

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
1997 Legislative Session

Bill No. _____ CB-107-1997

Chapter No.

Proposed and Presented by _____ Council Member Maloney

Introduced by _____ Council Member Maloney

Co-Sponsors

Date of Introduction _____ October 28, 1997

ZONING BILL

AN ORDINANCE concerning

Maryland - Washington Regional District Boundaries

For the purpose of providing procedures to review proposed annexations by a municipality with zoning authority.

BY adding:

Sections 27-648.01, 27-648.02 and 27-648.03,
The Zoning Ordinance of Prince George's County, Maryland,
being also
SUBTITLE 27. ZONING.
The Prince George's County Code
(1995 Edition, 1996 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 Sections 27-648.01, 27-648.02 and 27-648.03 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 13. AREA MASTER PLANS, GENERAL PLAN, FUNCTIONAL
MASTER PLANS, AND**

PLANNING AREAS.**DIVISION 2. PROCEDURES.****Sec. 27-648.01. Municipal Annexation.**

(a) Where any area is annexed, or proposed to be annexed, into a municipality authorized by the Regional District Act to have and having a planning and zoning authority, the municipality may not, for a period of five years following annexation, place the land in a zoning classification which permits a land use substantially different from the use for the land specified in the current and duly adopted General Plan, Area Master Plan, or Functional Plan without the express approval of the District Council granted in accordance with Section 27-648.02. For purposes of this section, "substantially different" includes a zoning classification which allows more density or permits a use which is not permitted in the zoning classification applicable to the property prior to the annexation.

(b) An application for approval of a land use in an annexed area shall be filed with the Planning Board by the owner or owners of the property or their authorized representative. An application shall conform to the requirements of Section 27-143.

(c) Applicant shall pay filing, posting and other applicable fees to the Maryland-National Capital Park and Planning Commission in accordance with Section 27-144 at the time of filing the application for approval of annexation, together with the names and addresses of all property owners located within one-half mile of the property which is the subject of the proposed annexation.

(d) Within a reasonable time after an application is accepted by the Planning Board, the Zoning Hearing Examiner shall designate a date for the public hearing. 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 Planning Board at least two (2) times in the newspapers of record. The first notice shall be published at least fifteen (15), but not more than thirty (30), days prior to the date of the public hearing. The Planning Board shall post the property with a durable sign at least thirty (30) days prior to the scheduled hearing date. The sign shall be provided by the Planning Board and shall be posted in accordance with the procedures contained in Section 27-186. Notification shall be mailed by regular mail to all property owners located within one-

half mile of the property which is the subject of the proposed annexation. The inadvertent failure of the Planning Board to send, or the a property owner to receive, the mailing shall not invalidate the final action on the application.

(e) Prior to the preparation of the Technical Staff Report, the Staff shall transmit copies of the proposal to all public agencies and municipalities with operational or planning responsibility over the subject property, with a request to review the application and advise the Staff (within twenty (20) days) of:

- (1) The estimated public service needs generated by the proposal; and
- (2) The estimated public facilities needed (including the capital cost) to serve the subject property and its environs in the requested zoning classification(s).

(f) In connection with each application, a report by the Technical Staff shall be submitted to the Planning Board for its review.

- (1) The report shall contain the following:
 - (A) A description of the property and a listing of its zoning and uses.
 - (B) A delineation of a neighborhood, which shall also be shown on either a Zoning Map, aerial photograph, or sketch map.
 - (C) A delineation of adjacent and nearby properties and a description of their zoning and use category.
 - (D) A full statement and analysis of the applicable recommendations of the General Plan, Area Master Plan and Functional Plans for the property and surrounding properties in the neighborhood.
 - (E) A statement on the requested annexation's compliance with the Master Plan's recommendation and the effect an approval of the requested annexation will have on the Master Plan.

(F) A full statement of the public facilities/services (including costs) available as required to serve the property as it presently exists and a reasonable projection of these public facilities/services (including costs) required to serve the property, if annexed, including new zoning and uses. The statement shall include any and all funding sources for capital

improvement projects.

(G) The date of the Zoning Hearing Examiner hearing.

(H) The recommendations of the Technical Staff.

(2) The Technical Staff Report shall be sent at least twenty (20) days prior to the Zoning Hearing Examiner's public hearing to all persons of record, and to all other persons who request, in writing, a copy of the report. A copy of the report shall be included in the record.

Sec. 27-648.02. Municipal Annexation; Zoning Hearing Examiner.

(a) At least twenty (20) 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 (submitted to date) pertaining to the application shall be sent by the Planning Board to the District Council with a copy being retained by the Planning Board. At least twenty (20) days prior to the public hearing, the duplicate application file shall be available for public examination in the Office of the Planning Board and the Office of the Zoning Hearing Examiner.

(b) The Zoning Hearing Examiner hearing date shall be at least twenty (20) days after the Technical Staff Report is published. The Zoning Hearing Examiner shall notify all persons of record, and all other persons who requested a copy of the Technical Staff Report, of the hearing date. Prior to or at the Zoning Hearing Examiner's hearing, the applicant and any other person may submit written responses to the Technical Staff Report, together with any supporting material. The responses and attachments shall become a part of the record that will be forwarded to the District Council. The following procedures shall be observed by the Zoning Hearing Examiner:

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

(2) All hearings shall be open to the public and only after twenty (20) days' notice to all persons of record.

(3) The Zoning Hearing Examiner shall make his recommendation only on the

basis of the record before him.

(4) The recommendation shall be transmitted to the District Council, together with the original application and the all other record material pertaining to the application.

(c) After the hearing is concluded, the Zoning Hearing Examiner shall prepare a written recommendation. The Zoning Hearing Examiner may recommend to the District Council that the application be approved, approved with modification or conditions, or denied. A recommendation for approval shall address the approved findings and criteria applicable to the District Council in making its decision.

Sec. 27-648.03. Municipal Annexation; District Council Action.

(a) Whenever the District Council conducts a public hearing, it shall do so in accordance with Part 3, Division 1, Subdivision 3, of this Subtitle.

(b) The District Council may approve or deny the application. Approval shall be an approval of the general land use types, and where applicable, range of dwelling unit densities, including the base, minimum, and maximum densities; and commercial/industrial intensities, general circulation pattern, general location of major access points and land use relationships shown on the application.

(c) Prior to the approval of the application, the applicant shall demonstrate, to the satisfaction of the District Council, that the proposed land use meets the following criteria:

(1) The proposed land use is not substantially different from the specific recommendation of a General Plan map, Area Master Plan map, or Functional Plan and the principles and guidelines of the plan text which address the design and physical development of the property, the public facilities necessary to serve the proposed land use, and the impact which the proposed land use may have on the environment and surrounding properties; or

(2) If the proposed land use is substantially different from the specific recommendation of a General Plan map, Area Master Plan map, or Functional Plan, the District Council finds adequacy of public facilities to support the proposed land use in accordance with the following criteria:

(A) Transportation facilities (including streets and public transit) (a) which

are existing, (b) which are under construction, or (c) for which one hundred percent (100%) of the construction funds are allocated within the adopted County Capital Improvement Program, within the current State Consolidated Transportation Program, or will be provided by the applicant, will be adequate to carry the anticipated traffic generated by the development based on the maximum proposed density. The uses proposed will not generate traffic which would lower the level of service anticipated by the land use and circulation systems shown on the approved General or Area Master Plans, or urban renewal plans;

(B) Other existing or planned private and public facilities which are existing, under construction, or for which construction funds are contained in the first six (6) years of the adopted County Capital Improvement Program (such as public schools, recreation areas, water and sewerage systems, libraries, and fire stations) will be adequate for the uses proposed, and such funds have been appropriated in an adopted operating budget or capital budget;

(C) Environmental relationships reflect compatibility between the proposed general land use types, or if identified, the specific land use types, and surrounding land uses, so as to promote the health, safety, and welfare of the present and future inhabitants of the Regional District.

(D) Notwithstanding subparagraphs (A) and (B), above, where the application anticipates a construction schedule of more than six (6) years (Section 27-179), public facilities (existing or scheduled for construction within the first six (6) years) will be adequate to serve the development proposed to occur within the first six (6) years. The District Council shall also find that public facilities will be adequately supplied for the remainder of the project. In considering the probability of future public facilities construction, the Council may consider such things as existing plans for construction, budgetary constraints on providing public facilities, the public interest and public need for the particular development, the relationship of the development to public transportation, or any other matter that indicates that public or private funds will likely be expended for the necessary facilities.

(d) The final decision by the District Council shall be based only on the evidence in the

record, and shall be supported by specific written findings of basic facts and conclusions.

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

Adopted this _____ day of _____, 1997.

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:

Dorothy F. Bailey
Chair

ATTEST:

Joyce T. Sweeney
Clerk of the Council

KEY:

Underscoring indicates language added to existing law.