

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2010 Legislative Session

Bill No. CB-26-2010

Chapter No. 24

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

Introduced by Council Members Dernoga, Turner and Olson

Co-Sponsors _____

Date of Introduction June 8, 2010

SUBDIVISION BILL

1 AN ACT concerning

2 Green Infrastructure Plan Implementation

3 For the purpose of updating the overall ordinance; amending the process for requesting impacts
4 to regulated areas to apply countywide; clarifying the definition of regulated streams and their
5 associated buffers; amending submittal requirements for minor, major and conservation
6 subdivisions; and implementing the recommendations of the Countywide Green Infrastructure
7 Functional Master Plan, approved June 14, 2005.

8 BY repealing and reenacting with amendments:

9 SUBTITLE 24. SUBDIVISIONS.

10 Sections 24-101, 24-118, 24-120, 24-130, 24-132, and 24-152,

11 The Prince George's County Code

12 (2007 Edition, 2008 Supplement).

13 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
14 Maryland, that Sections 24-101, 24-118, 24-120, 24-120, 24-130, 24-132, and 24-152 of the
15 Prince George's County Code and the same are hereby repealed and reenacted with the following
16 amendments:

17 **SUBTITLE 24. SUBDIVISIONS.**

18 **DIVISION 1. GENERAL PROVISIONS.**

19 **SUBDIVISION 1. DEFINITIONS.**

20 **Sec. 24-101. Definitions.**

21 * * * * *

1 (b) The following terms used in this Subtitle are defined as follows:

2 * * * * *

3 (2) **Afforestation:** [The establishment of a tree crop on an area from which it has
 4 always or very long been absent, or the planting of open areas which are not presently in forest
 5 cover.] The establishment of a biological community of perpetual woodlands through the
 6 planting of trees on an area from which trees have always or very long been absent, or the
 7 planting of open areas which are not presently in forest cover.

8 * * * * *

9 (4) **Conservation easement:** A recorded easement established for the protection of
 10 woodland and wildlife habitat used to meet the requirements of Subtitle 25-117, Division 2 or for
 11 the protection of sensitive environmental features. Conservation easements shall contain the
 12 Primary Management Area and may contain other sensitive environmental features as
 13 determined by the Planning Board.

14 (5) **Critical habitat:** A habitat currently occupied by a rare, threatened, or endangered
 15 (RTE) species as determined by the U.S. Fish and Wildlife Service or the Maryland Department
 16 of Natural Resources.

17 (6) **Critical Habitat Area:** The critical habitat of a rare, threatened or endangered
 18 species and its surrounding protection area. A critical habitat area shall:

- 19 (A) Are likely to contribute to the long-term survival of the species;
- 20 (B) Are likely to be occupied by the species for the foreseeable future; and
- 21 (C) Constitute habitat of the species which is considered critical by the U.S. Fish

22 and Wildlife Service or the Maryland Department of Natural Resources.

23 [(4)] (7) **Day:** When not otherwise specified, in computing time a day shall mean a
 24 working day when seven or less days are specified, and a calendar day when more tha[t]n seven
 25 days are mentioned.

26 (8) **Environmental Review Package:** The information that shall be submitted by an
 27 applicant with the submission of a preliminary plan as required by the Environmental Review
 28 Package submission checklist and instructions, as approved and amended by the Planning Board
 29 from time to time.

30 (9) **Federal Manual:** The "Federal Manual for Identifying and Delineating
 31 Jurisdictional Wetlands", 1987.

1 (10) Forest interior: Woodlands that are located a minimum of 300 feet from the
2 nearest forest edge.

3 (11) Forest interior dwelling species (FIDS): Species of birds which require large,
4 connected forested tracts in order to breed successfully as described in The Woodland and
5 Wildlife Habitat Technical Manual.

6 (12) Forest interior dwelling species (FIDS) habitat: Woodland areas of sufficient
7 size as to be favorable to the breeding of certain interior dwelling bird species which are likely to
8 be present if the majority of the forest is dominated by pole-sized or larger trees (five inches or
9 greater diameter at breast height), or has a closed canopy; and meets one the following
10 conditions:

11 (a) The woodlands are a minimum of 50 acres in size and contain at least 10 acres
12 of "forest interior" habitat which is located more than 300 feet from the nearest forest edge; or

13 (b) Riparian forests at least 50 acres in size with a minimum average width of 300
14 feet within the watershed of a regulated stream.

15 [(5)] (13) Forest Stand Delineation (FSD): A detailed accounting of woody
16 vegetation, prepared in plan and document form, as required by [the Prince George's County
17 Woodland Conservation and Tree Preservation Policy Document,] Division 2 of Subtitle 25, and
18 as explained in the [M-NCPPC] publication, ["A Technical Manual for Woodland Conservation
19 with Development in Prince George's County,"] The Woodland and Wildlife Habitat
20 Conservation Technical Manual. [as amended from time to time.].

21 [(6)] (14) Funded School: A new elementary, middle, or high school, or an addition to
22 an existing school, in a school cluster in which a subdivision is tested and for which County
23 construction funds are shown in the first two years of the County's adopted and effective Capital
24 Improvement Program (CIP).

25 [(7)] (15) Highly Erodible Soils: All soils having an erodibility (K) factor of 0.35 or
26 greater as [provided in the U.S. Department of Agriculture Soil Conservation Service Technical
27 Note Conservation Planning 1-78 and as may be amended.] determined by the Prince George's
28 Soil Conservation District.

29 (16) Natural Regeneration: The natural establishment or re-establishment of a
30 biological community of woodlands from nearby seed sources without afforestation.

31 (17) Natural Resource Inventory (NRI): A plan map and supporting documentation

1 that provides all required information regarding the existing physical and environmental
 2 conditions on a site that is approved by the Planning Director or designee as described in the
 3 Environmental Technical Manual as approved and amended by the Planning Board from time to
 4 time.

5 [(8)] (18) **Nontidal Wetland:** An area which [is]:

6 (A) Is [I]inundated or saturated by surface or ground water at a frequency and
 7 duration sufficient to support, and under normal circumstances supports a prevalence of
 8 vegetation typically adapted for life in saturated soil conditions; [commonly known as
 9 hydrophytic vegetation;] or

10 (B) Is [I]identified as a [nontidal] "wetland" in accordance with the Federal
 11 Manual, [for Identifying and Delineating Jurisdictional Wetlands, published in 1989 and as
 12 amended.]

13 (C) Does not include tidal wetlands.

14 [(9)] (19) **Outlot:** A piece or parcel of land that remains within a subdivision but
 15 which does not meet the minimum requirements of the Zoning Ordinance for a buildable lot and
 16 is, therefore, not usable as a legal building site.

17 [(10)] (20) **Outparcel:** A parcel of land designated on a subdivision plat which does
 18 not meet the requirements of this Subtitle for adequate public facilities and is, therefore, not
 19 usable as a legal building site.

20 [(11)] **Patuxent River Primary Management Area Preservation Area:** A buffer
 21 established or preserved along perennial streams within the Patuxent River watershed excluding
 22 the area within the Chesapeake Bay Critical Area Overlay Zones, which as a minimum includes:

23 (A) All perennial streams and a minimum of 50 feet of preserved or established
 24 vegetation on the side of each bank;

25 (B) The one hundred (100) year floodplain;

26 (C) All wetlands adjacent to the perennial stream or the one hundred (100) year
 27 floodplain;

28 (D) All areas having slopes of twenty-five percent (25%) or greater abutting or
 29 adjoining the perennial stream, the one hundred (100) year floodplain or stream-side wetlands;

30 (E) All areas having highly erodible soils on slopes of fifteen percent (15%) or
 31 greater abutting the perennial stream, the one hundred (100) year floodplain or stream-side

1 wetlands;

2 (F) Specific areas of rare or sensitive wildlife habitat, as determined by the
3 Planning Board.

4 (12) **Perennial Stream:** A stream that maintains stream that maintains flowing water
5 in its channel except during extremely dry periods of the year. For the purpose of this Subtitle,
6 all streams which have a watershed area of fifty (50) acres or greater shall be considered
7 perennial streams; however, perennial streams may have watershed of less than fifty (50) acres.]

8 [(13)] (21) **Planning Director:** [That person responsible for the functions] The director
9 of the Prince George's County Planning Department of the Maryland-National Capital Park and
10 Planning Commission.

11 (22) **Primary Management Area:** A vegetated buffer preserved and/or restored along
12 all regulated streams outside the Chesapeake Bay Critical Area Overlay Zones, which at a
13 minimum includes:

14 (A) All regulated streams and associated minimum stream buffers;

15 (B) The one hundred (100) year floodplain as defined by Section 27-124.01;

16 (C) All wetlands and associated wetland buffers that are adjacent to the regulated
17 stream, stream buffer or the one hundred (100) year floodplain;

18 (D) All areas having slopes of fifteen (15%) or greater adjacent to the regulated
19 stream or stream buffer, the one hundred (100) year floodplain, or adjacent wetlands or wetland
20 buffers;

21 (E) Adjacent critical habitat areas.

22 [(14)] (23) **Public Facilities:** Facilities and services such as, but not limited to, water,
23 sewerage, transportation (i.e., streets, transit), schools, libraries, recreation, police protection,
24 fire, and emergency service.

25 [(15)] (24) **Public Facilities Agreement:** An agreement wherein an applicant for a
26 subdivision promises to provide required public improvements. Such agreement, however, does
27 not replace bonding requirements of public agencies other than the Planning Board in connection
28 with building, grading, street construction and the like.

29 [(16)] (25) **Pupil Yield Factor:** The estimated number of elementary, middle, and
30 high school students per dwelling unit, as determined by the Planning Board, from information
31 provided by the Superintendent of the Prince George's County Public Schools.

1 [(17)](26) **Reforestation:** [The establishment of a forest through artificial reproduction
2 or natural regeneration.] The re-establishment of a biological community of perpetual
3 woodlands through the planting of trees on an area from which trees were recently removed.

4 (27) **Regulated Environmental Features:** Regulated streams, nontidal wetlands, and
5 their associated buffers.

6 [(18)] (28) **Regional District:** That area within which the Maryland-National Capital
7 Park and Planning Commission exercises planning jurisdiction, as described in Article 28 of the
8 Annotated Code of Maryland.

9 (29) **Regulated Stream:** Streams that have water flowing year-round during a typical
10 year and streams that have water flowing during certain times of the year when groundwater
11 provides for stream flow. Water flow can be identified by a defined channel and movement of
12 leaf litter and debris by the movement of water. During dry periods some regulated streams may
13 not have flowing water. This definition includes “perennial” and “intermittent” streams.
14 Streams that only have water flowing during, or for a short duration after, precipitation events in
15 a typical year are “ephemeral” streams and are not regulated. The use of the term "stream" in
16 this or other sections of County Code shall refer to a regulated stream unless the provisions of
17 that section define a stream otherwise.

18 [(19)](30) **School Regulations:** The "Adequate Public Facilities Regulations for
19 Schools," as adopted and amended by the County Council.

20 (31) **Stream Buffer:** A minimum of sixty (60) feet of preserved and/or restored
21 vegetation measured from the top of bank on each side of a regulated stream in the Developed
22 Tier; a minimum of seventy-five (75) feet of preserved and/or restored vegetation measured from
23 the top of bank on each side of a regulated stream in the Developing Tier; and a minimum of
24 one-hundred (100) feet of preserved and/or restored vegetation measured from the top of bank on
25 each side of a regulated stream in the Rural Tier. A reduction to the minimum buffer Developed
26 Tier to fifty (50) feet may be approved during the development approval process to support
27 transit-oriented development or other revitalization projects on constrained sites.

28 [(20)] (32) **Tree Conservation Plan (TCP):** A site map that delineates [tree save]
29 woodland conservation areas and the associated text that details the requirements, penalties,
30 and/or mitigation in [negotiated during the development and/or permit review process.]
31 conformance with Division 2 of Subtitle 25 and The Woodland and Wildlife Habitat

1 Conservation Technical Manual.

2 (33) Wetland Buffer: Where a wetland or a portion of a property containing a wetland
3 is located outside the Chesapeake Bay Critical Areas Overlay Zones, a minimum of twenty-five
4 (25) feet in width measured from the edge of the wetland, and expanded to one-hundred (100)
5 feet in width due to the presence of steep slopes fifteen percent (15%) or greater, highly erodible
6 soils, other soils with development constraints, or the presence of Nontidal Wetlands of Special
7 State Concern as defined by COMAR.

8 **SUBTITLE 24. SUBDIVISIONS.**

9 **DIVISION 2. APPLICATION PROCEDURES AND DOCUMENTS.**

10 **Sec. 24-118. Documents required for minor subdivisions.**

11 (a) The subdivider shall pay the appropriate fee and present to the Planning Director a
12 preliminary plat, preferably at a scale of one (1) inch equals one hundred (100) feet, showing the
13 following information:

14 * * * * *

15 (14) Historic resources within or adjacent to the proposed preliminary plat of
16 subdivision; [and]

17 (15) Cemeteries [.];

18 (16) An approved Natural Resource Inventory; and

19 (17) An Environmental Review Package.

20 * * * * *

21 **SUBTITLE 24. SUBDIVISIONS.**

22 **DIVISION 2. APPLICATION PROCEDURES AND DOCUMENTS.**

23 **Sec. 24-120. Documents required for major subdivisions.**

24 (a) Preliminary Plats. The subdivider shall present to the Planning Department a
25 reproducible preliminary plat prepared by a registered surveyor. If the preliminary plat has been
26 prepared by a Property Line Surveyor, the horizontal location of all right-of-way lines, as shown
27 on the plat, shall be certified by either a Professional Land Surveyor or a Professional Engineer.
28 Preferably, the plat shall be prepared at a scale of one (1) inch equals one hundred (100) feet.
29 The following information shall be shown:

30 * * * * *

31 (11) Existing topography, indicating areas of steep slopes [(15 - 25%) and severe

1 slopes (over 25%);] (greater or equal to fifteen percent (15%) and less than twenty-five percent
2 (25%) on highly erodible soils) and severe slopes (greater or equal to twenty-five percent (25%)
3 as depicted on the approved NRI;

4 [(11.1) Existing soil types;]

5 * * * * *

6 (13) [One hundred (100) year floodplain areas, perennial streams, proposed stream
7 buffer, and nontidal wetlands, if any;] Regulated streams and associated buffers, wetlands and
8 associated buffers, and the one-hundred (100) year floodplain as depicted on the approved NRI;

9 (14) [A forest stand delineation, including specimen trees or large groups of mature
10 trees, and other major environmental features shall be prepared for the entire site;] Delineation of
11 the Primary Management Area, as depicted on the approved NRI;

12 (15) Date, north [point,] arrow, and scale;

13 * * * * *

14 (22) An approved Natural Resource Inventory;

15 [(22) Perennial streams;

16 (23) Nontidal wetlands;

17 (24) Soils by soil type, including highly erodible soils; and]

18 (23) An Environmental Review Package;

19 [(25)] (24) Historic resources within or adjacent to the proposed preliminary plat of
20 subdivision;

21 [(26)] (25) Cemeteries; and

22 [(27)] (26) Such additional information as may be needed to show compliance with
23 [the optional approaches described in Division 6] this Subtitle.

24 (b) Final Plat.

25 * * * * *

26 (6) The Final Plat shall show:

27 * * * * *

28 (K) [If a forest stand delineation is required, then the final plat shall show the tree
29 conservation areas identified on the approved Tree Conservation Plan. These areas shall be
30 referenced by a note stating: "Development is subject to restrictions shown on an approved Tree
31 Conservation Plan which precludes disturbance or installation of structures within specified

1 areas. Failure to comply with an approved Tree Conservation Plan is a violation requiring
2 mitigation under the Woodland Conservation/Tree Preservation Policy and Subtitle 25."; and]
3 All conservation easements with metes and bounds and the associated plat note(s); and

4 (L) Cemeteries, delineated by metes and bounds, if appropriate.

5 * * * * *

6 **SUBTITLE 24. SUBDIVISIONS.**

7 **DIVISION 5. REQUIREMENTS: ENVIRONMENTAL AND PARKS.**

8 **Sec. 24-130. Stream, wetland, and water quality protection and stormwater management.**

9 (a) Proposed subdivisions shall be [designated] designed to minimize the effects of
10 development on land, streams and wetlands, to assist in the attainment and maintenance of water
11 quality standards, and to preserve and enhance the environmental quality of stream valleys.

12 (b) The Planning Board shall require that proposed subdivisions conform to the following:

13 * * * * *

14 (2) The stormwater control shall be provided on-site unless the Planning Board, on
15 recommendation from the [Department of Environmental Resources,] County, waives this
16 requirement.

17 (3) The submission of a storm drainage and stormwater management concept plan, and
18 approval thereof by the [Department of Environmental Resources] County, may be required prior
19 to preliminary plat approval.

20 (4) Where a property is partially or totally within an area covered by an adopted
21 Watershed Plan, the plat shall conform to such plan.

22 (5) Where a property is [partially or totally within the Patuxent River Watershed,]
23 located outside the Chesapeake Bay Critical Areas Overlay Zones the [plat] preliminary
24 plan and all plans associated with the subject application shall demonstrate [adequate
25 protection to assure that the Primary Management Area Preservation Area is preserved] the
26 preservation and/or restoration of regulated environmental features in a natural state to the
27 fullest extent possible. Any lot or parcel proposed for development shall provide a
28 minimum of one acre of contiguous land area exclusive of any land within regulated
29 environmental features in a configuration that will support the reasonable development of
30 the property. This limitation does not apply to open space and recreational parcels. All
31 regulated environmental features shall be placed in a conservation easement and depicted

1 on the final plat.

2 [(6) Where a property located outside the Patuxent River Watershed and the
3 Chesapeake Bay Critical Areas Overlay Zones contains a perennial stream, the plat shall provide
4 a buffer at least fifty (50) feet in width measured from each bank. The Planning Board may
5 require the expansion of this buffer to include the one hundred (100) year floodplain, adjacent
6 slopes of twenty-five percent (25%) or greater, and highly erodible soils on slopes of fifteen
7 percent (15%) or greater and additional area deemed necessary to protect the stream or one
8 hundred (100) year floodplain.

9 (7) Where a property located outside the Chesapeake Bay Critical Areas Overlay Zones
10 contains a nontidal wetland, the plat shall provide a buffer at least twenty-five (25) feet in width
11 measured from the edge of the wetland. The Planning Board may require the expansion of this
12 buffer to include adjacent slopes of twenty-five percent (25%) or greater and highly erodible
13 soils on slopes of fifteen percent (15%) or greater.

14 (8) The buffer requirements may be waived or modified by the Planning Board in
15 accordance with an approved stormwater management concept plan that provides equal or better
16 protection to the Primary Management Area.]

17 * * * * *

18 **SUBTITLE 24. SUBDIVISIONS.**

19 **DIVISION 5. REQUIREMENTS: ENVIRONMENTAL AND PARKS**

20 **Sec. 24-132. Woodland and wildlife habitat conservation, tree preservation, clearing, and**
21 **replacement.**

22 (a) Except for land located in the Chesapeake Bay Critical Area Overlay Zones, and
23 development comprised of lands zoned Residential, R-M, and M-X-T, for which there is an
24 approved single Conceptual Site Plan applicable to all of the properties, development shall
25 comply with the provisions for woodland and wildlife habitat conservation and tree preservation
26 established in Division 2 of Subtitle 25 and the tree canopy requirements of Division 3 of
27 Subtitle 25 of the Prince George's County Code.

28 (b) For land located in the Chesapeake Bay Critical Area Limited Development or
29 Resource Conservation Overlay Zones, cutting or clearing of trees [shall be] is prohibited except
30 that:

31 (1) Commercial harvesting of trees is permitted in conformance with a Forest

1 Management Plan and Timber Harvesting Plan prepared by a registered, professional forester
2 and approved by the State of Maryland [Forest, Park and Wildlife Service;] Department of
3 Natural Resources Forest Service;

4 * * * * *

5 (d) In the case of development comprised of lands zoned Residential, R-M, and M-X-T,
6 for which there is an approved single Conceptual Site Plan applicable to all of the properties, the
7 Woodland Conservation/Afforestation Threshold shall be in accordance with the requirements
8 for the M-X-T Zone.

9 **SUBTITLE 24. SUBDIVISIONS.**

10 **DIVISION 11. CONSERVATION SUBDIVISIONS.**

11 **Sec. 24-152. Conservation Subdivisions.**

12 * * * * *

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

15 * * * * *

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

20 * * * * *

21 (I) The sketch plan application package shall include, on a separate sheet, a
22 woodland and wildlife habitat conservation concept plan that illustrates areas proposed for
23 conservation and includes a draft worksheet, showing how the requirements of Division 2 of
24 Subtitle 25 will be met.

25 (f) **Conservation area.**

26 * * * * *

27 (2) Design criteria for conservation areas.

28 * * * * *

29 (G) Woodland and wildlife habitat conservation required for the area of
30 conservation parcels or lots may be provided at an off-site location, only if it is necessary to
31 preserve the rural and agricultural landscape.

* * * * *

(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:

* * * * *

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

SECTION 2. BE IT FURTHER ENACTED that this Act shall take effect on the effective date of CB-27-2010 and CB-28-2010.

SECTION 3. BE IT FURTHER ENACTED that a development project for which all required development applications have been approved by the Planning Board, Zoning Hearing Examiner, or District Council, and appeal periods have not expired, is grandfathered; or a development project that has an approved preliminary plan of subdivision, but has not completed subsequent processes such as final plat or site plan, is grandfathered for that portion of the project covered by the preliminary plan.

Adopted this 13th day of July, 2010.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Thomas E. Dernoga
Chair

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.