Prince George's County Council
Agenda Item Summary

Meeting Date:	3/8/2005
Reference No.:	CR-003-2005
Draft No.:	1
Proposer(s):	Campos
Sponsor(s):	Campos
Item Title:	A Resolution approving amendments to the Gateway Arts District Sector Plan and SMA, as proposed in the SMA Revisory Petition adopted in CR-2-2005, amendments to serve as additions to the applicability section of the Development District Standards; for the purpose of authorizing, on a temporary basis, Planning Board approval of limited detailed site plans in the Gateway district, to grant zoning regulation waivers similar in form and effect to variances from the Board of Appeals; for the purpose of authorizing the Board of Appeals, after appropriate amendment of the Zoning Ordinance, to grant variances to certain development standards in the SMA; and for the purpose of making related amendments to the Gateway Development District Standards.

Drafter:	Steven M. Gilbert, Principal Counsel
Resource Personnel:	Cheryl C. Harrington,Legislative Aide

LEGISLATIVE HISTORY:

Date Presented:		**Executive Action:**	
Committee Referral:	2/1/2005 - PZED	**Effective Date:**	3/8/2005
Committee Action:	2/16/2005 - FAV		
Date Introduced:	2/1/2005		
Public Hearing:	3/8/2005 - 10:00 AM		
Council Action (1)	3/8/2005 - ADOPTED		
Council Votes:	MB:A, WC:A, SHD:A, TD:A, CE:A, DCH:A, TH:A, TK:A, DP:A		
Pass/Fail:	P		
Remarks:			

AFFECTED CODE SECTIONS:

COMMITTEE REPORTS:

PLANNING, ZONING AND ECONOMIC DEVELOPMENT **Date 2/16/2005**

Committee Vote: Favorable, 5-0 (In favor: Council Members Exum, Bland, Dean, Harrington, and Peters)

This resolution approves amendments to the Gateway Arts District Sector Plan and Sectional Map Amendment (SMA). Staff explained that this is the next step in amending the SMA as proposed in the Revisory Petition in CR-2-2005. The amendments to the Gateway Sector Plan and SMA authorize Planning Board approval of limited detailed site plans in the Gateway District for zoning regulation waivers, authorizes the Board of Appeals to grant variances to certain development standards in the SMA, and makes related amendments to the Gateway Development District Standards applicability section. Staff noted that the amendment to allow the Board of Appeals to grant variances to certain standards requires an amendment to the Zoning Ordinance and that legislation has been drafted for this purpose.

The sponsor of the resolution informed the committee that this resolution provides a process that allows variances within the Gateway District and allows homeowners to apply for such variances.

The Committee Chairman expressed concern that the resolution may allow a homeowner to circumvent existing County procedures for obtaining a permit if the structure requiring the variance is already in place. The Legislative Officer indicated that for validation of a structure that is in violation, the homeowner would still be required to obtain the appropriate permit in addition to the variance request.

BACKGROUND INFORMATION/FISCAL IMPACT:

(Includes reason for proposal, as well as any unique statutory requirements)

This Resolution approves amendments to the Gateway Sector Plan and Sectional Map Amendment, as proposed in the SMA Revisory Petition in CR-2-2005. This Resolution revises the SMA to provide for variances to owners of single-family dwellings, an authorization mistakenly omitted from the Gateway Development District Standards.

CODE INDEX TOPICS:

INCLUSION FILES:

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2005 Legislative Session

Resolution No. CR-3-2005
Proposed by Council Member Campos
Introduced by Council Member Campos
Co-Sponsors
Date of Introduction February 1, 2005

RESOLUTION

A RESOLUTION concerning

The Gateway Arts District Sector Plan
and Sectional Map Amendment

FOR the purpose of approving amendments to the Gateway Sector Plan and SMA, as proposed in the SMA Revisory Petition adopted in CR-2-2005, amendments to serve as additions to the applicability section of the Development District Standards; for the purpose of authorizing, on a temporary basis, Planning Board approval of limited detailed site plans in the Gateway district, to grant zoning regulation waivers similar in form and effect to variances from the Board of Appeals; for the purpose of authorizing the Board of Appeals, after appropriate amendment of the Zoning Ordinance, to grant variances to certain development standards in the SMA; and for the purpose of making related amendments to the Gateway Development District Standards.

WHEREAS, by Council Resolution 78-2004, adopted November 30, 2004, the District Council approved the Gateway Arts District Sector Plan and Sectional Map Amendment, to place all properties in the municipalities of Hyattsville, Mount Rainier, Brentwood, and North Brentwood in the Gateway Development District Overlay Zone, and to make them subject to the Gateway Development District Standards approved in the SMA; and

WHEREAS, the District Council intended that all developed single-family residential properties in the municipalities should be eligible for variances, as provided in Section 27-229 (a) of the Zoning Ordinance, variances to be granted by the Board of Appeals from the underlying zone provisions of the Development District Standards in the Gateway SMA; and

WHEREAS, when approving the Gateway SMA, the District Council did not provide for variances from the Board of Appeals for any properties, and the applicability section of the Development District Standards does not cover the case of variance approval for a developed single-family residential property in existence at the time of SMA approval; and

WHEREAS, the District Council recognizes that the variance procedure before the Board of Appeals affords owners of single-family dwellings a simple, straightforward process for obtaining waivers from the strict application of zoning regulations to their properties, while the site plan review process before the Planning Board is much more complex, costly, and time-consuming; and

WHEREAS, the Council agrees that the Board of Appeals variance process available to owners of single-family dwellings before SMA approval should remain available, after appropriate amendment of the Zoning Ordinance; and

WHEREAS, on January 25, 2005, in CR-2-2005, the Council approved and filed a petition to revise the SMA development standards; and

WHEREAS, the petition in CR-2-2005 has been reviewed in public hearing before the District Council, after public notice required by law; and

WHEREAS, after hearing, and after review of the record on the petition in CR-2-2005, the District Council makes these legislative findings:

A. The Gateway Arts District Sector Plan and Sectional Map Amendment, approved in CR-78-2004, incorporated zoning standards in the underlying zones in the SMA and the new Gateway Development District Standards in the Sector Plan;

B. The Gateway development standards include an applicability section, which gives directions for the application of the substantive standards in the Sector Plan;

C. The applicability section of the SMA and relevant parts of the Zoning Ordinance together provide that within the Gateway Development District, variances are prohibited, and property owners seeking modification or waiver of development standards must file and have the Planning Board approve detailed site plans;

D. Neither the applicability section nor the Gateway development standards themselves provide for any type of variance process, other than Planning Board review and approval of a detailed site plan;

E. The District Council finds and determines that mistake was made in the approval of the Gateway Sector Plan and SMA, CR-78-2004, and in its Development District Standards, which did not provide for limited site plan approval by the Planning Board for owners of single-family dwellings, to allow waivers of zoning regulations in a simplified, inexpensive procedure similar to the variance procedure before the Board of Appeals.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's County, Maryland, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Prince George's County, that the Gateway Arts District Development District Standards are hereby amended, as follows:

1. This paragraph is added to the applicability section of the Gateway Development District Standards:

> For all properties in the Development District with a single-family dwelling which was completed and owner-occupied as of November 30, 2004, the Board of Appeals, if authorized by the Zoning Ordinance, shall have the power to hear and decide appeals involving variances from the strict application of the regulations in the Ordinance.

2. Until June 30, 2005, or the effective date of District Council amendment of the Zoning Ordinance to grant the Board of Appeals jurisdiction to hear and decide appeals involving variances in the Development District Zone, whichever date first occurs, the Planning Board is authorized to approve waivers of the zoning regulations in a limited detailed site plan procedure, as follows:

a. This procedure may be used only by an owner of residentially-zoned property with an owner-occupied single-family dwelling which was completed and occupied as of November 30, 2004.

b. The owner may request, by application filed with the Planning Board, a waiver of zoning regulations in the property's underlying zone, but not Development District Standards specifically stated for the Gateway Development District.

c. For the owner, the Planning Board shall have the power to hear and decide, in a limited detailed site plan procedure, an appeal involving one or more variances from the strict application of the Zoning Ordinance. The Planning Board shall apply the same

standards as the Board of Appeals applies in variance cases, as provided in Section 27-230 of the Zoning Ordinance.

d. For the limited detailed site plan procedure, the Planning Board may approve regulations for filing fees, application requirements, and hearing and notice rules and requirements. The regulations should require of applicants substantially the same expense in filing fees as they would have in obtaining variances from the Board of Appeals, and substantially the same information and application materials. For this procedure, the Planning Board may reduce or waive any filing fee and modify any site plan application requirement.

3. As to all properties in the Gateway Arts District Development District, the Department of Environmental Resources shall stay enforcement of zoning regulations applicable to residentially-zoned properties with an owner-occupied single-family dwelling, until June 30, 2005, or the effective date of District Council amendment of the Zoning Ordinance to grant the Board of Appeals jurisdiction to hear and decide appeals involving variances, whichever date first occurs.

BE IT FURTHER RESOLVED, that this Resolution shall take effect on the date of adoption.

Adopted this 8th day of March, 2005.

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: _____
Samuel H. Dean
Chairman

ATTEST:

_____
Redis C. Floyd
Clerk of the Council

Prince George's County Council
Agenda Item Summary

Meeting Date:	1/25/2005
Reference No.:	CR-002-2005
Draft No.:	1
Proposer(s):	Campos
Sponsor(s):	Campos, Hendershot
Item Title:	A Resolution concerning The Gateway Arts District Sector Plan and Sectional Map Amendment for the purpose of approving an SMA Revisory Petition for the Gateway Arts District Sector Plan and SMA, to revise the Development District Standards for the Gateway Development District Overlay Zone.

Drafter:	Steven M . Gilbert, Principal Counsel
Resource Personnel:	Cheryl C. Harrington,Legislative Aide

LEGISLATIVE HISTORY:

Date Presented:		**Executive Action:**	
Committee Referral:		**Effective Date:**	1/25/2005
Committee Action:			
Date Introduced:	1/25/2005		
Public Hearing:			
Council Action (1)	1/25/2005 - ADOPTED		
Council Votes:	MB:A, WC:A, SHD:A, TD:N, CE:A, DCH:A, TH:A, TK:N, DP:A		
Pass/Fail:	P		
Remarks:			

AFFECTED CODE SECTIONS:

COMMITTEE REPORTS:

BACKGROUND INFORMATION/FISCAL IMPACT:
(Includes reason for proposal, as well as any unique statutory requirements)
This Resolution contains an SMA Revisory Petition for the Gateway Arts District Sector Plan and Sectional Map Amendment, which was approved on November 30, 2004 in Council Resolution 78-2004. Section 27-228(b) of the Zoning Ordinance authorizes the District Council to file a petition to revise an SMA, and the petition may be approved, after hearing, if the Council determines that a mistake was made in the SMA.

CODE INDEX TOPICS:

INCLUSION FILES:

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2005 Legislative Session

Resolution No. CR-2-2005
Proposed by Council Member Campos
Introduced by Council Members Campos and Hendershot
Co-Sponsors
Date of Introduction January 25, 2005

RESOLUTION

A RESOLUTION concerning

The Gateway Arts District Sector Plan
and Sectional Map Amendment

For the purpose of approving an SMA Revisory Petition for the Gateway Sector Plan and SMA, to revise the Development District Standards for the Gateway Development District Overlay Zone.

WHEREAS, by Council Resolution 78-2004, adopted November 30, 2004, the District Council approved the Gateway Arts District Sector Plan and Sectional Map Amendment, to place all properties in the municipalities of Hyattsville, Mount Rainier, Brentwood, and North Brentwood in the Gateway Development District Overlay Zone, and to make them subject to the Gateway Development District Standards approved in the SMA; and

WHEREAS, by footnote attached to the Gateway DDOZ use table, in the Traditional Residential Neighborhood column, the Council provided that R-55 properties in the City of Hyattsville were not subject to the Gateway Development District Standards; and

WHEREAS, it was intended by Planning Board and District Council in the Gateway SMA that all developed single-family residential properties in the municipalities should have available to them a Planning Board process substantially similar to the variance procedure in Section 27-229 (a) of the Zoning Ordinance, which authorizes the Board of Appeals to grant variances; and

WHEREAS, by factual mistake and inadvertence, Planning Board and District Council did not provide in the applicability sections of the Gateway Development District Standards for

limited site plan review by the Planning Board, to permit owners of developed single-family residential properties in the municipalities to request variances from the Planning Board, by substantially the same procedure used for variances outside the Development District; and

WHEREAS, owners of existing single-family dwellings at 4215 Longfellow Street and 5504 40th Avenue, in the City of Hyattsville, and 3728 Wells Avenue, in the City of Mt. Rainier, have applied for variances from the strict application of the zoning regulations to their existing single-family dwellings, but the Board of Appeals has been required to dismiss the applications, because the Board does not have jurisdiction to grant variances for DDOZ properties; and

WHEREAS, the District Council intends to amend § 27-229 of the Zoning Ordinance, to authorize the Board of Appeals in certain circumstances, including those of the referenced single-family properties in Hyattsville, to grant variances from the strict application of Development District Standards within approved Development Districts; and

WHEREAS, the District Council intends to modify the Gateway Development District Standards, to permit owners of existing single-family dwellings in the municipalities to obtain limited site plan review from the Planning Board, by substantially the same procedure available before the Board of Appeals to properties outside the Development District, so that the owners may obtain variances from the strict application of the development standards to their properties; and

WHEREAS, for the referenced properties in the City of Hyattsville and Mt. Rainier, the District Council intends, by approval of this petition and later approval of an SMA revision, if supported by the record, to allow the structures proposed on the Hyattsville and Mt. Rainier properties, with the requested variances, as further amendments to the Gateway Development District Standards; and

WHEREAS, by this SMA revisory petition, after review by the Principal Counsel, as provided in Section 27-228 (d) of the Zoning Ordinance, the District Council intends to review and approve after public hearing, if supported by the record, a revision of the Gateway Development District Standards, to provide for limited site plan review by the Planning Board, as just stated; and

WHEREAS, this petition will be approved for filing by the District Council on January 25, 2005; will be reviewed for sufficiency by the Principal Counsel; and will then, if found sufficient, be given public notice for a hearing to be held on March 8, 2005, to review the

Gateway Sector Plan and SMA, the Gateway Development District Standards, and the proposed development standards amendments, including the amendments for the referenced Hyattsville and Mt. Rainier properties.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Prince George's County, that, for the reasons stated above:

A. This SMA Revisory Petition for the Gateway Arts District Sector Plan and Sectional Map Amendment is hereby approved for filing with the Clerk of the Council, as of the 25th day of January, 2005.

B. This petition shall be reviewed for sufficiency by the Principal Counsel, as required in Section 27-228 (d) of the Zoning Ordinance.

C. If found sufficient, this petition shall be taken to public hearing before the District Council on March 8, 2005, after the Clerk gives public notice, as required by law.

D. Prior to the hearing, the Clerk of the Council, Council staff, and Community Planning Division staff shall prepare a certified copy of the parts of the Gateway Sector Plan and SMA which are relevant to this petition.

E. If, after hearing, the Council determines it appropriate, the Development District Standards for the Gateway Sector Plan and SMA will be revised and amended, to provide for the limited site plan review summarized above. By the amendments the owners of existing single-family dwellings in the municipalities of Hyattsville, Mt. Rainier, Brentwood, and North Brentwood will be permitted to obtain from the Planning Board substantially the same relief, by substantially the same procedure, as is presently available outside the DDOZ in the variance process before the Board of Appeals.

F. If, after hearing, the Council determines it appropriate, the Gateway Development District Standards will be revised, to approve variances from the strict application of the development standards as requested by the owners of the properties referenced above, at 4215 Longfellow Street and 5504 40th Avenue, Hyattsville, Maryland, and 3728 Wells Avenue, Mt. Rainier, Maryland.

BE IT FURTHER RESOLVED, that this Resolution, and the SMA Revisory Petition it contains, are effective on the date of adoption.

Adopted this 25th day of January, 2005.

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: _____
Samuel H. Dean
Chairman

ATTEST:

_____
Redis C. Floyd
Clerk of the Council