necessary to serve the proposed zoning classification use,
 4 and the impact which the proposed zoning classification use may have on the environment and
 5 surrounding properties.

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

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

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

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

29 (4) Notwithstanding paragraphs (1) and (2), above, where the proposed initial or
 30 amended zoning classification anticipates a construction schedule of more than six (6) years,
 31 public facilities (existing or scheduled for construction within the first six (6) years) will

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

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

10 (f) The District Council shall send a copy of the final decision to all persons of record,
11 including the municipality, and to all other persons who request, in writing, a copy of the
12 decision.

13 SECTION 2. BE IT FURTHER ENACTED that this Ordinance shall take effect forty-five
14 (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:
Underscore indicates language added to existing law.