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COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

SITTING AS THE DISTRICT COUNCIL

Legislative Session

1992

Bill No. _____ CB-86-

1992

Chapter No.

72

Proposed and Presented by _____ Council Member
Wineland _____

Introduced by _____ Council Member
Wineland _____

Co-Sponsors

Date of Introduction _____ October 13,
1992 _____

ZONING BILL

AN ORDINANCE concerning

Chesapeake Bay Critical Area Overlay Zones

FOR the purpose of amending the procedures for rezoning
applications in the Chesapeake Bay Critical Area Overlay Zones.

BY repealing and reenacting with amendments:

Section 27-213.12,

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

being also

SUBTITLE 27. ZONING.

The Prince George's County Code
(1991 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 27-213.12 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Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, be and the same is hereby repealed and reenacted with the following amendments: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 2. ZONING MAP AMENDMENTS.

Subdivision 6. Chesapeake Bay Critical Area Overlay Zones.

Sec. 27-213.12 Amendment of approved Chesapeake Bay Critical Area Overlay Zones.

(a) In general

(1) The Planning Board may, upon the concurrence of the District Council by resolution, initiate amendments to the approved Chesapeake Bay Critical Area Overlay Zoning Map Amendment. The initiating resolution shall specify the area of the Overlay Map to be amended and shall be processed in accordance with the provisions of this Subdivision for initial approval.

(2) A request to change the boundaries or zone of an approved Chesapeake Bay Critical Area Overlay Zone may also be made by a property owner. The request shall be in the form of an application.

(3) Except as provided for in this Section, amendments to change the boundaries of a Chesapeake Bay Critical Area Overlay Zone shall be approved by the District Council in accordance with the provisions of this Subdivision for initial approval. Amendments of Chesapeake Bay Critical Area Overlay Zones shall also be subject to Section 27-213.13, and shall be subject to the approval of the Chesapeake Bay Critical Area Commission.

(b) Applications

(1) In general

(A) An application [for a Zoning Map Amendment to or from a Chesapeake Bay Critical Area Overlay Zone] shall be filed with the Planning Board by the owner (or authorized representative) of the property. The District Council may suspend the filing of applications for up to one (1) year, if it determines that it is appropriate for any statutory zoning purpose.

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(d) Procedure

(1) After the [request] application is accepted, it shall be reviewed by the Technical Staff and processed in

accordance with Section[s 27-213.09, 27-213.10, 27-213.11, and] 27-213.13, and in accordance with the provisions of this Section.

(e) [Posting] Notice of public hearing

(1) Within a reasonable time after an application is accepted by the Planning Board, the Planning Board (or its designee) shall so advise the Zoning Hearing Examiner. The Planning Board shall also notify (by certified mail) each municipality if any part of the property in the application is located within the municipal boundaries, or is located within one (1) mile of the municipality. After designating a date for the public hearing, the Zoning Hearing Examiner shall notify the applicant, all other persons of record, any municipality within which the property is located, any municipality within one (1) mile of the subject property, and the Planning Board, of the hearing date.

(2) 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 Clerk of the Council (or the Office of Zoning Hearing Examiner) at least two (2) times in the newspapers of record. The first notice shall be published at least thirty (30), but not more than sixty (60), days prior to the date of hearing.

[(1)] (3) [Upon scheduling its public hearing, and again upon receiving notice of the District Council's hearing, the] The Planning Board shall post the property with a durable sign at least [thirty (30)] sixty (60) days prior to the scheduled hearing date. The sign shall be provided by the Planning Board, and shall have (at least) the following information on it:

- (A) The title, "Notice of Public Hearing";
- (B) Zoning Map Amendment application number;
- (C) Existing and proposed zoning classifications (both overlay and underlying);
- (D) Total area of the property;
- (E) Date, time, and place of the public hearing; and
- (F) Instructions for obtaining further information regarding the application.

[(2)] (4) If the property has frontage on one (1) or more improved streets, there shall be one (1) sign posted for each one thousand (1,000) feet (or fraction) of frontage on each street. The sign shall be posted on the property near the street right-of-way, so that it is visible from the improved portion of the street. When more than one (1) sign is required to be posted along a street, the signs shall, where practicable, be evenly spaced along the street.

[(3)] (5) If the property does not have frontage on an improved street, then one (1) sign shall be placed on the

property. This sign shall be near the boundary of the property and visible from an adjoining property. Another sign shall be placed near to, and visible from, the improved portion of the nearest, most-traveled street. This sign shall have (at least) the following information shown on it:

- (A) The title, "Notice of Public Hearing";
- (B) Zoning Map Amendment application number;
- (C) Existing and proposed zoning classifications (both overlay and underlying);
- (D) Name of the owner of the subject property;
- (E) Date, time, and place of the public hearing;
- (F) Instructions for obtaining further information regarding the application; and
- (G) A statement that the sign is not on the subject property and that a property having no improved street frontage is the subject of this application.

[(4)] (6) All signs shall be posted so as to be conspicuous and legible for at least sixty (60) days prior to the hearing.

[(5)] (7) The applicant shall be responsible for reasonable maintenance of all signs. [At the time of the public hearings, he shall be required to submit either an affidavit stating that the posted sign has remained standing (as posted) until the date of the hearing, or a statement that indicates what has happened to the sign.] In the event a sign

is removed, falls down, or otherwise is not on the property or in the right-of-way during the pendency of and until the date of the hearing, it shall be the responsibility of the applicant to repost the sign.

(8) The person posting the sign shall file a written statement in the record of the case that the required signs were posted on the property and shall include the date of posting. A photograph of each posted sign shall also be submitted and included in the record file for the case.

[(6)] (9) Any unauthorized person removing, destroying, defacing, obstructing, or otherwise interfering with a posted sign (directly or indirectly) shall be subject to the penalties provided by law.

[(f) Notice

(1) Notice procedures shall be in accordance with Sections 27- 213.10 (a) and 27-213.11 (a), except written notification shall be required to be sent to adjoining proper owner rather than all property owners within the boundaries of the initial Chesapeake Bay Critical Area Overlay Zone. All other notice requirements are as provided in Sections 27-213.10 (a) and 27-213.11 (a).]

(f) Informational mailing

(1) Within thirty (30) days after an application is filed, the Planning Board shall send a letter regarding the pending application by certified mail to all adjoining property owners, including those properties directly across a street,

alley, or stream. The letter shall include the applicant's and owner's names and addresses, the application number, property description and location, and the nature of the request. It shall also advise where to obtain additional information regarding the application and the hearing.

(2) The mailing is for informational purposes only. The inadvertent failure of the Planning Board to send, or a property owner to receive, the mailing shall not invalidate the final action on the application.

(g) General publication

(1) Within ten (10) days after the end of each month, the Planning Board shall provide a list of all Map Amendment applications filed during that month, arranged according to Election District. The list shall set forth the name of the applicant, the size and description of the property, and the existing and proposed zoning classifications (both overlay and underlying) of the property. The Planning Board shall make the list available free of charge (on an individual and subscription basis) but may establish a fee for mailing the list to cover the costs of postage and handling.

(2) One copy of the list described in this Subsection shall be mailed by the Planning Board on a subscription basis without charge to a Homeowners, Neighborhood, or similar Association.

(h) Transmittal

(1) At least thirty (30) days prior to the public

hearing, the original copy of the application, plans, maps, specifications, Technical Staff Report, and all other data, materials, and record evidence (to date) pertaining to the requested Map Amendment shall be sent by the Planning Board to the District Council.

[(h)] (i) Public examination

(1) At least thirty (30) days prior to the public hearings, the original Map Amendment application file shall be available for public examination in the Office of the Clerk of the Council, and a copy of the file shall be available for public examination in the Office of the Planning Board. This file may be reviewed by anyone, and copies of its contents may be obtained at reasonable cost.

(j) Referral to Historic Preservation Commission

(1) When a historic resource included on the Adopted and Approved Historic Sites and Districts Plan (except the White Farm identified as Site Number 7306 on the Plan) is located on the subject property, the application shall be referred to the Historic Preservation Commission, as soon as feasible after filing.

(2) The Historic Preservation Commission shall submit its comments and recommendations for the record within forty-five (45) days after the date the application was referred to it. Failure of the Historic Preservation Commission to submit a recommendation within this time period shall constitute no

objection to the approval of the Map Amendment, as requested.

(k) Technical Staff Report

(1) In connection with each application, a report by the Technical Staff shall be submitted to the Planning Board for its review. The Report shall contain the following:

(A) The staff's recommendation;

(B) A delineation of the approximate area of the neighborhood, which shall be shown on either a Zoning Map, aerial photograph, or sketch map;

(C) A description of land use and zoning in the neighborhood; and

(D) In cases where the staff recommends a zone different than that requested, an analysis of the alternative zone recommended.

(2) The Technical Staff Report shall be sent to all persons of record, and all other persons who request (in writing) a copy of the report. A copy of the report shall be included in the record.

(3) The Technical Staff Report shall advise the reader that a hearing before the Planning Board will not be held unless the Board notifies all persons listed under Subsection (2), above.

(4) The Technical Staff Report shall contain the date of the Planning Board meeting during which the Board will decide whether to hear the case.

(1) Planning Board procedures

(1) The Planning Board shall decide whether it will hold a hearing on each case (after receiving the Technical Staff Report).

(2) If the Board does not decide to hear a case within fifteen (15) days after the Technical Staff Report has been publicly released (or at its first meeting after its release if none had occurred within the fifteen (15) days), the Technical Staff's recommendation shall constitute the Planning Board's recommendation. In this event, the report shall immediately be transmitted to the District Council, together with the application and all other record material.

(3) If the Board decides to hear the case, it shall set a hearing date which shall be at least thirty (30) days after deciding to hear the case. The Board shall notify (in writing) all persons of record, and all other persons who requested (in writing) a copy of the Technical Staff Report, of the hearing date.

(4) Prior to or at the Planning Board's hearing, the applicant and any other person may submit written responses to the Technical Staff Report, together with any supporting material. If it is not foldable, the material shall be not larger than eighteen (18) by twenty-four (24) inches. The responses shall become a part of the record that will be forwarded to the District Council.

(5) The following procedures shall be observed at the Planning Board:

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

(B) All hearings shall be open to the public.

(C) The Planning Board shall make its recommendation only on the basis of the record before it.

(D) Any action shall be by a resolution adopted at a regularly scheduled public meeting.

(E) The resolution shall be transmitted to the District Council, together with the original application and all other record material pertaining to the Zoning Map Amendment application.

(F) Copies of the minutes of the Planning Board hearing shall be available for public inspection. The minutes may be copied by anyone during normal working hours.

(m) Zoning Hearing Examiner hearing procedures

(1) The Zoning Hearing Examiner shall conduct a public hearing, in accordance with Part 3, Division 1, Subdivision 2, of this Subtitle.

(n) District Council hearing (oral argument) procedures

(1) The District Council shall hold a public hearing (including an oral argument) in accordance with Part 3, Division 1, Subdivision 3, of this Subtitle.

SECTION 2. BE IT FURTHER ENACTED that this Ordinance shall take effect when approved by the Chesapeake Bay Critical Area Commission.

Adopted this 10th day of November, 1992.

OF
 COUNTY,

GEORGE'S

COUNTY COUNCIL OF PRINCE
 COUNTY, MARYLAND, SITTING AS THE
 DISTRICT COUNCIL FOR THAT PART

THE MARYLAND-WASHINGTON REGIONAL
 DISTRICT IN PRINCE GEORGE'S
 MARYLAND

BY:

Richard J. Castaldi
 Chairman

ATTEST:

Joyce T. Sweeney
 Acting 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.