

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2006 Legislative Session

Bill No. CB-4-2006
 Chapter No. 28
 Proposed and Presented by Council Members Dernoga, Bland, Dean, Harrington & Peters
 Introduced by Council Members Dernoga, Bland, Dean, Harrington and Peters
 Co-Sponsors _____
 Date of Introduction June 6, 2006

SUBDIVISION BILL

1 AN ACT concerning

2 Subdivisions

3 For the purpose of establishing requirements, procedures and standards for conservation
 4 subdivisions, deleting the subdivision options of the use of clusters, lot size averaging and flag
 5 lots, and grandfathering those approved as of a certain date.

6 BY repealing and reenacting with amendments:

7 SUBTITLE 24. SUBDIVISIONS.

8 Sections 24-117, 24-119.01, 24-121, 24-137, and 24-138.01

9 The Prince George's County Code

10 (2003 Edition, 2005 Supplement).

11 BY adding:

12 SUBTITLE 24. SUBDIVISIONS.

13 Section 24-152,

14 The Prince George's County Code

15 (2003 Edition, 2005 Supplement).

16 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 17 Maryland, that Sections 24-117, 24-119.01, 24-121, 24-137, and 24-138.01 of the Prince
 18 George's County Code be and the same are hereby repealed and reenacted with the following
 19 amendments:

20 SUBTITLE 24. SUBDIVISIONS.

21 DIVISION 2. APPLICATION PROCEDURES AND DOCUMENTS.

Sec. 24-117. Procedures for minor subdivisions.

(a) **Definition.** In instances in which four (4) or fewer lots in a one-family residential zone are being created, or where filing a subdivision plat is optional, as provided in Section 24-107(d) or as provided in Section 24-108, the applicant may follow the procedure for a minor subdivision, except for a conservation subdivision required in Section 24-152. No applications filed under Division 6 of this Subtitle or for land located within Chesapeake a Bay Critical Area Overlay Zone, however, shall be considered a minor subdivision.

Sec. 24-119.01. Informational mailings with applications for major subdivisions.

(a) At least thirty (30) days but no more than ninety (90) days before the Commission accepts an application for a preliminary plat of subdivision, or a sketch plan required for a conservation subdivision pursuant to Section 24-152(e), the applicant shall send an informational mailing in accordance with the requirements of Section 27-125.01 of the Zoning Ordinance to all adjoining property owners, including owners whose properties lie directly across a street, alley, or stream and to prior parties of record to any of the following application types: Zoning Map Amendment, Special Exception, Conceptual Site Plan, Detailed Site Plan, Comprehensive Design Plan, Specific Design Plan, Comprehensive Sketch Plan, Final Development Plan, or preliminary plat of subdivision. Notice to prior parties of record shall be required if the applicable case was approved within ten (10) years of the filing of the preliminary plat of subdivision. This notice shall inform the person of record in the previous application(s) of the procedure for becoming a person of record in the pending application and the necessity for becoming a person of record in the pending application in order to maintain standing to participate. The failure of the previous person of record to receive notice shall not invalidate the approval of the preliminary plat of subdivision. At the same time and in the same manner, the applicant shall send an informational mailing to every municipality located within one (1) mile of the applicant's property and to all civic associations registered with the Commission for the area which includes the property.

DIVISION 3. REQUIREMENTS: PLANNING, DESIGN, AND PUBLIC FACILITIES.

Sec. 24-121. Planning and design requirements.

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(12) Lot size averaging may be permitted for preliminary plats accepted prior to July 1, 2006 in accordance with the Zoning Ordinance when the Planning Board finds that:

(A) The subdivision design provides for better access, protects or enhances historic resource or natural features and amenities, or otherwise provides for a better environment than that which could be achieved by the exclusive use of standard lots.

(B) The subdivision design provides for an adequate transition between the proposed sizes and locations of lots and the lots, or lot size standards, of any adjacent residentially zoned parcels.

(C) The subdivision design, where applicable, provides for an adequate transition between the proposed natural features of the site and any natural features of adjacent parcels.

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Sec. 24-137. Cluster subdivision.

Use of cluster subdivision. A cluster subdivision may be permitted for preliminary plats accepted prior to July 1, 2006 in accordance with this Subtitle.

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Sec. 24-138.01. Flag lot development.

Use of flag lots. Flag lots may be permitted for preliminary plats accepted prior to November 1, 2006 in accordance with this Subtitle.

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SECTION 3. BE IT FURTHER ENACTED by the County Council of Prince George's County, Maryland, that Section 24-152 of the Prince George's County Code be and the same is hereby added:

DIVISION 11. CONSERVATION SUBDIVISIONS.

Sec. 24-152. Conservation Subdivisions.

(a) Applicability. Conservation subdivision design shall be required for all preliminary plats of subdivision for residentially zoned land located in the Rural Tier approved after June 30, 2006, with the exception of applications for:

(1) Property zoned R-80; or

(2) Four (4) or fewer lots, provided no additional subdivision for additional lots is permitted for the entirety of the original application and the original property has not been the result of a previous subdivision pursuant to Section 24-107(c)(3).

(b) Purpose. The purpose of a Conservation Subdivision is to protect the character of land

through the permanent preservation of farmland, woodland, sensitive natural features, scenic and historic landscapes, vistas, and unique features of the site in keeping with the General Plan and Countywide Green Infrastructure Plan. The standards in this section provide for lots, open space and internal street designs that conserve woodlands, farmland, farm structures, historic structures, and the scenic and unique character of development sites. A conservation subdivision prioritizes site characteristics for conservation and is intended to create a site layout that conserves important site features such as open space networks, blocks of productive farmland, unique characteristics of a site and contiguous woodland habitats. The site design should encourage agricultural pursuits, create attractive development layouts respecting existing features of the site, and encourage connectivity between scenic, historic, agricultural, and environmental characteristics of abutting properties.

(c) Land distribution.

(1) In the O-S Zone, a minimum sixty percent (60%) of the gross tract area shall be designated as a conservation lot or parcel. Up to forty percent (40%) of the gross tract area may be utilized for residential development areas.

(2) In the R-A Zone a minimum fifty percent (50%) of the gross tract area shall be designated as a conservation lot or parcel. Up to fifty percent (50%) of the gross tract area may be utilized for residential development areas.

(3) In the R-E and R-R Zones a minimum forty percent (40%) of the gross tract area shall be designated as a conservation lot or parcel. Up to sixty percent (60%) of the gross tract area may be utilized for residential development areas.

(d) Regulations. Additional regulations concerning the location, size and other provisions for buildings, structures, accessory structures and uses are as provided for in Subtitle 27 and the *Landscape Manual*.

(e) Submittal requirements. The applicant shall file a sketch plan in accordance with Section 24-119(c) before submitting a preliminary plat of subdivision.

(1) The Planning Director or designee shall certify the completion of the sketch plan process, as required in this Section prior to the acceptance of a preliminary plat of subdivision.

(a) The sketch plan shall remain valid for two (2) years from the date of certification.

(b) Upon a written request received prior to the expiration, the sketch plan validity

1 period may be extended by the Planning Director, if the applicant has not unduly delayed the
 2 filing of a preliminary plat of subdivision.

3 (c) The certification of the sketch plan is not to be construed as the approval of the
 4 lot yield, but the completion of the sketch plan process for planning purposes.

5 (2) The intent of the sketch plan is to clearly document the design process, and to
 6 prioritize the characteristics of the site to be preserved in a conservation parcel or lot. Priorities
 7 can be a combination of site characteristics and may include areas of the site not otherwise
 8 regulated by this Subtitle.

9 (a) The sketch plan shall document the existing features of the site. The
 10 characteristics of the site are generally categorized as follows:

11 (i) Scenic

12 (ii) Agricultural

13 (iii) Environmental, and

14 (iv) Historic

15 (b) The sketch plan shall include:

16 (i) Existing grades at two-foot contours, and a non-disturbance line;

17 (ii) Information on surrounding properties to evaluate the opportunities for
 18 connectivity between characteristics of abutting properties.

19 (iii) Location and/or documentation of woodlands, farmland, farm structures,
 20 historic structures, streams, wetlands, scenic vistas, rock formations, hedgerows, pastures,
 21 cultural resources, unique views from streets and adjoining properties, and any other information
 22 pertaining to the character of a site. The sketch plan shall incorporate information from a signed
 23 natural resources inventory (NRI).

24 (c) The sketch plan shall identify the areas proposed for conservation lots and parcels
 25 including conceptual house site and septic recovery area on conservation lots.

26 (d) The sketch plan shall establish a building and structures envelope on each
 27 conservation lot.

28 (e) The sketch plan shall propose locations for dwellings on that portion of
 29 the site determined to be least suitable for conservation.

30 (f) The sketch plan shall locate areas of the site that have appropriate soils for
 31 septic recovery fields (community, shared and/or individual systems) if proposed and shall show

1 areas for stormwater management facilities, if any, and the type of facility proposed

2 (g) The sketch plan shall show conceptual locations for proposed roads, lot lines and
3 setbacks.

4 (h) The sketch plan should designate existing environmental and landscape features
5 such as groups of trees, specimen trees, hedgerows, and woodland areas.

6 **(f) Conservation area.**

7 (1) The conservation area shall be located on a parcel or lot and characterized as
8 primarily scenic, agricultural, historic or environmental, or any combination.

9 (a) A conservation easement for the purpose established on the preliminary plat
10 shall be placed on the conservation area at the time of final plat. The conservation area shall be
11 designated as either a parcel or a lot on the sketch plan, preliminary plat and final plat.

12 (i) A conservation parcel that includes stormwater management facilities
13 and septic recovery areas associated with the residential development area shall be conveyed to
14 the homeowners' association.

15 (ii) A conservation lot may support one dwelling unit. Stormwater
16 management or septic recovery areas not associated with the single-family dwelling unit on the
17 conservation lot shall not be permitted.

18 **(2) Design criteria for conservation areas.**

19 (a) The area of the site required for a conservation parcel or lot shall be determined
20 based on the priorities established in the review of the sketch plan, may include areas of the site
21 not otherwise more specifically regulated by this Subtitle, and should be one parcel or lot to the
22 extent possible.

23 (b) Conservation areas shall connect with existing and potential conservation areas on
24 abutting sites to encourage corridors of compatible site characteristics, unless it is found to be
25 impractical due to topography, spacing or existing natural barriers.

26 (c) Naturally contiguous conservation areas shall not be divided for the sole purposes
27 of obtaining allowable density.

28 (d) Fragmentation of the conservation area into small, irregularly shaped
29 conservation parcels and lots shall be avoided.

30 (e) Farm structures shall be retained whenever possible.

31 (f) The subdivision layout shall be designed to minimize potential adverse impacts

1 on existing farm operations.

2 (g) Woodland conservation required for the area of conservation parcels or lots may
 3 be provided at an off-site location, only if it is necessary to preserve the rural and agricultural
 4 landscape.

5 (h) Septic recovery areas and stormwater management facilities may be located on a
 6 conservation parcel to be maintained by the homeowners association if there is no adverse
 7 impact to the character of that area of land, and it is demonstrated that the residential
 8 development area cannot support these facilities. Stormwater management facilities in
 9 conservation parcels should not include typical dry ponds with associated steep slopes, dams,
 10 mowed areas, fencing or unsightly overflow structures. Farm ponds, bioretention ponds,
 11 naturally contoured ponds and wet ponds with wetland edges and no visible structures are
 12 permitted on the conservation parcel which is to be maintained by the homeowners association.
 13 Septic recovery areas within conservation parcels to be maintained by the homeowners
 14 association should be designed to appear to be part of the existing landscape.

15 **(g) Residential development area.**

16 (1) The residential development area shall include individual lots, recreational
 17 facilities, community or individual septic recovery areas, stormwater management facilities, and
 18 all easements and streets serving these lots.

19 (2) Layout Design Criteria

20 (a) Internal streets shall be sited to maintain the existing grade as much as
 21 possible.

22 (b) Lots and the siting of dwellings shall be arranged and sufficiently set back
 23 to preserve views of the site characteristics from streets and abutting properties.

24 (c) Dwellings should not be located in the center of open fields or on a
 25 ridgeline.

26 (d) Existing farm roads and driveways should be incorporated
 27 into the internal street or trail design where possible.

28 (e) Access to all lots should be from interior streets and easements.

29 (f) Dwellings and streets should be located at the edges of woodlands or
 30 situated in a manner that will maximize the amount of contiguous wooded area left intact.

31 (g) Proposed street and driveway crossings through wetlands, floodplains, steep

1 slopes, and streams are prohibited, unless the crossing will provide more efficient lot and street
 2 layout that provides less net disturbance of these features than an alternative layout.

3 (h) Trees on ridgelines should be preserved.

4 (i) Dwellings should be located a minimum of 40 feet from any
 5 environmentally regulated area, including woodland conservation areas.

6 (3) Lot specific design criteria.

7 (a) Buildings and driveways shall be sited to maintain the existing grade as
 8 much as possible.

9 (b) A variety of lot sizes and lot widths should be provided within clusters of
 10 dwellings in order to prevent visual monotony.

11 (c) Dwellings should be sited to avoid the rears being oriented toward the fronts
 12 of other dwellings and external streets. A landscape plan may be required to provide for the
 13 buffer of views of the rear and sides of dwellings from all streets and easements and the fronts of
 14 other dwellings.

15 (d) Direct driveway access for individual lots onto perimeter streets shall be
 16 avoided unless necessary for safety reasons or for some other benefit such as environmental
 17 preservation.

18 (e) Large expanses of driveways and parking areas shall not be visible from the
 19 external streets and abutting properties.

20 (4) Stormwater management. The applicant shall utilize low impact development
 21 techniques (LID), unless otherwise authorized by the Department of Environmental Resources.
 22 For purposes of this section, "low impact development techniques" (LID) refer to stormwater
 23 management designs that accommodate stormwater through the use of existing hydrological site
 24 features and by reducing impervious surfaces (roadways), curbs, and gutters; decreasing the use
 25 of storm drain piping, inlet structures; and eliminating or decreasing the size of stormwater
 26 ponds.

27 (5) Gateway Signs permitted pursuant to Section 27-624 shall be reviewed by the
 28 Urban Design Section prior to the approval of the sign permit for compatibility with the
 29 character of the surrounding and proposed community.

30 (6) Lighting techniques should be utilized that decrease adverse impacts on the
 31 adjoining and abutting properties.

1 **(h) Scenic and historic roads.** Development along a designated scenic or historic road
 2 shall conform to the following standards:

3 (1) There should be no views of the rears of dwellings from the road.

4 (2) Engineered berms for screening purposes are not permitted unless they are
 5 constructed to mimic natural contours.

6 (3) Fencing along the road shall be rural in character.

7 (4) Views from scenic and historic roads shall be preserved or may be created
 8 through the installation of landscaping that mimics natural conditions.

9 (5) Trees and vegetation shall not be removed within the required setback unless in
 10 accordance with an approved tree conservation plan.

11 (6) Existing slopes and tree tunnels along the street frontage should be retained,
 12 unless required to be removed by DPW&T or the State Highway Administration (SHA) for
 13 frontage improvements.

14 (7) Buildings that are located within 200 feet from the street should be sited such that
 15 the principal entrance is oriented toward the street.

16 (8) A scenic easement shall be provided along the frontage of a designated scenic or
 17 historic road abutting the 10-foot public utility easement. The scenic easement shall be a
 18 minimum of 40 feet and increased where appropriate to retain unique characteristics of the scenic
 19 and historic character of the road.

20 (9) In general, access (public and private) to a scenic or historic road should be
 21 limited to the extent possible unless for safety reasons or for some other benefit such as
 22 environmental preservation, or to implement the stated purposes of this Division.

23 (10) Septic recovery areas shall not be permitted within the scenic easement, unless
 24 determined appropriate.

25 **(i) Streets.**

26 (1) A conservation subdivision may be served by public and private streets, and
 27 access easements.

28 (2) Access authorized pursuant to Section 24-128(b)(1), (3) and (11) of the
 29 Subdivision Regulations may be deemed adequate to serve lots of any net lot area. Access
 30 easements designed in accordance with Section 24-128(b)(1) may be deemed adequate to serve a
 31 maximum of eight (8) lots. The access easement shall provide a passing area when determined

appropriate.

(j) Criteria for approval. The Planning Board shall find that the conservation subdivision:

(1) Fulfills the purpose and conforms to the regulations and standards for a conservation subdivision.

(2) Achieves the best possible relationship between the development and the conservation of site characteristics as prioritized in the sketch plan and preliminary plan.

(k) Preliminary plat. In addition to the information required for a major subdivision provided in Section 24-119, the preliminary plat for a conservation subdivision shall:

(1) Include all information required in the sketch plan process, including the proposed purpose (scenic, historic, agricultural, or environmental) of the conservation area(s), and

(2) Include a draft conservation easement document.

(l) Final plat notation. The following shall be included on the final plat:

(1) A statement that the property is approved for a conservation subdivision and that further subdivision may not be permitted, and

(2) The limit of the conservation easement and the legal description (liber and folio) of the conservation easement deed.

(m) Ownership/maintenance. The conservation area shall be owned and controlled by an individual, homeowners' association, public or private organization, land trust, or corporation. The owner shall assume all responsibility for maintenance and continued protection of the conservation area. An ownership and maintenance agreement as part of the conservation easement deed shall be approved by the Planning Board, recorded among the Land Records of Prince George's County, and referenced on the record plat of subdivision.

(n) Easements. An easement agreement shall be recorded in the Land Records of Prince George's County for the conservation area, prior to the approval of the final plat. The easement agreement shall be approved by the Prince George's County Planning Board (or its designee) prior to recordation. The easement shall run with the land, shall be in full force and effect in perpetuity, and shall describe and identify the following:

(1) The location and size of the conservation areas;

(2) Existing improvements on the conservation areas;

(3) Provisions that prohibit future development of the conservation areas;

(4) The purpose of the conservation area;

(5) Provisions for a prohibition on future subdivision of the conservation area;

(6) Provisions for maintenance and ownership of the conservation area;

(7) Responsibility for enforcement of the easement;

(8) Provisions for succession in the event that one of the parties to an easement agreement should be dissolved; and

(9) Regardless of who the owner of a conservation area is or will be, there shall be an additional party to the easement in addition to the property owner:

(a) A land conservation organization that is:

(i) A not-for-profit, tax-exempt organization within the meaning of Section (501)(c)(3) of the Internal Revenue Service Code;

(ii) Established to promote the preservation and protection of natural, historic and agricultural resources; and

(iii) Party to a cooperative agreement with the Maryland Environmental Trust committing to follow the Land Trust Alliance's Standards and Practices in any easement it holds, or

(b) A local governmental agency, upon the demonstration by the applicant that they have exhausted all reasonable efforts to obtain an agreement with a private non-profit organization.

(o) Definitions. The terms used in this Section have the same meaning as that assigned in Sections 24-101 and 27-107.01 of the County Code, unless a different meaning is assigned below. The following terms used in this Subsection are defined as follows:

(1) Internal Yard: A yard that does not abut the external tract area property lines and streets.

(2) Perimeter Street: A street that is not internal to the proposed subdivision.

(3) Net Lot Area: The contiguous lot area located outside of the 100-year floodplain and environmentally regulated areas, including primary management areas as defined by Section 24-101 and expanded buffers, as defined by Section 24-130.

(4) Conservation Area: The areas of a site identified for preservation and characterized primarily as scenic, agricultural, historic or environmental. The term does not necessarily include areas of the site to be preserved as required by Section 24-130 of this Subtitle. The conservation area to be placed in a conservation easement, required by this

1 Division, is determined with the sketch plan and preliminary plat process and is contained in a
2 conservation lot or parcel. Areas regulated by Section 24-130 that are outside the conservation
3 area shall also be placed in a conservation easement.

4 (5) Conservation Lot: A lot that contains areas of required conservation to be preserved
5 in a conservation easement required by this Division. One dwelling unit is permitted on each
6 conservation lot and shall be included in the calculation of allowable density of the net tract area,
7 and shall be located outside the conservation easement.

8 (6) Conservation Parcel: A parcel that contains areas of required conservation to be
9 preserved in a conservation easement required by this Division, that does not support density. A
10 conservation parcel may be owned and controlled by an individual, homeowner's association,
11 public or private organization, land trust or corporation. A conservation parcel may contain
12 stormwater management and septic recovery areas associated with the residential development
13 area, if the land is to be conveyed to the homeowners association, if there is no adverse impact to
14 the character of that area of land, and it is demonstrated that the residential development area
15 cannot support these facilities.

16 (7) Residential Development Area: The area of a site permitted for the development of
17 single-family dwelling units, not including the area of a conservation lot associated with the
18 dwelling unit.

19 (8) Unique Characteristic: Includes but is not limited to specimen trees, barns,
20 hedgerows, hills, cemeteries; and areas, features, structures or development of cultural
21 significance.

SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect on the date of its adoption.

Adopted this 18th day of July, 2006.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Thomas E. Dernoga
Chairman

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Jack B. Johnson
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

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