

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**SITTING AS THE DISTRICT COUNCIL****2013 Legislative Session**

Bill No. _____ CB-20-2013 _____

Chapter No. _____ 16 _____

Proposed and Presented by Council Members Franklin, Olson, Campos, Davis, Harrison,
Patterson, Toles and Turner

Introduced by Council Members Franklin, Olson, Campos, Davis, Harrison, Patterson,
Lehman, Toles, and Turner

Date of
Introduction _____ April 23, 2013 _____

ZONING BILL

1 AN ORDINANCE concerning

2 Expedited Transit-Oriented Development

3 For the purpose of defining Expedited Transit-Oriented Development and amending the approval
 4 requirements for certain transit-oriented development projects in order to incentivize transit-
 5 oriented development in Prince George's County.

6 BY repealing and reenacting with amendments:

7 Section 27-107.01,

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 (2011 Edition).

13 BY adding:

14 Sections 27-272, 27-290.01 and 27-290.02,

15 The Zoning Ordinance of Prince George's County, Maryland,
 16 being also

17 SUBTITLE 27. ZONING.

18 The Prince George's County Code
 19 (2011 Edition).

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 27-107.01 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Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same is hereby repealed and reenacted with the following amendments: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 2. GENERAL.

DIVISION 1. DEFINITIONS.

Sec. 27-107.01. Definitions.

(a) Terms in the Zoning Ordinance are defined as follows:

* * * * *

(242.1) Transfer Station: A place or facility where solid wastes are taken from a transportation unit or collection vehicle and placed in another transportation unit or collection vehicle for transport to a solid waste acceptance facility. The movement or consolidation of solid waste at the point of generation is not a Transfer Station. A "Materials Recovery or Processing Facility," as defined in Section 21-143 of the Prince George's County Code, and a "Waste Material Separation and Processing Facility" and "Recycling Plant," as defined in this Section, are not Transfer Stations.

(242.2) Transit Oriented Development Project, Expedited: A development proposal, designated for expedited review in accordance with Section 27-290.01 of this Subtitle, where

(A) the subject property is located entirely within a Transit District Overlay Zone ("TDOZ"),

(B) for a constructed Washington Metropolitan Area Transit Authority ("WMATA") Metrorail station for which there is no approved TDOZ, the subject property has greater than fifty percent (50%) of its net lot area located within a one-half mile radius of the constructed WMATA Metrorail station as measured from the center of the transit station platform,

(C) the subject property is located entirely within the Bowie State Maryland Area Regional Commuter ("MARC") Station Community Center designation area as defined in the Approved Bowie State MARC Station Sector Plan and Sectional Map

Amendment, or

(D) the subject property will be developed for a public building or public use, to be operated or occupied by any department or branch of federal or state government for public purposes, excluding warehouses; the public building or public use included in the project is subject to an executed lease, or letter of intent to enter into a lease, with a term of not less than 20 years; the total density of the public building or public use is a minimum of five-hundred thousand (500,000) square feet; greater than fifty percent (50%) of its net lot area is located within a one-half mile radius of a constructed WMATA Metrorail station as measured from the center of the transit station platform; and the project would not otherwise be subject to Mandatory Referral in accordance with Land Use Article §20-301 of the Annotated Code of Maryland.

(243) Transit Stop, Major: A rapid rail transit terminal "Building," or a public transit stop served by fifteen (15) or more transit vehicles travelling in one direction during a peak hour.

* * * * *

SECTION 2. BE IT FURTHER ENACTED that Sections 27-272, 27-290.01 and 27-290.02 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 3. ADMINISTRATION.

DIVISION 9. SITE PLANS.

Subdivision 1. Conceptual Site Plans and Detailed Site Plans, in General.

Sec. 27-272. Requirements for Expedited Transit-Oriented Development.

(a) Legislative intent.

(1) It is in the vital public interest of the residents of Prince George's County to create incentives that encourage high quality transit-oriented development, which will increase the County's tax base by stimulating economic growth and the development of sustainable projects with a mix of residential and commercial uses.

(2) Incentives that create more certainty, timeliness, and predictability in the County's development review process near WMATA and certain Maryland Transit Administration ("MTA") transit stations, which also include proper standards that promote

business uses that are compatible with transit-oriented development and desired by the public, will create a positive environment for transit-oriented development projects to better attract private financing and more effectively satisfy market demand.

(b) Expedited review for transit-oriented development.

Notwithstanding any other provision of this Subtitle, or any Resolution adopted by the District Council pursuant thereto, Expedited Transit-Oriented Development Projects shall be eligible for expedited review in accordance and compliance with Section 27-290.01 or Section 27-290.02 as provided herein. For eligible developments that do not seek expedited review, the prescriptions of Section 27-290.01 and Section 270-290.02 shall not apply.

Subdivision 4. Expedited Transit-Oriented Development Projects.

Sec. 27-290.01. Requirements for Expedited Transit-Oriented Development Projects.

(a) Expedited Transit-Oriented Development Projects shall be eligible for expedited review as set forth in this Section, except that applications eligible under Section 27-107.01(a)(242.2)(d) shall be subject to Section 27-290.02 and shall not be subject to Section 27-290.01(a)(1) through (7) or (b), but may serve as development guidelines.

(1) Expedited Transit-Oriented Development Projects located in a Euclidean Zone or a Mixed Use Zone, where a site plan approval is required, shall be exempt from applicable site plan requirements other than a Detailed Site Plan. Detailed Site Plan applications filed pursuant to this Section shall be eligible for expedited review.

(A) An application filed pursuant to this Section shall incorporate elements of a Conceptual Site Plan, as needed, to comply with specific conditions applicable to the subject property.

(B) An application filed pursuant to this Section may amend an existing Conceptual Site Plan applicable to the subject property.

(C) An application filed pursuant to this Section may amend an existing Detailed Site Plan for the subject property.

(2) Expedited Transit-Oriented Development Projects on property located within a Comprehensive Design Zone shall be eligible for expedited review in the consideration of:

(A) A combined Comprehensive Design and Specific Design Plan application pursuant to Section 27-531; or

(B) A Specific Design Plan application, where there is an existing

1 Comprehensive Design Plan applicable to the subject property.

2 (1) An application filed pursuant to this subparagraph may amend an
 3 existing Comprehensive Design Plan for the subject property.

4 (2) An application filed pursuant to this subparagraph may amend an
 5 existing Specific Design Plan for the subject property.

6 (3) All other applicable requirements and procedures in this Subtitle for Detailed Site
 7 Plans, combined Comprehensive Design and Specific Design Plans, or Specific Design Plans,
 8 including amendments to existing plans, not inconsistent with this Section, shall apply to
 9 Detailed Site Plans, combined Comprehensive Design and Specific Design Plans, or Specific
 10 Design Plan applications, including amendments to existing plans, for which an applicant seeks
 11 expedited review under this Section. Special Permits, as defined by Section 27-239.02, are not
 12 site plans for the purposes of this Section.

13 (4) An application for a Detailed Site Plan, combined Comprehensive Design and
 14 Specific Design Plan, or Specific Design Plan, including an amendment to an existing plan, filed
 15 pursuant to this Section, shall be defined in this Section and prominently designated as an
 16 “Expedited Transit-Oriented Development Site Plan Application.”

17 (5) Expedited Transit-Oriented Development Projects for which a preliminary plan of
 18 subdivision is required may file a preliminary plan application concurrently with an Expedited
 19 Transit-Oriented Development Site Plan Application in accordance with Part 3, Division 9 of this
 20 Subtitle.

21 (6) Review of Expedited Transit-Oriented Development Projects by the Department
 22 of Public Works and Transportation, as prescribed by Subtitle 32 of this Code, shall be
 23 expedited. Notwithstanding any other requirement in this Code, an Expedited Transit-Oriented
 24 Development Site Plan Application may be filed with the Planning Board thirty (30) days after
 25 the stormwater management concept plan for the project is filed with the Department of Public
 26 Works and Transportation. The Planning Board may not approve an Expedited Transit-Oriented
 27 Development Site Plan Application without an approved stormwater management concept plan
 28 for the project in accordance with Subtitle 32 of this Code.

29 (7) All County agencies with responsibility for permit review for an Expedited
 30 Transit-Oriented Development Project shall make such review the highest priority in their staffs’
 31 permitting work responsibilities and shall comport with the expedited development review and

1 permitting provisions of this Section. Permits may be staged to enable specific phases of
 2 Expedited Transit-Oriented Development Projects to proceed while concurrent review for future
 3 phases is ongoing.

4 (8) All proposed Expedited Transit-Oriented Development Site Plan Applications
 5 shall comply with the informational mailing prescriptions set forth in Division 1, Part 3 of this
 6 Code and shall be expressly designated in the mailing as an Expedited Transit-Oriented
 7 Development Project. In addition, at the time an Expedited Transit-Oriented Development Site
 8 Plan Application is filed, the applicant shall provide written substantiation of outreach efforts to
 9 garner public input, to include any civic association registered with the Planning Board for the
 10 area where the project is located and any municipality within a one mile radius of the Expedited
 11 Transit-Oriented Development Project.

12 (b) As a condition of site plan approval, an Expedited Transit-Oriented Development Site
 13 Plan shall:

14 (1) use the best urban design practices and standards, including:

15 (A) Encouraging a mix of moderate and high density development within
 16 walking distance of a transit station to increase transit ridership, with generally the most intense
 17 density and highest building heights in closest proximity to the transit station and gradual
 18 transition to the adjacent areas;

19 (B) Reducing auto dependency and roadway congestion by:

20 (1) locating multiple destinations and trip purposes within walking
 21 distance of one another;

22 (2) creating a high quality, active streetscape to encourage walking and
 23 transit use;

24 (3) minimizing on-site and surface parking; and

25 (4) providing facilities to encourage alternative transportation options to
 26 single-occupancy vehicles, like walking, bicycling, or public transportation use;

27 (C) Minimizing building setbacks from the street;

28 (D) Utilizing pedestrian scale blocks and street grids;

29 (E) Creating pedestrian-friendly public spaces; and

30 (F) Considering the design standards of Section 27A-209.

31 (2) provide a mix of uses, unless a mix of uses exists or is approved for development

1 in the adjacent areas,

2 (3) not include the following uses, as defined in Section 27A-106 or, if not defined in
 3 Section 27A-106, as otherwise defined in this Subtitle (or otherwise, the normal dictionary
 4 meaning):

5 (A) Adult entertainment;

6 (B) Check cashing business;

7 (C) Liquor store;

8 (D) Pawnshop or Pawn Dealer;

9 (E) Cemetery;

10 (F) Vehicle and vehicular equipment sales and services (also includes gas
 11 station, car wash, towing services, RV mobile home sales, and boat sales);

12 (G) Wholesale trade, warehouse and distribution, or storage (including self-
 13 service storage, mini-storage, and any storage or salvage yards);

14 (H) Industrial;

15 (I) Amusement park;

16 (J) Strip commercial development (in this Section, “Strip commercial
 17 development” means commercial development characterized by a low density, linear
 18 development pattern usually one lot in depth, organized around a common surface parking lot
 19 between the building entrance and the street and lacking a defined pedestrian system);

20 (K) Sale, rental, or repair of industrial or heavy equipment;

21 (L) Any automobile drive-through or drive-up service;

22 (M) Secondhand business (in this Section, a “Secondhand business” is an
 23 establishment whose regular business includes the sale or rental of tangible personal property
 24 (excluding motor vehicles) previously used, rented, owned or leased);

25 (N) Nail salon and similar uses designated as North American Industry
 26 Classification System (NAICS) No. 812113, except as an ancillary use;

27 (O) Beauty supply and accessories store (in this Section, a “Beauty supply and
 28 accessories store” is a cosmetology, beauty, or barbering supply establishment engaged in the
 29 sale of related goods and materials wholesale and/or retail.), except as an ancillary use; or

30 (P) Banquet halls, unless accessory to a restaurant, tavern, hotel, or convention
 31 center.

(4) comply with the use restrictions of Section 27A-802(c), and

(5) be compatible with any site design practices or standards delineated in any Master Plan, Sector Plan or Overlay Zone applicable to the area of development. To the extent there is a conflict between the site design practices or standards of subsection (b)(1), above, and those of a Master Plan, Sector Plan or Overlay Zone applicable to the area that is proposed for development under this Section, the site design practices and standards of the Master Plan, Sector Plan or Overlay Zone shall apply.

(6) Nothing in this Section shall be interpreted to preclude projects that include the uses described in subsection (b)(3), above, from proceeding without the use of expedited review prescribed in this Section.

(c) Submittal and pre-review and pre-submittal assessment of an Expedited Transit-Oriented Development Site Plan Application.

(1) Pre-review and pre-submittal assessment.

(A) Applicants may request a Planning Department pre-review (an informal assessment prior to the application filing) for a proposed Expedited Transit-Oriented Development Project as needed. A pre-review assessment for an Expedited Transit-Oriented Development Site Plan Application by the Planning Department is encouraged, but not required. If a pre-review assessment for an Expedited Transit-Oriented Development Site Plan Application is held, notification of the pre-review assessment shall be provided to the Clerk of the Council, as well as every municipality located within one (1) mile of the applicant's property.

(B) When an Expedited Transit-Oriented Development Site Plan Application is filed with the Planning Board, the Planning Director or the Planning Director's designee shall have five (5) working days to review, provide written comments (preferably by electronic mail), and accept or reject the application for submission under this Section. In the event that the Planning Director or the Planning Director's designee rejects an application, it shall state the basis for the rejection in writing and list the deficiencies that must be corrected prior to an Expedited Transit-Oriented Development Site Plan Application being considered submitted under this Section. A decision of rejection or acceptance shall be based on the elements required by this Subtitle for an Expedited Transit Oriented Development Site Plan Application.

(2) Submittal to the Planning Board.

If the Expedited Transit-Oriented Development Site Plan Application is not

1 rejected pursuant to paragraph (1)(B), above, and, thus, is submitted for the purposes of this
 2 Section, the Planning Director or the Planning Director's designee shall send time-stamped,
 3 written certification to the applicant that the Expedited Transit-Oriented Development Site Plan
 4 Application has been submitted.

5 (3) After an Expedited Transit-Oriented Development Site Plan Application is
 6 submitted pursuant to subsection (c)(2), above, the Planning Director or the Planning Director's
 7 designee shall provide a supplemental informational mailing in the manner prescribed by Section
 8 27-125.01 of this Subtitle stating the date and time of the Subdivision and Development Review
 9 Committee meeting on the application.

10 (d) Expedited Review for eligible applications shall be so designated as "SEEKING
 11 EXPEDITED REVIEW" in bold capital letters and in a prominent location on at least the first
 12 page of the application at the time of filing of the application.

13 (e) Expedited Transit-Oriented Development Site Plan Applications shall take highest
 14 priority in the work program of the Planning Department staff. Within fourteen (14) calendar
 15 days after the date of submittal of an Expedited Transit-Oriented Development Site Plan
 16 Application, the Planning Board shall make the application publicly available on a website
 17 designated by the Planning Director or the Planning Director's designee until action is taken on
 18 the application by the Planning Board or final action by the District Council (if the Council elects
 19 to review or the application is appealed).

20 (f) Planning Board Decision.

21 (1) Applying the requirements of this Section and other applicable requirements of
 22 this Subtitle, the Planning Board shall adopt a resolution of approval, disapproval, or approval
 23 with conditions (the "Planning Board's decision") on an Expedited Transit-Oriented
 24 Development Site Plan Application within sixty (60) days after an application is submitted
 25 pursuant to subsection (c)(2), above. If the Planning Board's decision does not occur within
 26 sixty (60) days of application submittal, the Expedited Transit-Oriented Development Site Plan
 27 Application shall be deemed to be approved, unless the project has not received an approved
 28 stormwater management concept plan in accordance with Subtitle 32 of the Code. The month of
 29 August and the period between and inclusive of December 20 and January 3 shall not be
 30 included in calculating this sixty (60) day period. The applicant may (in writing to the Planning
 31 Board), in advance of the expiration of the period, waive the sixty (60) day requirement to

1 provide for some longer specified review period for the application of this subsection.

2 (2) If the Expedited Transit-Oriented Development Project has not received an
 3 approved stormwater management concept plan in accordance with Subtitle 32 of the Code by
 4 the expiration of the sixty (60) day review period in paragraph (1), above, without a Planning
 5 Board decision being made, and the applicant has not extended the sixty (60) day review period,
 6 the Expedited Transit-Oriented Development Site Plan Application shall be deemed disapproved.

7 (3) The Planning Board shall send written notice of the Planning Board's decision,
 8 including a copy of the decision, to the Clerk of the Council, all persons of record, and the
 9 applicant within seven (7) calendar days after the date of the Planning Board's decision.

10 (g) District Council Review.

11 (1) For applications eligible under Sections 27-107.01(a)(242.2)(a), (b) or (c), within
 12 thirty (30) calendar days after the date of the notice of the Planning Board's decision on an
 13 Expedited Transit-Oriented Development Site Plan Application, the District Council may vote to
 14 review the Planning Board's decision on its own motion, or an applicant or a person of record
 15 may appeal the Planning Board's decision to the District Council by filing a written appeal with
 16 the Clerk of the Council. For applications eligible under Section 27-107.01(a)(242.2)(d), within
 17 thirty (30) calendar days after the date of the notice of the Planning Board's decision an applicant
 18 or a person of record may appeal the Planning Board's decision to the District Council by filing a
 19 written appeal with the Clerk of the Council.

20 (A) An appeal by an applicant or a person of record shall specify the error which
 21 is claimed to have been committed by the Planning Board and shall also specify those portions of
 22 the record relied upon to support the error alleged. A copy of the appeal shall be sent by the
 23 submitter to all persons of record (by regular mail), and a certificate of service shall accompany
 24 the submission to the Clerk.

25 (B) If, within thirty (30) calendar days after the date of the notice of the Planning
 26 Board's decision, the District Council has not elected to review the Planning Board's decision
 27 and no appeal has been filed by a person of record or the applicant, the Planning Board's
 28 decision on the Expedited Transit-Oriented Development Site Plan Application shall be deemed
 29 to be affirmed by the District Council.

30 (2) The Clerk of the Council shall notify (and may do so by electronic transmission)
 31 the Planning Board of the review decision or appeal, if any. The Planning Board shall transmit

1 (and may do so by electronic transmission) to the District Council, within seven (7) calendar
 2 days of receipt of the notice from the Clerk, the Expedited Transit-Oriented Development Site
 3 Plan Application, the official list of persons of record, and all written evidence and any other
 4 materials used in the consideration of the application by the Planning Board.

5 (3) The District Council shall hold a public hearing on the review or appeal within
 6 twenty-one (21) calendar days after the decision to review or the filing of an appeal from the
 7 Planning Board's decision on an Expedited Transit-Oriented Development Site Plan Application.
 8 A person of record or an applicant that has appealed a Planning Board's decision to the District
 9 Council pursuant to this Section may also withdraw their appeal in writing to the Clerk of the
 10 Council (by regular mail or hand delivery) at any time prior to notice being issued for the public
 11 hearing and, provided the District Council has also not elected to review the Planning Board's
 12 decision on the application, the Planning Board's decision on the Expedited Transit-Oriented
 13 Development Site Plan Application shall be deemed to be affirmed by the District Council so
 14 long as the review and appeal period in subsection (g)(1), above, has expired.

15 (4) The Clerk of the Council shall send written notice to all parties of record of the
 16 appeal or the District Council's election to review the decision of the Planning Board including
 17 notice of the public hearing, not later than ten (10) calendar days prior to any public hearing on
 18 the review.

19 (5) Within seven (7) calendar days after the close of the District Council's public
 20 hearing on review of the Planning Board's decision on an Expedited Transit-Oriented
 21 Development Site Plan Application, the Council shall approve, approve with conditions, or
 22 disapprove the application filed pursuant to this Section or the Planning Board's decision shall be
 23 deemed to be affirmed. The District Council shall state the reasons for its action in writing.
 24 Where the District Council approves an Expedited Transit-Oriented Development Site Plan
 25 Application, the District Council shall make the same findings required for the Planning Board
 26 decision. In the event no final action is taken by the District Council within twenty-eight (28)
 27 calendar days after the date that the District Council elects to review the Planning Board's
 28 decision or the date an appeal from the Planning Board's decision is filed, the Planning Board's
 29 decision on the application shall be deemed to be affirmed. The months of August and
 30 December shall not be considered for the purpose of calculating the time for consideration or
 31 final action by the District Council on an application filed pursuant to this Section.

(6) Copies of the District Council decision on an Expedited Transit-Oriented Development Site Plan Application shall be sent to all parties of record, the applicant, and the Planning Board.

Sec. 27-290.02. Requirements for Certain Expedited Transit-Oriented Development Projects.

Notwithstanding any other provision of this Subtitle, applications eligible under Section 27-107.01(a)(242.2)(d) shall be subject to the following standards of review and shall not be subject to Section 27-290.01(a)(1) through (7) or (b):

(a) As determined by the approval of a preliminary plan of subdivision, private and/or public vehicular access will be adequate to accommodate the traffic generated by the project; and

(b) Minimum standards for setbacks, tree conservation, landscaping and screening, green space, lot coverage, and parking and loading shall be those established by the Planning Board's resolution of approval. The provisions of this Subtitle applicable to such items will not apply.

(c) Upon completion of pre-application notice in accordance with Section 27-125.01, an applicant shall submit an application containing the following information, which information shall also serve as the site design guidelines for such projects:

(1) A detailed description of the project and the proposed activities;

(2) The proposed traffic circulation system;

(3) The general location and size of all activities;

(4) A text describing the design and architectural concepts that will be implemented throughout the property applicable to the use; and

(5) Information contained in Section 27-282(e), provided that the locations of all improvements may be moved, altered and revised within an established development envelope.

(d) The Planning Board may approve or approve with conditions an application if the Board makes the following required findings:

(1) The plan is in conformance with the purposes set forth in Section 27-272;

(2) The plan meets the criteria set forth in Section 27-290.02; and

(3) The plan provides superior design guidelines, compatible location of uses and activities, and general safeguards to decrease or eliminate harmful impacts on adjacent property, while providing flexibility in design and development.

(e) If the required findings set forth in Section 27-290.02 cannot be made, the Planning

1 Board shall disapprove the application.

2 SECTION 3. BE IT FURTHER ENACTED that this Ordinance shall take effect forty-five
3 (45) calendar days after its adoption.

Adopted this 4th day of June , 2013.

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: _____
Andrea C. Harrison
Chair

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.