

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

Bill No. _____ CB-100-2004

Chapter No. _____

Proposed and Presented by Council Members Bland, Dernoga, and Harrington

Introduced by _____

Co-Sponsors _____

Date of Introduction November 1, 2004

ZONING BILL

1 AN ORDINANCE concerning

2 Rural Tier

3 For the purpose of developing new development standards and procedures for the Rural Tier
 4 including the establishment and imposition of temporary zoning regulations restricting
 5 development in the Rural Tier established by the Approved General Plan for a period of time to
 6 expire on August 1, 2005. This Ordinance provides for an annual allocation of building permits,
 7 establishes interim guidelines for residential development, and it requires site plan approval as a
 8 prerequisite for the issuance of permits.

9 BY adding:

10 Sections 27-1801, 27-1802, 27-1803, 27-1804, 27-1805,

11 27-1806 and 27-1807,

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

13 being also

14 SUBTITLE 27. ZONING.

15 The Prince George's County Code

16 (2003 Edition).

17 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 18 Maryland, sitting as the District Council for that part of the Maryland-Washington Regional
 19 District in Prince George's County, Maryland, that Sections 27-1801, 27-1802, 27-1803, 27-
 20 1804, 27-1805, 27-1806 and 27-1807 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 are hereby added:

SUBTITLE 27. ZONING.

PART 18. INTERIM DEVELOPMENT ORDINANCE.

Sec. 27-1801. Title.

This ordinance shall be known and cited as the "Interim Development Ordinance" or "IDO."

Sec. 27-1802. Purpose and Intent.

(a) The County finds that health, safety and the general public welfare of the residents of Prince Georges County will be promoted by establishing interim standards for development in the Rural Tier so as to ensure the availability of adequate public facilities for development, establish appropriate levels of service for facilities to protect the health and safety of current and future residents, equalize the cost of providing services so as not to unduly burden any segment of the community, and establish appropriate governance procedures to plan and oversee development to promote the interests and welfare of the community. Specifically, the purposes of the IDO are:

(1) To apply interim regulations for development to protect the planning process for the Developed, Developing and Rural Tiers.

(2) To provide the County adequate time to develop effective and realistic standards for development in the Rural and Developing Tiers.

(3) To establish a permit management system that provides for a long-term rate of growth in the Rural Tier that is consistent with the policies of the General Plan; preserve its unique character, community design and high quality of life; ensure that such growth proceeds in an orderly manner and does not exceed the availability of public facilities and urban services; and to minimize adverse environmental impact.

(4) To balance the goals of plan implementation with the property rights of landowners subject to this ordinance.

(5) To provide incentives for plan implementation while the ordinances are pending.

(6) To provide demonstration programs and experience with transfers of development rights to ensure that the program is useable, realistic and administratively feasible, pending the completion of a market study for development rights transfers.

1 **Sec. 27-1803. Findings.**

2 (a) The District Council finds and determines that:

3 (1) The IDO is necessary to implement plans, planning studies, and related
4 documents, such as the Prince George's County Approved General Plan (October 2002);
5 Freilich, Leitner & Carlisle and Planning Works LLC, Rural Tier Planning Study for Prince
6 George's County, Maryland (December 23, 2003), and Agriculture in Prince George's County,
7 Prince George's County Planning Department (September 1995).

8 (2) Existing levels of service of public facilities are decreasing to a point of potential
9 harm to the health and safety of the residents of the Rural Tier, and the current rate of assessment
10 of impact fees and exactions is insufficient to recover the costs of additional infrastructure
11 needed to serve new development within the Rural Tier; and,

12 (3) Existing and planned public facilities are currently and will continue in the future
13 to be insufficient to provide adequate levels of service to meet the development pressure in the
14 Rural Tier; and,

15 (4) The cost of services to meet the demands of proposed development in the Rural
16 Tier is prohibitive for the county's taxpayers, and furthermore, the cost of expanding services in
17 the Rural Tier is not an efficient use of the County's limited resources;

18 (5) Development pressures are causing the loss of prime agricultural lands, and
19 impacting environmentally sensitive areas including, but not limited to, hillsides, wetlands,
20 riparian corridors, woodlands, floodplains, critical area buffers and primary management areas;
21 and

22 (6) Development pressures are causing growth to occur without regard to maintaining
23 the rural character of the Rural Tier, as defined by its many small farms; dynamic natural
24 systems, wildlife corridors and bird sanctuaries; scattered farm houses, historic houses and estate
25 housing; narrow two-lane roads, some with tall embankments and heavily wooded edges,
26 panoramic views of open fields punctuated with hedgerows, windbreaks, haul roads, barns, farm
27 equipment and farm animals; and recreational opportunities such as kayaking, birding, hiking
28 and biking; and

29 (7) It is a matter of compelling public interest to establish interim development
30 regulations as set-out in this ordinance.

Sec. 27-1804. Definitions.

(a) The words and terms used in this Part are as defined in Section 27-107.01, unless a different meaning is provided in subsection (b), below.

(b) Words and terms in this Part are defined as follows:

(1) Interim Development Ordinance ("IDO") Allocation: The maximum number of building permits that may be issued through December 31, 2005 for new dwelling units within the Rural Tier.

(2) Development Review Division ("DRD"): The Development Review Division of the Prince George's County Planning Department

(3) Interim Development Ordinance ("IDO") Certification: A certificate issued by the Planning Director, indicating that proposed development as described in a pending building permit application, conforms to the requirements of the Interim Development Ordinance.

(4) Interim Development Ordinance ("IDO"): Subtitle 27, Part 18 of the Prince George's County Code.

(5) Interim Development Ordinance ("IDO") Site Plan: A site plan that must be approved prior to the issuance of a grading or building permit, authorizing the construction of a new residential dwelling within the Rural Tier.

Sec. 27-1805. Applicability.

(a) Affected Area.

This Part applies to the Rural Tier as designated in the General Plan.

(b) Development Applications and Permits.

(1) This Part applies to preliminary plans and final plats of subdivision, building and grading permits issued within the Rural Tier for the duration of this ordinance.

(2) An application for approval of a final plat for a preliminary plat that was approved before July 1, 2003, is exempt from this Part. However, if the final plat application is not approved by March 1, 2005:

(i) The final plat is subject to this Part; and

(ii) The validity period for the preliminary plat shall be considered extended beyond the expiration of this Part pursuant to the Section 24-119(d)(5) of the Subdivision Regulations.

(c) Exemptions.

The IDO does not apply to the following:

- (1) Uses or developments for which only a use and occupancy permit is required; or
- (2) Any addition to any single-family dwelling; or
- (3) Home occupations, whether or not a use and occupancy permit is required; or
- (4) Rehabilitation of an existing non-residential building, or structure which does not change the use or enlarge the building or structure; or
- (5) Accessory uses; or
- (6) Walls or fences; or
- (7) Signs; or
- (8) Temporary permits issued pursuant to Part 3, Division 7, Subdivision 3; or
- (9) Reconstruction of a damaged or destroyed building or structure so long as the reconstruction includes no increase in the number of pre-existing residential dwelling units and/or no increase in the square footage of pre-existing non-residential development.
- (10) A building permit for the construction of a single-family dwelling on a lot created through the conveyance to a son or daughter or lineal descendant or antecedent in accordance with Section 24-107(c)(3) of the Subdivision Regulations.

Sec. 27-1806. Development Review.

(a) IDO Site Plan.

(1) The Planning Director is authorized to approve IDO Site Plans administratively, without public hearing, for the development of new residential dwellings within the Rural Tier. An IDO Site Plan may only be approved if it conforms to the Rural Tier Guidelines in Section 27-1807(b) and other applicable requirements of this Subtitle. However, an IDO Site Plan that may be approved by the Director shall be exempt from the informational mailing requirements of Section 27-125.01. The Director may authorize staff to take any action the Director may take under this Section.

(2) In approving an IDO Site Plan, the Director is not authorized to waive requirements in this Subtitle, grant variances, or modify conditions, considerations, or other requirements imposed by the Planning Board or District Council in a previous case affecting the subject property.

(3) Applications for an IDO Site Plan shall be filed with the Development Review Division of the Maryland-National Capital Park and Commission, located within the Prince

1 George's County Administration Building. The filing fee shall be one thousand dollars
 2 (\$1,000.00), the same as for a Detailed Site Plan.

3 (4) The IDO Site Plans shall be prepared in accordance with the submittal
 4 requirements of Section 27-282 and the Rural Tier Guidelines contained in Section 27-1807(b).
 5 In addition to these requirements, the applicant shall provide a written statement fully explaining
 6 how the development proposal complies with the Rural Tier Guidelines. Furthermore, the
 7 applicant shall provide a list containing the current names and addresses of adjoining property
 8 owners.

9 (5) Notice of the Planning Director's decision on an IDO Site Plan shall be mailed to
 10 every person who has requested in writing to become a person of record.

11 (6) Any person of record may file a written appeal of the Director's decision,
 12 requesting a public hearing by the Planning Board. The appeal shall be filed with the
 13 Development Review Division within 30 days of mailing the Director's notice. If an appeal is
 14 filed within the prescribed time limit, the application shall then be processed in accordance with
 15 the procedures contained in Part 3, Division 9, Subdivision 3 of this Subtitle, pertaining to
 16 Detailed Site Plans.

17 (b) Mandatory Referrals.

18 (1) State Highway Administration and/or Department of Public Works and
 19 Transportation:

20 (i) A copy of the proposed IDO Site Plan shall be referred to the State Highway
 21 Administration and/or the County Department of Public Works and Transportation, whichever
 22 shall have jurisdiction over roadway and access improvements for the proposed development.

23 (ii) The appropriate agency shall complete an assessment of the roadway and
 24 access improvements that will be required for the proposed development and transmit its
 25 findings to the Planning Director.

26 (iii) The Planning Director shall consider these findings in assessing the
 27 proposal's conformance to the Rural Tier Guidelines contained in Section 27-1807(b), prior to
 28 making a final decision.

29 (2) County Health Department:

30 (i) A copy of the proposed IDO Site Plan shall be referred to the County Health
 31 Department to identify alternative areas located outside of the proposed dwelling unit footprint

1 that could be used to provide adequate, on-site well and
 2 septic facilities.

3 (ii) The Health Department shall transmit its findings to the Planning Director.
 4 The Planning Director shall consider these findings in assessing the proposal's conformance to
 5 the Rural Tier Guidelines contained in Section 27-1807(b), prior to making a final decision.

6 (c) IDO Stakeholders' Meeting.

7 (1) Upon receipt of the mandatory referral replies, the DRD shall schedule a public
 8 stakeholders' meeting to review the IDO Site Plan application and all associated issues.
 9 Invitations for the meeting shall be sent by mail to the applicant, all adjoining property owners
 10 and any other interested individuals who have requested in writing to become persons of record.
 11 The invitations shall be mailed at least 15 days prior to the meeting date.

12 (2) The invitations for the public stakeholders' meeting shall include the following
 13 information:

14 (i) Application number, property location and brief description of the
 15 development proposal;

16 (ii) Time, date and location for the stakeholders' meeting;

17 (iii) Instructions for becoming a person of record; and

18 (iv) Telephone number to call for additional information.

19 (d) Permits.

20 Except for the exemptions listed in Section 27-1805(c), grading or building permits for
 21 the development of residential dwellings shall not be issued or approved within the Rural Tier by
 22 the Department of Environmental Resources unless the applications are accompanied by the
 23 following:

24 (1) An IDO Site Plan approved in accordance with this Part; and

25 (2) An IDO Certification issued by the Planning Director indicating conformance with
 26 the provisions of this Part.

27 **Sec. 27-1807. Regulations.**

28 (a) IDO Site Plan.

29 Applicants must obtain approval of an IDO Site Plan prior to obtaining a grading or
 30 building permit for new residential development within the Rural Tier. The IDO Site Plan
 31 application shall be processed in accordance with Section 27-1806.

1 (b) Rural Tier Guidelines.

2 The Planning Director may only approve an IDO Site Plan for property located within the
3 Rural Tier if it conforms to the following development guidelines:

4 (1) Level-of-Service - The proposed development shall not cause any street or
5 signalized or unsignalized intersection within one (1) mile of the exterior boundaries of the
6 development site to fall below level-of-service "C." The widening of a street to more than two
7 (2) lanes (a total of 22 feet of pavement, including turning lanes and shoulders) shall not be
8 permitted as a condition of approval for the purpose of this subsection. No road improvements
9 necessitating the removal of existing woody vegetation shall be permitted.

10 (2) Site Access – Construction of pavement widening along the site frontage (beyond
11 22 feet of pavement, including turning lanes and shoulders) shall not be permitted. No road
12 improvements necessitating the removal of existing woody vegetation shall be permitted. A
13 determination by the responsible agency that such widening (or a fee-in-lieu) is required for
14 issuance of the agency's permit shall result in disapproval of the proposed development.

15 (3) Minimum Lot Size - The minimum lot size for development of new residential
16 dwelling shall not be less than two (2) acres in the R-A Zone nor less than five (5) acres in the
17 O-S Zone.

18 (4) Well and Septic Systems - The proposed development shall be served by on-site
19 well and septic systems. The extension of off-site water mains or major sewage collection lines
20 is strictly prohibited.

21 (5) Environmental Impact – The proposed development and its area of disturbance
22 shall be designed to minimize adverse impact to environmentally sensitive features such as the
23 Chesapeake Bay Critical Area Buffer, primary management areas, the 100-year floodplain,
24 wetlands, severe slopes and steep slopes in combination with highly-erodible soils, severe slopes
25 in conjunction with Marlboro Clay, and mature woodlands, incorporating the following
26 standards:

27 (i) Development shall be designed to promote the protection of forest interior
28 dwelling species habitat, the sensitive wildlife habitat area located 300 feet inward from the edge
29 of the forest.

30 (ii) Woodland conservation requirements shall be met on site. Off-site mitigation
31 shall not be permitted.

1 (6) Rural Character – The proposed development shall be designed to enhance the
 2 area’s rural character, incorporating the following standards:

3 (i) Houses shall be set back a minimum of 100 feet from the public right-of-way,
 4 to preserve scenic viewsheds, wooded areas, open fields and ridge lines. Proposed house sites
 5 shall not disrupt the views, landscape and character of adjacent land owners.

6 (ii) Landscaping shall be provided to soften and buffer views of houses and other
 7 structures consistent with plantings common to the rural area.

8 (iii) Architecture shall conform to the rural character of existing rural tier
 9 structures, including such elements as roof lines and pitch, entrance drives, porches, lighting and
 10 building materials. Brick, stone and wood are encouraged building materials. Vinyl and
 11 aluminum siding are discouraged.

12 (iv) Historic features such as fencerows, tree lines and barns shall be preserved.
 13 Existing farm roads should be preserved and incorporated into the residential design whenever
 14 possible.

15 (v) Fencing shall be kept to a minimum to maintain open views and rural
 16 character. The use of stockade, board-on-board, chain link, vinyl and other high fences is not
 17 permitted. Fencing shall respond to the rural character type, height and scale existing within the
 18 rural tier. Acceptable fencing includes stone walls, split rail and equestrian-style.

19 (vi) Grading and drainage shall allow proposed houses to sit lightly on the land.
 20 Massive cut and fill shall be avoided. The creation of earth mounds and platforms for house sites
 21 is not permitted. Berms for screening are not permitted.

22 (vii) Scenic Roads and viewsheds shall be protected from adverse architectural or
 23 other development to maintain open and continuous views of the natural and agricultural
 24 landscape.

25 (c) Permit Allocation System.

26 The Planning Director shall not issue more than 60 IDO Certifications for the
 27 development of new single-family dwellings within the Rural Tier prior to August 1, 2005.

28 SECTION 2. BE IT FURTHER ENACTED that the Planning Director shall not
 29 recommend approval for any building permit in the Rural Tier for which an application is filed:

30 (a) After November 30, 2004, unless the application fully complies with Part 18 of this
 31 Subtitle; or

(b) After November 30, 2004, but prior to February 1, 2005, unless the applicant can provide documentary evidence of existing ownership dating back to at least October 20, 2004.

SECTION 3. BE IT FURTHER ENACTED that if any sentence, clause, section, provision, or part of this Act is held illegal, invalid, unconstitutional, or unenforceable, such illegality, invalidity, unconstitutionality, or unenforceability shall not affect or impair any of the remaining sentences, clauses, sections, provisions, or parts of the Act. It is hereby declared to be the intent of the District Council that this Act would have been adopted as if such illegal, invalid, unconstitutional, or unenforceable sentence, clause, section, provision, or part had not been included.

SECTION 4. BE IT FURTHER ENACTED that this Ordinance shall be abrogated and no longer effective July 31, 2005.

SECTION 5. BE IT FURTHER ENACTED that this Ordinance shall take effect on the date of 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
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.

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