

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2004 Legislative Session**

Bill No. CB-95-2004

Chapter No. 80

Proposed and Presented by Council Members Knotts, Dean, Peters, Dernoga, Exum  
and Bland

Introduced by Council Members Knotts, Dean, Peters, Dernoga, Exum and Bland

Co-Sponsors \_\_\_\_\_

Date of Introduction October 19, 2004

**SUBDIVISION BILL**

1 AN ACT concerning

2 Appeals in Cluster Subdivision Cases

3 For the purpose of modifying the procedures for approval of final plats in cluster subdivision  
 4 cases, to authorize appeals from Planning Board to District Council of decisions on cluster  
 5 subdivision final plats.

6 BY repealing and reenacting with amendments:

7 SUBTITLE 24. SUBDIVISIONS.

8 Sections 24-119 (e) and (f), and 24-137 (j),

9 The Prince George's County Code

10 (2003 Edition).

11 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
 12 Maryland, that Sections 24-119 (e) and (f), and 24-137 (j) of the Prince George's County Code  
 13 be and the same are hereby repealed and reenacted with the following amendments:

14 SUBTITLE 24. SUBDIVISIONS.

15 DIVISION 2. APPLICATION PROCEDURES AND DOCUMENTS.

16 **Sec. 24-119. Procedures for major subdivisions.**

17 \* \* \* \* \*

18 (d) Preliminary Plat. The subdivider shall present a preliminary plat to the Planning  
 19 Department, accompanied by a check or money order made payable to the Maryland-National  
 20 Capital Park and Planning Commission, covering the filing fee.

1 (1) The Planning Department staff shall promptly check for completeness; accept a  
2 complete application for processing; reproduce the application; and send copies to all affected  
3 public agencies.

4 (2) Within four (4) weeks, the preliminary plat shall be reviewed by the Subdivision  
5 Review Committee.

6 (3) Adequate notice to the public shall be provided in accordance with the Rules of  
7 Procedure adopted by the Planning Board.

8 (4) Within seventy (70) calendar days of acceptance, the Planning Board shall take  
9 final action, provided that, with the written consent of the applicant, this time period may be  
10 extended for up to seventy (70) additional calendar days. The month of August and the period  
11 between, and inclusive of, December 20 and January 3 shall not be included in calculating either  
12 seventy (70) day period.

13 (5) In cluster subdivision cases, the Planning Board's final action on the preliminary  
14 plan is not final for purposes of administrative and judicial review. The Board's final decision is  
15 subject to the appeal provisions in Section 24-137.

16 [(5)] (6) An approved preliminary plat of subdivision shall remain valid for two (2)  
17 years from the date of its approval, unless an extension of the validity period is granted.

18 (A) Extensions of the validity of an approved preliminary plat may be granted by  
19 the Planning Board provided:

20 (i) The request is filed prior to the expiration of the preliminary plat  
21 approval;

22 (ii) The preliminary plat remains in conformance with all the requirements  
23 of Subtitle 27 applicable to the subject property;

24 (iii) Two (2) years is not sufficient time to prepare the final plat(s);

25 (iv) The applicant is not unduly delaying the filing of the final plat(s);

26 (v) The validity of a preliminary plat consisting of less than one hundred  
27 (100) residentially-zoned lots or less than one hundred (100) gross acres of commercially or  
28 industrially-zoned land or land designated for nonresidential uses in any CDZ or M-X-T Zone  
29 shall not be extended more than one (1) year from the normal expiration of the approved  
30 preliminary plat;

31 (vi) The validity of a preliminary plat consisting of more than one hundred

(100) residentially-zoned lots or more than one hundred (100) gross acres of commercially or industrially-zoned land or land designated for nonresidential uses in any CDZ or M-X-T Zone shall not be extended more than two (2) years from the normal expiration of the approved preliminary plat;

(vii) A final extension of up to two (2) years from the expiration of a previously approved extension(s) may be granted upon the applicant's submission to the Planning Board of a letter from a permitting agency (including, but not limited to the Washington Suburban Sanitary Commission, U.S. Army Corps of Engineers, Maryland Department of Water Resources Administration, Prince George's County Department of Environmental Resources) indicating:

- (aa) The date of application for the required permit;
- (bb) That the issuance of the required permit is delayed due to circumstances beyond the control of the applicant; and
- (cc) The approximate date of issuance of the required permit.

[(6)] (7) An approved preliminary plat of subdivision consisting of more than four hundred (400) residentially zoned lots or more than one hundred and fifty (150) gross acres of commercially or industrially zoned land or land designated for nonresidential uses in any CDZ or M-X-T Zone which has a staging plan shall remain valid for six (6) years from the date of its approval, unless extensions of the validity period are granted.

(A) An extension of up to two (2) years from the expiration of an approved preliminary plat or any extension thereof may be granted by the Planning Board provided:

- (i) Public infrastructure which was determined to be the developer's responsibility in accordance with the requirements of Section 24-122.01 and Section 24-124 has been constructed by the developer in order to accommodate all stages of the development; or
- (ii) The developer has been proceeding in a diligent manner to comply with the staging plan and has been unable, through no fault of the developer, to complete development within the time frame specified; or
- (iii) The staging plan cannot be met as a result of government failure to extend necessary services or infrastructure.

[(7)] (8) An approved preliminary plat of subdivision of land within the T-D-O Zone encompassing more than fifty (50) acres owned by one person or entity shall remain valid for six

(6) years from the date of its approval, unless extensions of the validity period are granted in accordance with Section 24-119(d)(6)(A). For purposes of the first sentence of this Subsection, property "owned by one person or entity" shall be deemed to include property which at the time of subdivision approval is under contract for purchase by the same one person or entity. At the time of approval of the first final plat of subdivision, all of the property within the approved preliminary plat of subdivision shall be owned by one person or entity as defined above, unless any portion is exempted from the requirement of filing a plat of subdivision by Section 24-107(c).

(e) Final Plat. Upon approval of the preliminary plat of subdivision, the subdivider may proceed to prepare the final plat(s). Such final plat(s) shall be prepared in accordance with the approved preliminary plat and shall include any modifications made by the Planning Board. A final plat may be filed no later than twenty-four (24) months from the original date of approval of the preliminary plat of subdivision, unless an extension of the approved preliminary plat is granted pursuant to the provisions of Subsection (d)(5), above. In all cases, a final plat shall be filed during the period in which the corresponding approved preliminary plat is valid.

(1) Within thirty (30) calendar days of acceptance, the Planning Board shall take final action, provided that, with the written consent of the applicant, this time period may be extended for up to thirty (30) additional calendar days.

(2) Sectionalized Plats. The Planning Board may approve a final plat for a portion of an approved preliminary plat when it determines that it is impractical to require the final plat(s) for the entire subdivision at one time; provided that approval of a portion in no way precludes final platting of the entire subdivision in accordance with the approved preliminary plat, and that each final plat is submitted in proper sequence. Final plats for portions of cluster subdivisions shall provide for the appropriate open space and other public amenities shown on the preliminary plat.

(3) Appeals to District Council in Cluster Subdivision Cases.

(A) Any person of record in the Planning Board case on the preliminary plan or final plat for a cluster subdivision may file an appeal with the District Council, after the Board's decision on the final plat. The appeal shall be filed with the Clerk of the Council within 30 days of the date of mailing of the Planning Board's notice of final action.

(B) In the notice of appeal, the appellant shall state all grounds for the appeal, all reasons why it is contended that the Board's action on the cluster subdivision final plat was arbitrary, capricious, unsupported by substantial evidence, or otherwise contrary to law. The appellant may claim as erroneous any action or determination made by the Planning Board in approving either the preliminary plan or the final plat for the cluster subdivision.

(C) After an appeal is filed in a cluster subdivision final plat case, the Clerk of the Council shall schedule the case for argument and give notice of the date of hearing, under the procedures applicable to oral argument in zoning cases. The Council shall hear the appeal within 100 days of its filing, and shall finally decide it or remand it to the Planning Board within 60 days of the date of hearing. If the Council takes no action within 60 days of the hearing, the final plat shall stand approved.

(D) If a timely appeal is filed under this part (e) (3), no record plat may be filed or approved until the District Council decides the appeal; it is dismissed or withdrawn; or no action is taken within 60 days of the hearing.

(E) At the time the Planning Board gives notice of approval of a cluster subdivision preliminary plan or final plat, the Board shall notify persons of record of their right to appeal the final plat decision to the District Council.

(f) Record Plat.

(1) The final plat(s) shall be signed and sealed by the surveyor and recorded among the Land Records of Prince George's County, Maryland, within [one hundred eighty (180) calendar] days of

(A) the Planning Board's notice of approval [by the Planning Board] ,

(B) dismissal or withdrawal of an appeal from the Planning Board's approval, or approval by Council inaction, or

(C) the District Council's notice of approval, whichever falls last. Any final plat of subdivision not recorded within [one hundred eighty (180) calendar] days [of approval] shall no longer be valid.

(2) If the plat is signed by a Property Line Surveyor, the horizontal location of all right-of-way lines, as shown on the plat, shall be certified by either a Professional Land Surveyor or a Professional Engineer.

**DIVISION 6. REQUIREMENTS FOR OPTIONAL APPROACHES.**

1 **Sec. 24-137. Cluster subdivision.**

2 \* \* \* \* \*

3 (j) Appeal of Board actions.

4 (1) Planning Board action on a [preliminary] cluster subdivision final plat [for cluster  
5 development] may be appealed to the District Council [by the applicant or] by any party of  
6 record in the Board case on the preliminary plan or final plat, as of the date of the hearing on the  
7 final plat. The Planning Board shall give notice of its decision on the final plat by sending a  
8 copy to each party of record by first-class mail, postage prepaid.

9 (2) The appeal shall be filed with the Clerk of the Council within [thirty (30)] days  
10 [following] of the Planning Board's mailing of notice of action on the cluster [proposal]  
11 subdivision [by the Planning Board to all parties of record at the hearing thereon].

12 (3) The notice of appeal shall [be based upon] refer to the record [as made] before the  
13 Planning Board, and shall set forth the reasons for the appeal. [Planning Board action on a  
14 Conceptual Site Plan, Detailed Site Plan, or architectural drawing for cluster development may  
15 be appealed to the District Council in accordance with Section 27-290 of the Zoning Ordinance.]  
16 In deciding an appeal of [a] Planning Board action on a cluster subdivision, the Council shall  
17 [exercise original jurisdiction] determine whether the Board's action on the preliminary plan or  
18 final plat was arbitrary, capricious, unsupported by substantial evidence, or otherwise contrary to  
19 law. [For any such] In an appeal, the Council may[, based on the record,] approve, approve with  
20 conditions or modifications, remand, or deny the final subdivision plat.

21 SECTION 2. BE IT FURTHER ENACTED that if any sentence, clause, section, provision,  
22 or part of this Act is held illegal, invalid, unconstitutional, or unenforceable, such illegality,  
23 invalidity, unconstitutionality, or unenforceability shall not affect or impair any of the remaining  
24 sentences, clauses, sections, provisions, or parts of the Act. It is hereby declared to be the intent  
25 of the District Council that this Act would have been adopted as if such illegal, invalid,  
26 unconstitutional, or unenforceable sentence, clause, section, provision, or part had not been  
27 included.

28 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect thirty (30)  
29 calendar days after it becomes law.

Adopted this 30th day of November, 2004.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Tony Knotts  
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.