

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2019 Legislative Session

Resolution No. CR-11-2019
Proposed by Council Member Harrison
Introduced by Council Members Harrison, Davis, Turner, Taveras and Anderson-Walker
Co-Sponsors _____
Date of Introduction February 12, 2019

RESOLUTION

1 A RESOLUTION concerning

2 Subregion 5 Sectional Map Amendment

3 For the purpose of approving, in accordance with such orders issued by courts of competent
4 jurisdiction within this State which are binding, as a matter of law, upon this legislative body, the
5 *Subregion 5 Master Plan and Sectional Map Amendment*, based on the 2009 record of joint
6 public hearing testimony compiled as to said sectional map amendment endorsed by the Prince
7 George's County Planning Board of the Maryland-National Capital Park and Planning
8 Commission and approved by the County Council of Prince George's County, Maryland, sitting
9 as the District Council, as to certain specified properties that are located within the Subregion 5
10 plan area boundaries.

11 WHEREAS, in accordance with provisions of Division II, Land Use Article, Annotated
12 Code of Maryland ("RDA") and the local zoning laws, the Prince George's County Planning
13 Board of the Maryland-National Capital Park and Planning Commission ("PGCPB"), in
14 conjunction with the County Council of Prince George's County, Maryland, sitting as the
15 District Council for that portion of the Maryland-Washington Regional District within Prince
16 George's County ("District Council") initiated, prepared, and conducted a duly advertised joint
17 public hearing on the *Preliminary Subregion 5 Master Plan and Proposed Sectional Map*
18 *Amendment*; and

19 WHEREAS, the master plan area consists of the land area bounded by the Joint Base
20 Andrews Naval Air Facility Washington ("JBA") to the north; the Piscataway Creek and CSX
21 (Popes Creek) rail line to the east; the county jurisdictional border with Charles County to the

1 south; and the Potomac River, Piscataway Creek, Gallahan Road, and Tinkers Creek to the west;
2 and

3 WHEREAS, in accordance with prescriptions of applicable law, the purpose of the
4 Subregion 5 Sectional Map Amendment is to approve comprehensive rezoning proposals
5 intended to implement the land use recommendations within the approved comprehensive master
6 plan vision for the uses of land within the plan area boundaries for the foreseeable future; and

7 WHEREAS, on June 18, 2009, the Planning Board held a work session to consider the
8 recommendations and public hearing testimony; and

9 WHEREAS, on June 25, 2009, the Planning Board adopted the preliminary Subregion 5
10 Master Plan and endorsed the proposed Subregion 5 Sectional Map Amendment, with revisions,
11 in response to testimony received into the public record, as approved within the Prince George's
12 County Planning Board Resolution ("PGCPB Res. No. 09-109"); and

13 WHEREAS, on June 30, 2009, the PGCPB transmitted the 2009 *Adopted Subregion 5*
14 *Master Plan and Endorsed Sectional Map Amendment* to the District Council, along with all
15 record testimony and supporting public documents; and

16 WHEREAS, on July 20, 2009, the District Council held a publicly-advertised, open work
17 session to review: (1) the recommendations embodied within PGCPB Res. No. 09-109 as to the
18 *Adopted Subregion 5 Master Plan and Endorsed Sectional Map Amendment*; (2) the complete
19 record of joint public hearing testimony; and (3) supporting public documents related to the
20 Board's action and/or in support of any revisions to the master plan and sectional map
21 amendment; and

22 WHEREAS, in furtherance of its approval of the endorsed sectional map amendment as
23 prescribed by law, the District Council held a second, publicly-advertised, open work session on
24 September 9, 2009, as to the 2009 *Adopted Subregion 5 Master Plan and Endorsed Sectional*
25 *Map Amendment*; and

26 WHEREAS, after concluding its public proceedings on September 9, 2009, the District
27 Council adopted CR-061-2009, thereby approving the 2009 *Subregion 5 Master Plan and*
28 *Sectional Map Amendment*; and

29 WHEREAS, thereafter, on October 26, 2012, the Circuit Court for Prince George's County,
30 Maryland, reversed and voided the District Council's action to approve CR-061-2009, which had
31 previously approved the 2009 *Subregion 5 Master Plan and Sectional Map Amendment*, and

1 remanded the matter to the PGCPB for purposes of meeting the affidavit requirements applicable
 2 pursuant to Title 5, Subtitle 8, General Provisions Article (“the Prince George’s County Public
 3 Ethics Law”, formerly codified at Title 15, Subtitle 8, State Government Article, Annotated
 4 Code of Maryland); and

5 WHEREAS, in response to the circuit court’s binding mandate, the PGCPB re-released the
 6 2009 *Preliminary Subregion 5 Master Plan and Proposed Sectional Map Amendment* for public
 7 review and comment; and

8 WHEREAS, on April 11, 2013, the PGCPB and District Council conducted a duly-
 9 advertised joint public hearing in accordance with the prescriptions of law, to seek public
 10 comment and to receive testimony into a record of public hearing testimony; and

11 WHEREAS, after approval of the *Subregion 5 Master Plan and Sectional Map Amendment*
 12 by the District Council via adoption of CR-080-2013 and CR-081-2013 on July 24, 2013, certain
 13 aggrieved property owners filed timely actions in the Circuit Court for Prince George’s County,
 14 Maryland, seeking judicial review of the District Council’s decision as to their respective
 15 properties within the Subregion 5 plan area boundaries; and

16 WHEREAS, after the June 2014 order issued by the circuit court (Lamasney, J.) affirming
 17 the decision of the District Council as to the subject properties, said aggrieved parties sought
 18 further, appellate relief in the Court of Special Appeals of Maryland; and

19 WHEREAS, on May 30, 2017, in an unreported opinion and order, the Court of Special
 20 Appeals of Maryland denied the respective property owners’ claims to any property interest in
 21 the zoning classifications granted by the District Council but, at the same time, the appellate
 22 court also voided the District Council’s 2013 decision on remand from the 2012 circuit court
 23 order as to the subject properties; and

24 WHEREAS, on July 20, 2018, the Circuit Court for Prince George’s County, Maryland
 25 (Green, J.), issued an Order of Court consistent with the unreported disposition of the court of
 26 special appeals, and further remanding these matters to the District Council for the affected
 27 property owners’ submission of update Public Ethics Affidavits required by the State Public
 28 Ethics Law applicable to Prince George’s County; and

29 WHEREAS, pursuant to the respective court orders described above, the affected property
 30 owners have now filed their supplemental State Public Ethics Affidavits required by Title 5,
 31 Subtitle 8, General Provisions Article, Annotated Code of Maryland; and

WHEREAS, having duly reviewed the record of joint public hearing testimony in accordance with State and County zoning laws, as modified by the equally applicable State Public Ethics Law provisions governing the Council's consideration and approval of the Subregion 5 Sectional Map Amendment and, in accordance with such orders issued by courts of competent jurisdiction, the District Council shall approve anew the Subregion 5 Sectional Map Amendment based on the 2009 record of joint public hearing testimony, as to those properties specified herein.

NOW, THEREFORE, BE IT RESOLVED 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, in accordance with the disposition of the court of special appeals and remand issued by the circuit court ordering approval of a new decision as to certain properties in the Subregion 5 plan area, the District Council hereby approves the Subregion 5 Sectional Map Amendment, as endorsed by the Prince George's County Planning Board of the Maryland-National Capital Park and Planning Commission and embodied within its approved resolution PGCPB Res. No. 09-109 (attached hereto as "Attachment A"), for the following specific properties:

PROPERTY NO. 1:

Property Name: "ERCO Properties, Inc."

Property Address: North of Neale Drive; south of Floral Street and west of Springfield Road in Brandywine.

Property Details: 284 acres of land in the R-A Zone, spanning nine (9) parcels, with existing sludge injection site, woodland, and agriculture uses thereon.

Tax Map 143, Grid F-3, parcel 13
 Tax Map 143, Grid F-4, parcel 27
 Tax Map 144, Grid A-2, parcel 212
 Tax Map 144, Grid A-3, parcel 50
 Tax Map 144, Grid A-4, parcels 54, 151, 180

207 acres of the property are designated within the Rural Tier.
 77 acres of the property are designated within the Developing Tier (within the County Growth Boundary).

2009 PGCPB: Retain R-A for all 284 acres of land
No change to Rural Tier / Developing Tier designations

PROPERTY NO. 2:

Property Name: “Robin Dale Land, LLC”

Property Address: 015851 McKendree Road in Brandywine

Property Details: 175.13 acres of land in the R-A Zone, erstwhile
Golf course and club house

The entire property (175.13 acres) is designated within the
Rural Tier of the County.

Tax Map 160, Grid E-3, parcel 77

2009 PGCPB: Retain R-A Zone and respective Rural Tier designations.

PROPERTY NO. 3:

Property Name: “Clagett/Bazzarre Properties”

Property Address: Southeast quadrant of Indian Head Highway (MD 210)
and Livingston Road (MD 373); west of Stone Foot Drive;
Accokeek.

Property Details: 48.2 acres of undeveloped land in the R-R Zone, with
Existing woodland/field uses thereon.

**Master Plan Staff
Discussion:**

Staff noted that, during the preparation of this preliminary master plan and proposed sectional map amendment, the technical staff assessed the array of potential future land uses for the subject property, ranging from its rezoning (so as to allow development of a ‘big box center’), to retaining the current zoning for low-density residential development. Staff noted, in its digest of 2009 joint public hearing testimony, that potential commercial development, such as an integrated shopping center, would transform Accokeek from a predominantly rural and suburban living area to a regional commercial destination. This, according to the Planning technical staff, is inconsistent with the mostly rural vision voiced by the Accokeek community.

2009 PGCPB: Retain R-R Zone as to the entire property.

PROPERTY NO. 4:

Property Name: “MCQ Auto Center”

Property Address: North side of Livingston Road (MD 373), opposite of its intersection with Newasa Lane, Accokeek.

Property Details: 1.7 acres of disused property that is split-zoned, being within the R-R and C-M Zones. Was previously improved with a gas station and automotive repair shop that was destroyed by fire in 2006. The relevant portion of the property classified in the C-M Zone consists of 0.5 acre.

Tax Map 152, Grid A-4

Master Plan Staff

Discussion: The subject property was previously improved with a gas station use that has been vacant, boarded-up for a number of years, and is an eyesore. It is hoped that converting the property to a zone that is compatible with the surrounding residential land uses will enable future redevelopment of this land. MDE regulations will apply to ensure that clean-up is compliant with current environmental regulations.

2009 PGCPB: Rezone the 0.5-acre, C-M-zoned portion of the property to the R-R Zone.

Adopted this 12th day of February, 2019.

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: _____
Todd M. Turner
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council