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COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

SITTING AS THE DISTRICT COUNCIL

Legislative Session _____ 1991 _____

Bill No. _____ CB-14-1991 _____

Chapter No. _____ 8 _____

Proposed and Presented by Council Members Wineland
_____ and Bell _____

Introduced by Council Members Wineland and Bell

Co-Sponsors _____

Date of Introduction _____ March 19, 1991 _____

ZONING BILL

AN ORDINANCE concerning

Sectional Map Amendment Process

FOR the purpose of limiting the revisory period for a Sectional Map Amendment, limiting the review period by the Principal Counsel to the District Council (or authorized representative), requiring that all hearings be held on a single date, requiring that a decision shall be rendered within a certain period after the adoption of the Sectional Map Amendment, and clarifying certain language.

BY repealing and reenacting with amendments:

Section 27-228,

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

being also

SUBTITLE 27. ZONING.

The Prince George's County Code
(1987 Edition, 1989 Supplement).

SECTION 1. BE IT ENACTED by the 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, that Section 27-228 of the Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same is hereby repealed and reenacted with the following amendments:

SUBTITLE 27. ZONING.

PART 3. ADMINISTRATION.

DIVISION 4. SECTIONAL MAP AMENDMENT (SMA).

Subdivision 2. Procedures.

Sec. 27-228. Revising the Sectional Map Amendment.

(a) In general

(1) After approval of a Sectional Map Amendment, the District Council, upon finding fraud or mistake, may revise the action in accordance with the procedures of this Section. The District Council shall require information (including a description of any specific property involved) which is sufficient to justify making a different decision on the Sectional Map Amendment. The District Council shall not change its decision unless additional information has been submitted to substantiate such action.

(b) Petition for revision

(1) [The District Council may only revise the Sectional

Map Amendment if a] A written petition [is] may be filed with the District Council by the Planning Board, the District Council itself, or any person who claims [he was] to have been aggrieved by the action of the District Council. The petition shall include a map or survey plat which clearly identifies the property at issue.

(2) The petition must be filed with the Clerk of the Council within [six (6) months] thirty (30) days after the date of the final action on the Sectional Map Amendment.

(3) The petition shall set forth the specific facts on which the petition is based, and the name and address of the owner of any specific property described in the petition.

(c) Criteria for revision

(1) The District Council may only consider revising the Sectional Map Amendment for property that was reclassified to a zoning category other than that which existed prior to approval of the Sectional Map Amendment. Such consideration shall be based on the following criteria:

(A) A factual error, which could not have been corrected by the property owner, was contained in the record of the Sectional Map Amendment proceedings which may have caused an erroneous description of a specific property, and which is sufficient to justify making a different decision on the Sectional Map Amendment. The failure of a property owner or petitioner to have provided sufficient information for the record of the Sectional Map Amendment shall not constitute a mistake.

(B) Evidence of fraud on behalf of the District

Council.

(d) [(c)] Principal Counsel review

(1) After receiving the petition, the Clerk of the Council shall transmit the petition to the Principal Counsel to the District Council (or an authorized representative) for a legal opinion on the question of fraud or mistake.

(2) The Principal Counsel to the District Council (or an authorized representative) shall, within thirty (30) days after the close of the filing period, advise the Council on whether there is a reasonable basis for reviewing the Sectional Map Amendment because of fraud or mistake.

(e) [(d)] Council procedures

(1) If the Principal Counsel to the District Council (or an authorized representative) advises that there is a reasonable basis [for] to consider a revision, the Council may (by a majority vote of the full Council) set the matter for public hearing on whether or not to adopt a revisory Ordinance or Resolution with respect to the Sectional Map Amendment. [On the other hand,] If the Principal Counsel to the District Council (or an authorized representative) advises that there is no reasonable basis to consider a revision, the District Council shall order a denial of the petition [where there is no basis for revision because of fraud or mistake].

(2) Prior to the adoption of a revisory Ordinance or

Resolution, a public hearing shall be held on the matter. The hearing shall be scheduled to take place within sixty (60) days following review by the Principal Counsel to the District Council (or authorized representative).

(3) The hearing shall be advertised at least once a week for [at least] two (2) successive weeks in the [three (3)] County newspapers of record. The notice shall set forth the date, time, place, and purpose of the hearing, and shall contain a copy of the Ordinance or Resolution, or a brief summary of it.

(4) A copy of the public hearing notice shall be sent by first class mail to all persons of record in the Sectional Map Amendment proceedings who are within the subject neighborhood as defined by the Technical Staff, to the property owner, to the petitioner, and to a municipality if it is located within one mile of the subject property, at least fourteen (14) days prior to the date of the hearing.

(5) [(3)] The testimony at the hearing shall be limited to testimony on the contents of the record; [evidence related to the clarification of ambiguities;] evidence on fraud; and evidence which may have been omitted from the original record because of fraud or mistake. Other than evidence regarding a factual error, the District Council shall not consider evidence which was discovered, or came into existence after the adoption of the Sectional Map Amendment.

(6) [(4)] If the revisory Ordinance or Resolution changes the zoning classification of a property, it shall affect only the

property set forth in the Ordinance or Resolution. Any subsequent rights of appeal shall be limited to that property and no others within the area of the Sectional Map Amendment.

(7) [(5)] The failure of the District Council to revise a Sectional Map Amendment under this Section shall not prejudice any subsequent Zoning Map Amendment application considered.

(8) [(6)] The District Council shall not consider a petition for revision on any property which is the subject of an appeal to the Circuit Court from the action on the Sectional Map Amendment (provided the property is specifically identified in the appeal).

(9) All hearings on revisory petitions shall be held on a single date, or, where necessary, on consecutive working days until all hearings have been held.

(10) The District Council shall issue its decision on all revisory petitions within five (5) months after the date of adoption of the Sectional Map Amendment. A revisory petition not finally acted upon within this time period shall be considered denied.

SECTION 2. BE IT FURTHER ENACTED that this Ordinance shall take effect on the thirtieth day of June, 1991.

Adopted this 16th day of April, 1991.

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: _____
Richard J. Castaldi
Chairman

ATTEST:

Maurene W. Epps
Acting Clerk of the Council

KEY:

Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.