

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**SITTING AS THE DISTRICT COUNCIL****2004 Legislative Session**Bill No. CB-16-2004Chapter No. 17Proposed and Presented by Council Members Dean, Exum, Harrington and PetersIntroduced by Council Members Dean, Exum, Harrington and Peters

Co-Sponsors _____

Date of Introduction April 20, 2004**ZONING BILL**

1 AN ORDINANCE concerning

2 Amendments of Approved Basic Plans

3 For the purpose of authorizing amendments to approved Basic Plans under certain
4 circumstances.

5 BY repealing and reenacting with amendments:

6 Section 27-197,

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 27-197 of the Zoning Ordinance of
15 Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code,
16 be and the same is hereby repealed and reenacted with the following amendments:17 **SUBTITLE 27. ZONING.**18 **PART 3. ADMINISTRATION.**19 **DIVISION 2. ZONING MAP AMENDMENTS.**20 **Subdivision 3. Comprehensive Design Zones.**

Sec. 27-197. Amendment of approved Basic Plan.

(a) (1) If an amendment of an approved Basic Plan involves a change in land area or an increase in land use density or intensity for the overall area included in the approved Basic Plan, the Plan shall be amended only in accordance with all the provisions of this Subdivision which apply to the initial approval of the Basic Plan by Zoning Map Amendment application, except as provided in this Section.

(2) If an amendment to a Basic Plan involves adding new land to the Basic Plan and there is no increase in the number of dwelling units from that previously approved, any determinations or conditions of the approved Basic Plan regarding adequate public facilities or Moderately Priced Dwelling Units shall not be subject to another review.

(3) If an amendment to a Basic Plan involves adding new land to the Basic Plan and there is no increase in the number of dwelling units from that previously approved, part or all of the previously approved number of dwelling units may be placed on the new land, if the density on the new land is no greater than that shown on the approved Basic Plan, without being limited by the base or maximum densities for the zone.

(4) Until December 31, 2002, the Planning Director may approve administratively, as a minor amendment, an amendment to an approved Basic Plan for property zoned M-A-C which:

(A) Adds abutting property to the land covered by the Basic Plan, but does not increase total land area by more than 5% or five (5) acres, whichever is less, or changes the designated use from Office to Hotel;

(B) Creates a more logical and orderly configuration of the land area in the approved Basic Plan; and

(C) Does not increase the number of dwelling units or the square footage shown on the approved Basic Plan.

(5) Until June 30, 2003, the Planning Director may approve administratively, as a minor amendment, an amendment to an approved Basic Plan for property zoned R-L or R-S which:

(A) Deletes property from the land covered by the Basic Plan, by condemnation or threat of condemnation, but does not decrease total land area by more than 25% or sixty acres, whichever is greater.

1 (B) Creates a more logical and orderly configuration of the land area in the
2 approved Basic Plan; and

3 (C) Does not increase the number of dwelling units or the square footage shown
4 on the approved Basic Plan.

5 (6) If the Planning Director approves a minor amendment to an approved Basic Plan
6 under Subsection (a)(4) or (a)(5), the owner shall submit, and the Planning Director may
7 approve, amendments to approved Comprehensive Design Plans and Specific Design Plans, to
8 bring them into conformance with the approved Basic Plan amendment. All existing conditions
9 shall apply to the new Basic Plan area, excluding the deleted land area described in Subsection
10 (a)(5).

11 (7) An amendment to a Basic Plan for a Golf Course Conference/Hotel Complex may
12 be approved by the Planning Board in accordance with Sections 27-525, 27-526, 27-527.01 and
13 the site shall be posted with a sign or signs at least fifteen (15) days prior to the hearing. A final
14 action by the Planning Board may be appealed within thirty (30) days after the action is taken by
15 any party of record who is aggrieved by the action to the Circuit Court pursuant to the Maryland
16 Rules of Procedure governing appeals of administrative decisions. A minor revision to the
17 approved Comprehensive Design Plan to bring it into conformance with the approved Basic Plan
18 amendment may be approved concurrently.

19 (8) If an amendment to an approved Basic Plan, or a portion thereof, is for the
20 purpose of including a Planned Environmental Preservation Community, the Plan may be
21 amended in accordance with the requirements of Subsection (c), below.

22 (b) An amendment of an approved Basic Plan which results in dividing a single approved
23 Basic Plan into two (2) or more separate Basic Plans may be approved by the District Council
24 where significant changes in circumstances with regard to the approved Basic Plan have created
25 practical difficulties for the applicant to the extent that, unless the Basic Plan is amended to
26 separate a specified amount of land area, the applicant will be unable to proceed to the
27 Comprehensive Design Plan phase. An amendment will not be granted where the practical
28 difficulty is self-created or self-imposed, or where the applicant had knowledge of, and control
29 over, the changing circumstances and the problems bringing about the practical difficulty at the
30 time the Basic Plan was approved. The following procedures shall apply to consideration of any
31 such amendment in lieu of the requirements of Subsection (c), below:

1 (1) The applicant shall file the request in triplicate with the Clerk of the Council. The
2 petition shall be accompanied by a new reproducible copy of the proposed new Basic Plan
3 graphic showing how the Basic Plan is to be divided and any other proposed revisions, three (3)
4 copies of the proposed new Basic Plan Text if any, and the names and addresses of the current
5 owners of the property separated by the proposed amendment. The Clerk's office shall advise
6 the applicant in writing that the Technical Staff has found that the request is complete.

7 (2) The Clerk of the Council shall refer copies of the request and accompanying
8 documents to the Planning Board and to the People's Zoning Counsel. The Planning Board and
9 the People's Zoning Counsel shall submit any comments which they have on the request to the
10 District Council, the Zoning Hearing Examiner, the petitioner, and all persons of record in the
11 original Zoning Map Amendment application. The comments shall be submitted not later than
12 sixty (60) days after the date the petition is referred, unless such deadline is waived in writing by
13 the applicant.

14 (3) Within one hundred twenty (120) days after referral of the petition to the Planning
15 Board and People's Zoning Counsel, the Zoning Hearing Examiner shall conduct a public
16 hearing on the petition. The hearing shall be held in accordance with Section 27-129. The
17 hearing shall not be held until after the sixty (60) day review period has expired, unless both the
18 Planning Board and People's Zoning Counsel have submitted their comments.

19 (4) In approving the petition, the applicant shall establish, and the District Council
20 shall find, that:

21 (A) The approval of the amended Basic Plan will not result in a change in land
22 area, or an increase in land use density or intensity, for the overall area included in the original,
23 approved Basic Plan;

24 (B) The approval of the amended Basic Plan will not significantly impair the
25 character of the original, approved Basic Plan with respect to land uses, density ranges, unit
26 types, circulation, accessibility, public facilities, public benefit features, and open space;

27 (C) The proposed amended Basic Plan conforms to the requirements of Section
28 27-195(b);

29 (D) The separate Basic Plans that result will be capable of standing by
30 themselves as individual, cohesive developments;

1 (E) Any staging of development that was required in the approval of the original
2 Basic Plan, and that is still appropriate, is included as part of the amended Basic Plan; and

3 (F) No owner of any land which is included in the original, approved Basic Plan
4 will, by the approval of the proposed amended Basic Plan, be denied reasonable use of his
5 property.

6 (5) The Office of the Zoning Hearing Examiner shall notify all persons of record
7 (including those in the original application), and owners of land separated by the proposed
8 amendment, of the hearing by regular mail. Notice shall be mailed not less than fifteen (15), nor
9 more than twenty-one (21), days prior to the scheduled public hearing. Further advance notice of
10 the public hearing shall be given by the Office of the Zoning Hearing Examiner in accordance
11 with the provisions of Section 27-186(a)(3).

12 (6) Within thirty (30) days from the close of the hearing record, the Zoning Hearing
13 Examiner shall file a written recommendation with the District Council, unless such deadline is
14 waived in writing by the applicant.

15 (7) All persons of record shall be given at least ten (10) days written notice by the
16 Clerk of the Council of the date and time of the District Council's consideration of the matter.

17 (8) Any person of record may appeal the recommendation of the Zoning Hearing
18 Examiner within fifteen (15) days of the filing of the Zoning Hearing Examiner's
19 recommendation with the District Council. If appealed, all persons of record may testify before
20 the District Council.

21 (9) Persons arguing shall adhere to the District Council's Rules of Procedure, and
22 argument shall be limited to thirty (30) minutes for each side, and to the record of the hearing.

23 (10) If the Council does not act within forty-five (45) days of the filing of the written
24 recommendation, the petition shall be considered to have been denied.

25 (c) If an amendment of an approved Basic Plan does not involve a change in land area or
26 an increase in land use density or intensity, or is for the purpose of adding a Planned
27 Environmental Preservation Community, the Plan may be amended by the Council in accordance
28 with the following procedures:

29 (1) The applicant shall file the request (in triplicate) with the Clerk of the Council.
30 The petition shall be accompanied by a new reproducible copy of the proposed new Basic Plan
31 (graphic only) or three (3) copies of the proposed new Basic Plan Text (as necessary depending

on the amendment proposed). The Clerk's office shall advise the applicant (in writing) that the Technical Staff has found that the request is complete. If an amendment to an approved Basic Plan is proposed for the purpose of adding a Planned Environmental Preservation Community, the applicant must hold a meeting to solicit public comment on the Plan for the purpose of incorporating comments concerning use, design, and density, to the extent possible, into the Plan. The applicant shall send by certified mail notice of the date, time, place and subject matter of the meeting to all adjoining property owners, including owners whose properties lie directly across a street, alley, or stream, to all persons of record in the original application, and to every municipality located within one (1) mile of the applicant's property. Evidence that the applicant has complied with this requirement shall be provided prior to the acceptance of the applicant's petition by the Clerk of the Council.

(2) The Clerk of the Council shall refer copies of the request and accompanying documents to the Planning Board and to the People's Zoning Counsel. The Planning Board and the People's Zoning Counsel shall submit any comments which they have on the request to the Council, the Zoning Hearing Examiner, the petitioner, and all persons of record in the original Zoning Map Amendment application. The comments shall be submitted not later than sixty (60) days after the date the Clerk refers the petition to them, unless such deadline is waived in writing by the applicant.

(3) Within one hundred twenty (120) days after referral of the petition to the Planning Board and People's Zoning Counsel, the Zoning Hearing Examiner shall conduct a public hearing on the petition. The hearing shall be held in accordance with Section 27-129. The hearing shall not be held until after the sixty (60) day review period has expired, unless both the Planning Board and People's Zoning Counsel have submitted their comments.

(4) The Office of the Zoning Hearing Examiner shall notify all persons of record (including those of the original application) of the hearing by regular mail. The notice shall be mailed not less than fifteen (15), nor more than twenty-one (21), days prior to the scheduled public hearing. Further advance notice of the public hearing shall be given by the Office of the Zoning Hearing Examiner, in accordance with the provisions of Section 27-186(a)(3).

(5) Within thirty (30) days from the close of the hearing record, the Zoning Hearing Examiner shall file a written recommendation with the District Council, unless such deadline is waived in writing by the applicant.

(6) All persons of record shall be given at least ten (10) days written notice by the Clerk of the Council of the date and time of the District Council's consideration of the matter.

(7) Any person of record may appeal the recommendation of the Zoning Hearing Examiner within fifteen (15) days of the filing of the Zoning Hearing Examiner's recommendation with the District Council. If appealed, all persons of record may testify before the District Council.

(8) Persons arguing shall adhere to the District Council's Rules of Procedure, and argument shall be limited to thirty (30) minutes for each side, and to the record of the hearing.

(9) In approving the petition, the District Council shall find that the requirements of Section 27-195(b) have been met. If the Council does not act within forty-five (45) days of the filing of the written recommendation, the petition shall be considered to have been denied.

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

Adopted this 8th day of June, 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.