

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2018 Legislative Session

Bill No. CB-14-2018

Chapter No. 38

Proposed and Presented by The Chair (by request – Planning Board)

Introduced by Council Members Glaros, Davis, Franklin, Patterson, Taveras, and Turner

Co-Sponsors _____

Date of Introduction September 11, 2018

ZONING BILL

1 AN ORDINANCE concerning

2 Countywide Sectional Map Amendment

3 For the purpose of establishing certain specified procedures for preparation, publication,
 4 consideration, and approval of a comprehensive amendment of the County Zoning Map, for the
 5 non-substantive zoning reclassification of land located within all Planning Areas of the
 6 Maryland-Washington Regional District within Prince George's County, Maryland, in
 7 accordance with those zoning classifications set forth within a replacement Zoning Ordinance
 8 approved by the County Council of Prince George's County, Maryland, sitting as the District
 9 Council.

10 BY adding:

11 Sections 27-1900, 27-1901, 27-1902,
 12 27-1903, 27-1904, 27-1905, 27-1906,
 13 and 27-1907,

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

16 SUBTITLE 27. ZONING.

17 The Prince George's County Code
 18 (2015 Edition, 2017 Supplement).

19 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 20 Maryland, sitting as the District Council for that part of the Maryland-Washington Regional

District in Prince George's County, Maryland, that Sections 27-1900, 27-1901, 27-1902, 27-1903, 27-1904, 27-1905, 27-1906, and 27-1907 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 19. COUNTYWIDE SECTIONAL MAP AMENDMENT.

Sec. 27-1900. Purpose and Intent.

(a) The procedures recited within this Part shall be used for purposes of preparing, considering, and approving a Countywide Sectional Map Amendment (hereinafter, "CMA"), which the District Council finds is essential that, in order to implement the approved replacement Zoning Ordinance of Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code, that the District Council must approve a process to prepare, publish, consider, and approve, via a comprehensive zoning process authorized by law, the zoning classifications embodied in its replacement County Zoning Ordinance, as to all properties within that portion of the Maryland-Washington Regional District within Prince George's County, Maryland. To this end, specific purposes of the CMA are:

(1) To apply zoning categories contained in Prince George's County's new Zoning Ordinance to all real property in Prince George's County;

(2) To provide for a comprehensive and systematic rezoning procedure that bridges the gap between the abrogation date of this Zoning Ordinance and the effective date of the new Zoning Ordinance;

(3) To limit piecemeal rezoning;

(4) To notify landowners, municipalities, special governed taxing districts, developers, civic associations, agencies, and other County stakeholders of the zoning changes impacting real property;

(5) To provide the necessary foundation the new Zoning Ordinance requires before it can become effective; and

(6) To efficiently and effectively rezone all property in the County in all Planning Areas comprehensively and systematically, in a timely manner, and in accordance with all applicable State and local laws.

Sec. 27-1901. Initiation and Authorization.

(a) The CMA shall be initiated by a resolution of the District Council authorizing and directing the Planning Board to prepare a proposed Amendment. Initiation shall be in accordance with the approved planning scheduled work program and budget of the Commission.

(b) The Resolution of initiation approved by the District Council for the CMA shall include:

(1) An estimated schedule; and

(2) Recommended goals, concepts, guidelines, and a public participation program,

which shall:

(A) Encourage a balance of participation by the County's residents and businesses affected by the CMA to include: property owners, area civic associations, local business groups, interest groups, government agencies, and all incorporated municipalities within the County;

(B) Explain the techniques to facilitate committed public involvement in the preparation of the CMA; and

(C) Include techniques to keep the larger affected community informed;

(3) A staff decision matrix to guide recommendations during the preparation of a proposed CMA.

(c) The Resolution and any descriptive data shall be available for public inspection, during regular business hours, at the Administrative Office of the Planning Board.

(d) The Resolution shall be advertised in the County newspapers of record for at least two (2) successive weeks after its adoption.

(e) In addition to the publication requirements set forth in this Section, the Planning Board shall, as promptly as practicable, mail notices to all property owners affected by the CMA upon the adoption of a Resolution to approve initiation of a CMA by the District Council. Said notice shall include specific points of public access as to the approved Resolution, as well as the respectively approved goals, concepts, guidelines, public participation program(s), and the approved decision matrix structured to guide recommendations during the preparation of a preliminary CMA.

Sec. 27-1902. Planning Board Procedures.

(a) The technical staff shall prepare a proposed CMA map and corresponding justifications

therefor to be reviewed by the Planning Board during public hearings and/or work sessions.

(b) The proposed CMA shall include the following information:

(1) A description of the area covered;

(2) The scale of all maps and a north arrow; and

(3) The boundaries of the proposed zoning classifications. The boundaries shall be described on a map by either:

(A) Lot, block, and subdivision divisions;

(B) Streets, roads, streams, or other topographic landmarks; or

(C) Bearings and distances (in feet).

(c) Within sixty (60) days after the District Council's adoption of a Resolution of initiation, any property owner or property owner's agent may request that specific zones (except Planned Development Zones and Overlay Zones) be considered for specific properties during the CMA process.

(1) Requests shall be limited to the specific zones (except Planned Development Zones and Overlay Zones) contained in the prospective Zoning Ordinance adopted on October 23, 2018. Under no circumstance may any zone included in this Zoning Ordinance be requested or granted through the CMA procedures.

(2) Requests shall be made on forms provided by the Planning Board and shall be available for public review.

(3) Each request shall be accompanied by a statement describing the basis for any disagreement with the application of the decision matrix by the technical staff as to the subject property.

(4) No requests from individual property owners or their agents received after the sixty (60) day period following the adoption of the initiation resolution may be considered.

Sec. 27-1903. Joint Public Hearing.

(a) The District Council and the Planning Board shall conduct at least one joint public hearing on the proposed CMA. The hearing record shall remain open for fifteen (15) calendar days following the joint public hearing(s).

(b) The Planning Board shall provide notice of the joint public hearing(s) as set forth in Section 27-1904.

(c) The proposed CMA shall be released for public inspection at least thirty (30) days prior

1 to the public hearing.

2 (d) The testimony received at the public hearing(s), any rezoning requests that are received
 3 pursuant to Sec. 19-1902(d), and any Affidavits or Ex Parte Disclosures required pursuant to the
 4 State Public Ethics Law applicable to the County (i.e., Sections 5-833 through 5-839, General
 5 Provisions Article, Annotated Code of Maryland) and/or County Public Ethics Law (i.e.,
 6 Division 17, Subtitle 2, Prince George's County Code) shall be made a part of the public hearing
 7 record. Exhibits introduced at any time prior to the close of the record shall be identified
 8 sequentially and maintained as part of the record of public hearing testimony.

9 (e) After the close of the record, no additional evidence, other than such Affidavits or Ex
 10 Parte Disclosures required pursuant to the State or County Public Ethics Laws may be
 11 incorporated into the record.

12 **Sec. 27-1904. Public Notice, Referrals, and Affidavit Requirements.**

13 (a) Notice of the time and place of a public hearing shall be published in one or more
 14 newspapers of general circulation in the County once each week for two (2) successive weeks,
 15 and on the County's website, at least thirty (30) days before the hearing.

16 (b) Notice of the public hearing shall also include a recitation and description of the
 17 applicable Affidavit and Ex Parte Disclosure requirements set forth in the State and County
 18 Public Ethics Laws.

19 (c) At the time of public release of the proposed CMA, the Planning Board shall obtain
 20 from the local Office of Assessments and Taxation a listing of the owners of land within the
 21 boundaries of the proposed CMA. The Board shall mail written notice of the proposed CMA to
 22 all listed property owners. The notice shall include the boundaries of the area involved, the date,
 23 time and place of the joint public hearing to be held by the Planning and District Council, any
 24 appropriate technical staff contact information, and any other alternative means for obtaining
 25 additional information. The Board's mailed written notice shall also advise each property owner
 26 that any approval of a CMA by the District Council may result in a change to the current zoning
 27 classification applicable to the property which, in turn, may also affect property values and
 28 property taxes. The Board's mailing to property owners shall be for informational purposes
 29 only, and any failure of the Planning Board to send, or any property owner to receive, the
 30 mailing shall not constitute a basis to invalidate any approval of the CMA by the District
 31 Council.

(d) The proposed CMA shall be referred to the governing bodies of all municipalities and any governed special taxing districts in the County for their recommendation at least sixty (60) days prior to any final action as to the CMA by the District Council.

Sec. 27-1905. Planning Board Action and Transmittal.

(a) The Planning Board shall endorse the proposed CMA at a public meeting and issue a Resolution of endorsement, as appropriate, in accordance with applicable law.

(b) The Board's Resolution and a copy of the endorsed CMA shall be transmitted to the District Council, the County Executive, and all municipalities and any governed special taxing districts in the County within ten (10) days of the date of adoption of the Resolution of endorsement by Planning Board.

(c) Pending Zoning Map Amendment applications.

(1) Upon transmittal of the endorsed CMA to the District Council, the Planning Board and Zoning Hearing Examiner shall postpone accepting or processing any Zoning Map Amendment application within the area of the proposed CMA until after any final action by the District Council. As such, any applications pending before the District Council in the CMA area shall be remanded to and held in abeyance by the Zoning Hearing Examiner, unless the application includes a site plan that is grandfathered pursuant to the specified terms set forth within CB-013-2018, as approved by the District Council.

(2) Upon approval of the CMA by the District Council, all applicants who wish to proceed with a postponed application or an application remanded to the Zoning Hearing Examiner may notify the Planning Board or Zoning Hearing Examiner, as appropriate, regarding their intention as to whether to proceed with their Zoning Map Amendment application, and only to seek a zoning classification embodied within the approved replacement Zoning Ordinance. Such amended applications shall be processed in accordance with all procedures and requirements which normally apply to Zoning Map Amendment applications under this Zoning Ordinance. Failure of an applicant to amend their application or to notify the Planning Board or Zoning Hearing Examiner of their intent to proceed within thirty (30) days after the CMA is approved shall constitute a withdrawal of the application.

(3) Where a Zoning Map Amendment applicant elects to proceed with an application before the Zoning Hearing Examiner, the Examiner shall (by reference) introduce in the record and take administrative notice of the CMA. The Hearing Examiner shall hold additional

1 hearings or otherwise ascertain the facts and issues raised or presented in the record of CMA
 2 proceedings.

3 (4) In the event that the proposed CMA is disapproved by the District Council, the
 4 Planning Board and Zoning Hearing Examiner shall resume the processing of all postponed
 5 applications.

6 **Sec. 27-1906. District Council Procedures.**

7 (a) If, after receipt of the endorsed CMA, the District Council proposes amendments to the
 8 endorsed CMA, an additional joint public hearing with the Planning Board shall be held upon
 9 provision of fifteen (15) days of notice, as set forth in Section 27-644 of this Subtitle.

10 (b) For purposes of this Section, an “amendment” or “amendments” to an endorsed CMA
 11 shall mean the proposal of substantive changes or revisions to the map or text which was not
 12 before the Technical Staff or Planning Board review prior to adoption of a Resolution
 13 endorsement by Planning Board.

14 (c) Any amendments proposed by the District Council shall be referred to the Planning
 15 Board for substantive review and issuance of a disposition recommendation as to its approval or
 16 disapproval. The Planning Board’s recommendations shall be submitted to the District Council
 17 prior to any final action by the Council on the proposed amendments.

18 (d) Should any of the District Council’s proposed amendments fall within the corporate
 19 boundaries of a municipal corporation or any governed special taxing district, those proposed
 20 amendments shall be referred to the respective governing body of any affected municipal
 21 corporation, as well as any governed special taxing district, where the land is located for a
 22 recommendation as to approval or disapproval. Failure of the municipal corporation or governed
 23 special taxing district to provide a recommendation on the District Council’s proposed
 24 amendments shall be construed as approval.

25 (e) The District Council shall, at a public meeting, approve or disapprove the endorsed
 26 CMA and issue a resolution of the decision.

27 (f) If a proposed rezoning of a parcel of land conflicts with the recommendation of a
 28 municipality or governed special taxing district (within whose boundaries the land is located), a
 29 separate vote on rezoning that land shall be taken. The rezoning of that land may occur only
 30 upon the affirmative vote of two-thirds of the members of the full District Council. If the Council
 31 fails to obtain this two-thirds majority vote, the property may be rezoned to any alternative

1 zoning category recommended (in writing) by the municipality or governed special taxing
 2 district, provided that the zoning classification is embodied within the replacement Zoning
 3 Ordinance approved by the District Council, as well as the following:

4 (1) The zoning category complies with the purpose and intent of the CMA; or

5 (2) The zoning category is identified as the direct replacement classification for the
 6 zoning classification applicable to the subject property prior to any approval of the CMA by the
 7 Council, and as reflected in the decision matrix established by the initiating Resolution adopted
 8 by the District Council.

9 (g) Failure of the District Council to take final action to approve or disapprove the
 10 endorsed CMA within one hundred twenty (120) days from the date of its transmittal by the
 11 Planning Board shall constitute a disapproval of the endorsed CMA.

12 (h) The provisions set forth in Section 27-228 of the current Zoning Ordinance (being also
 13 Subtitle 27, Prince George's County Code, 2015 Edition, 2017 Supplement) regarding revisory
 14 petitions shall not apply to the CMA procedures recited herein.

15 **Sec. 27-1907. Publication.**

16 (a) The Planning Board shall publish the approved CMA and make it available to the
 17 public.

18 (b) An attested copy of the approved CMA shall be filed with the Clerk of the Circuit
 19 Court for Prince George's County, Maryland.

20 SECTION 2. BE IT FURTHER ENACTED that the provisions of this Ordinance are
 21 hereby declared to be severable; and, in the event that any section, subsection, paragraph,
 22 subparagraph, sentence, clause, phrase, or word of this Ordinance is declared invalid or
 23 unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall
 24 not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs,
 25 subsections, or sections of this Ordinance, since the same would have been enacted without the
 26 incorporation in this Ordinance of any such invalid or unconstitutional word, phrase, clause,
 27 sentence, paragraph, subparagraph, subsection, or section.

1 SECTION 3. BE IT FURTHER ENACTED that this Ordinance shall take effect on the
2 date of its adoption.**

Adopted this 23rd day of October, 2018.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Dannielle M. Glaros
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

****NOTE:** In light of the Council's action to enact related legislation, CB-013-2018 and CB-015-2018 and, in light of the tolled effective dates specified therein, the provisions set forth within Section 3 of this Ordinance obviates the need for immediate effective date. Accordingly, this Ordinance shall take effect as set forth in the Rule 16(b) of the County Council Rules of Procedure.

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.